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Contents

Federal Register

Vol. 86, No. 238

Wednesday, December 15, 2021

Agency for International Development
PROPOSED RULES
Acquisition Regulation:
Planning, Collection, and Submission of Digital Information as well as submission of Activity Monitoring, Evaluation, and Learning Plans to USAID, 71216–71225
NOTICES
Privacy Act; Systems of Records, 71226–71228

Agricultural Marketing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71228–71229

Agriculture Department
See Agricultural Marketing Service
See Farm Service Agency

Air Force Department
NOTICES
Intent to Grant a Partially-Exclusive Patent License, 71250–71251

Census Bureau
PROPOSED RULES
Foreign Trade Regulations:
New Filing Requirement and Clarifications to Current Requirements, 71187–71190
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2023 New York City Housing and Vacancy Survey, 71231–71232

Civil Rights Commission
NOTICES
Meetings:
Connecticut Advisory Committee, 71231
Wisconsin Advisory Committee, 71230–71231

Coast Guard
RULES
Security Zone:
Corpus Christi Ship Channel, Corpus Christi, TX, 71146–71148
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71275–71277

Commerce Department
See Census Bureau
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See National Technical Information Service
See Patent and Trademark Office

Comptroller of the Currency
RULES
Community Reinvestment Act Regulations, 71328–71354
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Community Reinvestment Act Qualifying Activities Confirmation Request Form, 71318–71319

Defense Department
See Air Force Department
RULES
Federal Acquisition Regulation:
Federal Acquisition Circular 2022–02; Introduction, 71322
Federal Acquisition Circular 2022–02; Small Entity Compliance Guide, 71323
Technical Amendments, 71322–71323
Update to Certain Online References in the FAR, 71323–71326

Education Department
PROPOSED RULES
Proposed Definition:
Supporting Effective Educator Development Program, 71207–71209
NOTICES
Accrediting Agencies Currently Undergoing Review for the Purposes of Recognition by the U.S. Secretary of Education, 71251–71252
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2020/22 Beginning Postsecondary Students Field Test, 71252–71253

Employment and Training Administration
NOTICES
Labor Certification Process for the Temporary Employment of Foreign Workers in Agriculture in the United States:
Adverse Effect Wage Rate for Range Occupations in 2022, 71283
Adverse Effect Wage Rates for Non-Range Occupations in 2022, 71282–71283

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Pesticide Tolerances:
MCPA, 71152–71155
Mefentrifluconazole, 71155–71158
Pyflubumide, 71158–71162
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Pennsylvania; Revision of the Maximum Allowable Sulfur Content Limit for Number 2 and Lighter Commercial Fuel Oil, 71213–71214
Virginia; Revision to the Classification and Implementation of the 2015 Ozone National Ambient Air Quality Standard for the Northern Virginia Nonattainment Area, 71214–71216

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules, Microbial Rules, and Public Water System Supervision Program, 71265–71266

Farm Service Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
2017 Wildfires and Hurricanes Indemnity Program and Quality Loss Adjustment Program, 71229–71230

Federal Aviation Administration
RULES
Airworthiness Directives:
Brantly Helicopters Industries U.S.A. Co., Ltd., and Brantly International, Inc., Helicopters, 71134–71135
Rolls-Royce Deutschland Ltd. and Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines, 71129–71131, 71135–71138
The Boeing Company Airplanes, 71131–71133
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures:
Miscellaneous Amendments, 71138–71142
PROPOSED RULES
Airspace Designations and Reporting Points:
Griffin, GA, 71186–71187
Special Conditions:
The Boeing Company, Model 737–10 Airplane; Dynamic Test Requirements for Single-Occupant, Oblique (Side-Facing) Seats Installed at a 49-Degrees with Airbag Devices and 3-Point Restraints, 71183–71186
NOTICES
Noise Exposure Map:
Naples Municipal Airport Naples, FL, 71316

Federal Deposit Insurance Corporation
NOTICES
Charter Renewal:
Advisory Committee of State Regulators, 71266–71267

Federal Energy Regulatory Commission
NOTICES
Application for Approval of a Contract for the Sale of Power:
South Sutter Water District, 71263
Application:
AEP Generation Resources, Inc., 71258
Brookfield White Pine Hydro, LLC, 71264–71265
Green Mountain Power Corp., 71262
Northern States Power Company-Wisconsin, 71260
Pacific Gas and Electric Co., 71259–71260
Authorization for Continued Project Operation:
Algonquin Northern Maine Generating Co., 71258–71259
Green Mountain Power Corp., 71261
North Hartland, LLC, 71263–71264
Otter Tail Power Co., 71263
Combined Filings, 71254–71258, 71261
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Indra Power Business IL, LLC, 71256
Meetings; Sunshine Act, 71253–71254
Waiving Regulations:
Extension of Non-Statutory Deadlines, 71260–71261

Federal Railroad Administration
NOTICES
Caltrain's Request for Approval to Test Crossing Optimization on Its Positive Train Control Network, 71316–71317

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 71267
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 71267

Financial Crimes Enforcement Network
PROPOSED RULES
Review of Bank Secrecy Act Regulations and Guidance, 71201–71207

Food and Drug Administration
RULES
Medical Devices:
Gastroenterology-Urology Devices; Classification of the Endoscopic Transhepatic Venous Access Needle, 71144–71145
Gastroenterology-Urology Devices; Classification of the Nonimplanted Nerve, 71142–71144
PROPOSED RULES
Effective Date of Requirement for Premarket Approval Applications for Spinal Spheres for Use in Intervertebral Fusion Procedures, 71197–71201
Medical Devices:
Orthopedic Devices; Classification of Spinal Spheres for Use in Intervertebral Fusion Procedures, 71191–71196
NOTICES
Final Debarment Order:
Julia Fees, 71271
Order:
Jeffrey A. Styron: Final Debarment, 71270–71271

General Services Administration
RULES
Federal Acquisition Regulation:
Federal Acquisition Circular 2022–02; Introduction, 71322
Federal Acquisition Circular 2022–02; Small Entity Compliance Guide, 71323
Technical Amendments, 71322–71323
Update to Certain Online References in the FAR, 71323–71326
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
CDP Supply Chain Climate Change Information Request, 71268–71269
Improving Customer Experience, 71267–71268

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Meetings:
Advisory Committee on Interdisciplinary, Community-Based Linkages, 71272

National Advisory Council on Nurse Education and Practice, 71274
National Vaccine Injury Compensation Program
List of Petitions Received, 71272–71274

Homeland Security Department
See Coast Guard
See U.S. Citizenship and Immigration Services

Interior Department
See Land Management Bureau
See National Park Service

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Requirements Related to Requests for Ruling and Determination Letters, 71319–71320

International Trade Commission
NOTICES
Complaint, 71281–71282

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Plats of Survey:
Oregon/Washington, 71279

Legal Services Corporation
NOTICES
Financial Guide for Grantees, 71288–71290

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation:
Federal Acquisition Circular 2022–02; Introduction, 71322
Federal Acquisition Circular 2022–02; Small Entity Compliance Guide, 71323
Technical Amendments, 71322–71323
Update to Certain Online References in the FAR, 71323–71326
NOTICES
Intent to Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License, 71290–71291

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 71291

National Institute of Standards and Technology
NOTICES
Meetings:
Advisory Committee on Earthquake Hazards Reduction, 71234
Visiting Committee on Advanced Technology, 71232–71233
National Cybersecurity Center of Excellence, 71233–71234

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 71275
National Institute of Allergy and Infectious Diseases, 71275
National Institute on Aging, 71274–71275

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone off Alaska:
Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area, 71181–71182
Fisheries of the Northeastern United States:
Summer Flounder Fishery; Quota Transfer from North Carolina to Virginia, 71181
Takes of Marine Mammals Incidental to Specified Activities:
U.S. Navy Construction at Naval Station Newport in Newport, RI, 71162–71180
NOTICES
Fisheries of the Exclusive Economic Zone off Alaska:
North Pacific Observer Program Standard Ex-Vessel Prices, 71240–71248
Permit Application:
Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Exempted Fishing, 71239–71240
Pacific Island Fisheries; Experimental Fishing, 71234–71236
Permits:
Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Proposed Issuance, 71236–71239

National Park Service
RULES
Colonial National Historical Park:
Vessels and Commercial Passenger-Carrying Motor Vehicles, 71148–71152
NOTICES
National Register of Historic Places:
Pending Nominations and Related Actions, 71280–71281

National Technical Information Service
NOTICES
Requests for Nominations:
National Technical Information Service Advisory Board, 71248–71249

Nuclear Regulatory Commission
RULES
List of Approved Spent Fuel Storage Casks:
TN Americas LLC, TN–32 Dry Storage Cask, Certificate of Compliance No. 1021, Renewal of Initial Certificate and Amendment No. 1, 71129
NOTICES
Guidance:
Geologic and Geotechnical Site Characterization Investigations for Nuclear Power Plants, 71291–71292

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The 13 Carcinogen Standards, 71286–71287
Grant of Expansion of Recognition:
QPS Evaluation Services, Inc., 71287–71288
Meetings:
Maritime Advisory Committee on Occupational Safety and Health, 71285–71286
Request for Renewal of Recognition:
QPS Evaluation Services, Inc., 71284–71285

Patent and Trademark Office
PROPOSED RULES
Electronic Patent Issuance, 71209–71212
NOTICES
Issuing Electronic Trademark Registration Certificates, 71249–71250

Peace Corps
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 71292

Pension Benefit Guaranty Corporation
RULES
Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits, 71146

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Pipeline Safety; Gas and Hazardous Liquid Pipeline Safety Program Performance Progress Report, 71317–71318

Postal Regulatory Commission
NOTICES
Inbound Competitive Multi-Service Agreements with Foreign Postal Operators, 71293–71294
New Postal Product, 71293

Postal Service
NOTICES
Meetings; Sunshine Act, 71298
Privacy Act; Systems of Records, 71294–71297, 71299–71301
Product Change:
Priority Mail and First-Class Package Service Negotiated Service Agreement, 71298–71299
Priority Mail Express and Priority Mail Negotiated Service Agreement, 71298
Priority Mail Negotiated Service Agreement, 71297–71299

Presidential Documents
PROCLAMATIONS
Special Observances:
Human Rights Day and Human Rights Week (Proc. 10321), 71127–71128

Science and Technology Policy Office
NOTICES
Orbital Debris Research and Development Interagency Working Group Listening Sessions:
Withdrawal, 71301

Securities and Exchange Commission
NOTICES
Application:
Oaktree Fund Advisors, LLC and Oaktree Diversified Income Fund Inc., 71301–71304
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BYX Exchange, Inc., 71310
Cboe Exchange, Inc., 71304–71313

State Department
NOTICES
Charter Renewal:
Advisory Committee on International Postal and Delivery Services, 71313
Culturally Significant Objects Imported for Exhibition:
The Language of Beauty in African Art, 71313–71314

Surface Transportation Board
NOTICES
Control and Merger:
CSX Corp. and CSX Transportation, Inc., et al.; Pan Am Railways, Inc., Boston and Maine Corp., Maine Central Railroad Co., et al., 71314–71316
Release of Waybill Data, 71314

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
See Comptroller of the Currency
See Financial Crimes Enforcement Network
See Internal Revenue Service

U.S. Citizenship and Immigration Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Immigrant Petition by Alien Entrepreneur, 71277–71278
Petition for Alien Fiance(e), 71278–71279

Separate Parts In This Issue

Part II
Defense Department, 71322–71326
General Services Administration, 71322–71326
National Aeronautics and Space Administration, 71322–71326

Part III
Treasury Department, Comptroller of the Currency, 71328–71354

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Proclamations:

10321 71127

10 CFR

72 71129

12 CFR

25 71328

14 CFR

39 (4 documents) 71129, 71131, 71134, 71135

97 (2 documents) 71138, 71139

Proposed Rules:

25 71183

71 71186

15 CFR

Proposed Rules:

30 71187

21 CFR

876 (2 documents) 71142, 71144

Proposed Rules:

888 (2 documents) 71191, 71197

29 CFR

4044 71146

31 CFR

Proposed Rules:

Ch. X 71201

33 CFR

165 71146

34 CFR

Proposed Rules:

Ch. II 71207

36 CFR

7 71148

37 CFR

Proposed Rules:

1 71209

40 CFR

180 (3 documents) 71152, 71155, 71158

Proposed Rules:

52 (2 documents) 71213, 71214

48 CFR

Ch. 1 (2 documents) 71322, 71323

2 71323

5 71323

6 71323

7 71323

8 71323

16 71323

22 71323

47 71323

52 (2 documents) 71322, 71323

Proposed Rules:

727 71216

742 71216

752 71216

50 CFR

217 71162

648 71181

679 71181

Federal Register
Vol. 86, No. 238
Wednesday, December 15, 2021

Presidential Documents

Title 3—

The President

Proclamation 10321 of December 9, 2021

Human Rights Day and Human Rights Week, 2021

By the President of the United States of America

A Proclamation

In the wake of the devastation of the Second World War, leaders from around the world came together with a shared vision to promote a safer future for all nations by securing and advancing the human rights of everyone, everywhere. On December 10, 1948, thanks to the moral leadership and service of Eleanor Roosevelt as the first Chairperson of the Commission on Human Rights, the world took an enormous step forward with the creation of the Universal Declaration of Human Rights (UDHR).

The UDHR enshrines the human rights and fundamental freedoms inherent in all people—no matter who they are, where they come from, or whom they love. It is a foundational document that proclaims a truth too often overlooked or ignored—that ''all human beings are born free and equal in dignity and rights.'' From the root of this universal ideal has sprung transformational human rights treaties and a global commitment to advance equality and dignity for all as the foundation of freedom, peace, and justice. As a world, we have yet to achieve this goal, and we must continue our efforts to bend the arc of history closer to justice and the shared values that the UDHR enshrines. Just as we advocated for the recognition of universal human rights following World War II, the United States today remains steadfast in our commitment to advancing the human rights of all people—and to leading not by the example of our power but by the power of our example.

Since taking office, my Administration has put human rights at the center of our domestic and foreign policy priorities. We immediately declared our intention to rejoin the United Nations Human Rights Council, and with the widespread support of the international community, our Nation was elected to a new term beginning on January 1, 2022. As a member of the Council, we will highlight the vital importance of democracy as we work to protect human rights and hold accountable those who would violate these rights and freedoms. We will continue to call out human rights violations wherever they occur, support brave activists on the front lines of protecting fundamental freedoms, and invest in strengthening the rule of law.

As a global champion for democracy, we must also continue the unceasing work of strengthening our own democracy and building a more perfect union. Leading by example is one of the most powerful and persuasive foreign policy tools at our disposal. From day one of my Administration, we have taken concrete steps to reassert our moral leadership on the global stage. On my first day in office, I signed an Executive Order to advance racial equity and support for underserved communities. As part of our once-in-a-generation investment in our Nation's physical infrastructure, we are also strengthening equitable access to our shared resources and environment, including providing additional support for historically underserved communities.

Unfortunately, discrimination and violence are challenges that too many Americans still face in their own communities. Throughout our Nation's history, generations of Black and Brown Americans, Indigenous persons,

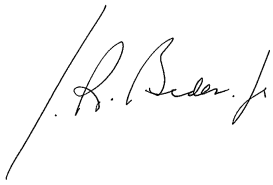
people with disabilities, LGBTQ+ Americans, immigrants, women and girls, and members of religious, ethnic, and other historically marginalized groups have faced heightened threats to their human rights and dignity. Today, we know that our efforts to defend human rights around the world are stronger because we acknowledge and seek to remedy our own historical challenges as part of that same fight. Leading by example means speaking honestly about the past, upholding the truth, and striving constantly to improve.

This year, as we commemorate Human Rights Day, my Administration will bring together global leaders, civil society organizations, and representatives from the private sector for the first Summit for Democracy. Working together, we will recommit ourselves to promoting respect for human rights and combating growing threats to democracy, including authoritarianism and corruption. We will speak honestly about the challenges we face, and we will identify meaningful new actions and commitments to advance our shared goals.

I call upon all Americans to keep the words of the Reverend Dr. Martin Luther King, Jr. in their hearts: ''injustice anywhere is a threat to justice everywhere.'' Let us all dedicate ourselves to bringing our Nation and our world closer to a future in which every human being is free to pursue their highest dreams and unleash their full potential.

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 December 10, 2021, as Human Rights Day and the week beginning December 10, 2021, as Human Rights Week. I call upon the people of the United States to mark these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of December, 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.



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Rules and Regulations

Federal Register
Vol. 86, No. 238
Wednesday, December 15, 2021

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2021–0134]

RIN 3150–AK67

List of Approved Spent Fuel Storage Casks: TN Americas LLC, TN–32 Dry Storage Cask, Certificate of Compliance No. 1021, Renewal of Initial Certificate and Amendment No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of January 19, 2022, for the direct final rule that was published in the **Federal Register** on November 5, 2021. This direct final rule amended the TN Americas LLC, TN–32 Dry Storage Cask listing in the ''List of approved spent fuel storage casks'' to renew, for an additional 40 years, the initial certificate and Amendment No. 1 of Certificate of Compliance No. 1021.

DATES: The effective date of January 19, 2022, for the direct final rule published November 5, 2021 (86 FR 61047), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2021–0134 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0134. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@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 final amendment to the certificate of compliance, final changes to the technical specifications, and final safety evaluation report can also be viewed in ADAMS under Accession No. ML21334A465.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Caylee Kenny, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7150, email: *Caylee.Kenny@nrc.gov.*

SUPPLEMENTARY INFORMATION: On November 5, 2021 (86 FR 61047), the NRC published a direct final rule amending its regulations in part 72 of title 10 of the *Code of Federal Regulations* to revise the TN Americas LLC, TN–32 Dry Storage Cask listing in the ''List of approved spent fuel storage casks'' to renew, for an additional 40 years, the initial certificate and Amendment No. 1 of Certificate of Compliance No. 1021. The renewal of the initial certificate and Amendment No. 1 of Certificate of Compliance No. 1021 revises the certificate of compliance's conditions and technical specifications to address aging management activities related to the structures, systems, and components of the dry storage system to ensure that these will maintain their intended functions during the period of extended storage operations. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 19, 2022. The NRC did not receive any comments on the direct final rule. Therefore, the direct final rule will become effective as scheduled.

Dated: December 9, 2021.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–27059 Filed 12–14–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0690; Project Identifier MCAI–2020–01495–E; Amendment 39–21847; AD 2021–25–04]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd. & Co KG (RRD) Trent 1000 model turbofan engines. This AD was prompted by the manufacturer revising the engine Time Limits Manual (TLM) life limits of certain critical rotating parts and direct accumulation counting (DAC) data files. This AD requires the operator to revise the airworthiness limitations section (ALS) of their existing approved aircraft maintenance program (AMP) by incorporating the revised tasks of the applicable TLM for each affected model turbofan engine, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 19, 2022.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in this AD as of January 19, 2022.

ADDRESSES: For material incorporated by reference in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0690. For the material identified in this AD that is not incorporated by reference, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; fax: +44 (0)1332 249936; website: *https://www.rolls-royce.com/contact-us.aspx.*

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0690; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

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

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all RRD Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 model turbofan engines. The NPRM published in the **Federal Register** on August 25, 2021 (86 FR 47417). The NPRM was prompted by the manufacturer revising the engine TLM life limits of certain critical rotating parts and DAC data files. In the NPRM, the FAA proposed to require the operator to revise the ALS of their existing approved AMP by incorporating the revised tasks of the applicable TLM for each affected model turbofan engine, as specified in an EASA AD. The FAA is issuing this AD to address the unsafe condition on these products. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from one commenter, The Boeing Company (Boeing). Boeing supported the NPRM without change.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2020–0243. EASA AD 2020–0243 specifies revising the approved AMP by incorporating the limitations, tasks, and associated thresholds and intervals described in the TLM. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

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

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

Costs of Compliance

The FAA estimates that this AD affects 4 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

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

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–25–04 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21847; Docket No. FAA–2021–0690; Project Identifier MCAI–2020–01495–E.

(a) Effective Date

This airworthiness directive (AD) is effective January 19, 2022.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

(g) Required Actions

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

(h) Exceptions to EASA AD 2020–0243

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

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

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

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

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

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

(2) For service information identified in this AD that is not incorporated by reference, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; fax: +44 (0)1332 249936; website: *https://www.rolls-royce.com/contact-us.aspx.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0243, dated November 5, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0243, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on November 24, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27046 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0451; Project Identifier AD–2021–00007–T; Amendment 39–21733; AD 2021–19–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–01–08, which applied to certain The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes. AD 2019–01–08 required modifications for galley mounted attendant seat fittings. This AD was prompted by a report that showed a non-compliance exists on some in-service galley attendant seat fitting installations, and a determination that additional airplanes are subject to the unsafe condition. This AD requires modifications for galley mounted attendant seat fittings. The FAA is

issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 19, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 19, 2022.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0451.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0451; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3569; email: *brandon.lucero@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–01–08, Amendment 39–19547 (84 FR 4318, February 15, 2019) (AD 2019–01–08). AD 2019–01–08 applied to certain The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes. The NPRM published in the **Federal Register** on June 25, 2021 (86 FR 33574). The NPRM was prompted by a report that showed a non-compliance exists on some in-service galley attendant seat fitting installations, and a determination that additional airplanes are subject to the unsafe condition. In the NPRM, the FAA proposed to continue to require modifications for galley mounted attendant seat fittings and expand the applicability to include additional airplanes. The FAA is issuing this AD to address non-compliant flight attendant seats, which could fail in a high-G crash and result in potential injury to flight attendants and consequent inability of the flight attendants to assist with passenger evacuation in a timely manner.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Boeing and United Airlines, who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020. This service information specifies procedures for modifying galley mounted attendant seat fittings. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 50 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	7 work-hours × $85 per hour = $595	$0	$595	$29,750

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2019–01–08, Amendment 39–19547 (84 FR 4318, February 15, 2019), and

■ b. Adding the following new airworthiness directive:

2021–19–15 The Boeing Company: Amendment 39–21733; Docket No. FAA–2021–0451; Project Identifier AD–2021–00007–T.

(a) Effective Date

This airworthiness directive (AD) is effective January 19, 2022.

(b) Affected ADs

This AD replaces AD 2019–01–08, Amendment 39–19547 (84 FR 4318, February 15, 2019) (AD 2019–01–08).

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, and –300ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a report that showed a non-compliance exists on some in-service galley attendant seat fitting installations, and a determination that additional airplanes are subject to the unsafe condition. The FAA is issuing this AD to address non-compliant flight attendant seats, which could fail in a high-G crash and result in potential injury to flight attendants and consequent inability of the flight attendants to assist with passenger evacuation in a timely manner.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020.

(h) Exception to Service Information Specifications

Where Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020, uses the phrase ''the Revision 2 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) No Reporting Requirement

Although the service information referenced in Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 777–25–0649, Revision 1, dated October 6, 2017 (which is incorporated by reference in AD 2019–01–08).

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved for AD 2019–01–08 are approved as AMOCs for the corresponding provisions of Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020, that are required by paragraph (g) of this AD.

(5) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(5)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Related Information

(1) For more information about this AD, contact Brandon Lucero, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3569; email: *brandon.lucero@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 777–25–0649, Revision 2, dated October 8, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on September 8, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27090 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0610; Project Identifier AD–2021–00126–R; Amendment 39–21868; AD 2021–26–09]

RIN 2120–AA64

Airworthiness Directives; Brantly Helicopters Industries U.S.A. Co., Ltd., and Brantly International, Inc., Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Brantly Helicopters Industries U.S.A. Co., Ltd., Model 305 helicopters and Brantly International, Inc., Model B–2, B–2A, and B–2B helicopters. This AD was prompted by a report of a crack in the tail rotor (T/R) hub. This AD requires repetitive inspections of the T/R hub and depending on the results, removing the T/R hub from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 19, 2022.

ADDRESSES: For service information identified in this final rule, contact Brantly International, Inc., Bill Ross, 621 S Royal Lane, Suite 100, Coppell, TX 75019, United States; phone: (972) 829–4699; email: *bross@superiorairparts.com*. You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0610; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Marc Belhumeur, Senior Project Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5177; email *9-ASW-FWACO@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Brantly Helicopters Industries U.S.A. Co., Ltd., Model 305 helicopters and Brantly International, Inc., Model B–2, B–2A, and B–2B helicopters. The NPRM published in the **Federal Register** on July 30, 2021 (86 FR 40967). The NPRM was prompted by a report of a crack in T/R hub part number (P/N) 2951. In the NPRM, the FAA proposed to require repetitively cleaning, and using a 10X or higher power magnifying glass, inspecting the areas where each T/R blade attaching arm extends from the T/R hub for a crack, corrosion, and pitting, and depending on the results, removing the T/R hub from service. This NPRM also proposed to require repetitively cleaning and dye penetrant inspecting the radius at the shoulder of each T/R hub spindle for a crack and pitting, and depending on the results, removing the T/R hub from service.

This condition, if not addressed, could result in loss of T/R control and subsequent loss of control of the helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from one individual. The commenter supports the proposal but recommended the FAA acquire sufficient data regarding the unsafe condition and investigate to determine if this unsafe condition exists on the T/R hub of other helicopters. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request Regarding the FAA's Justification of the Unsafe Condition

The individual recommended that prior to implementing the proposed rule, the FAA ensure adequate data has been acquired and proceed if the frequency of incident is proven to be material.

Prior to issuing the NPRM, the FAA reviewed the report and associated data for a crack in the T/R hub. In accordance with FAA Order 8110.107A *Monitor Safety/Analyze Data,* the FAA has determined that an unsafe condition exists that supports AD action.

Request Pertaining to Other Model Helicopters

The individual stated that the FAA should investigate whether issues exist in the T/R hub of other model helicopters.

No data has been provided to substantiate the individual's comment; however, available data for this unsafe condition is limited to T/R hub P/N 161–1 and 2951, which are only approved for installation on Brantly Helicopters Industries U.S.A. Co., Ltd., Model 305 helicopters and Brantly International, Inc., Model B–2, B–2A, and B–2B helicopters.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for a minor editorial change to paragraph (e) of this AD, this AD is adopted as proposed in the NPRM. This change will not increase the economic burden on any operator.

Related Service Information

The FAA reviewed Brantly Helicopter Service Letter No. 102, dated July 11, 1974 (SL 102). SL 102 specifies repetitively cleaning and inspecting the areas where each T/R blade attaching arm extends from the T/R hub for a crack. SL 102 also specifies repetitively cleaning and dye penetrant inspecting the radius at the shoulder of each T/R hub spindle for a crack. If there is a crack, SL 102 specifies replacing the part and reporting any cracks to Brantly Operators, Inc.

Differences Between This AD and the Service Information

SL 102 applies to all Brantly helicopters, whereas this AD applies to helicopters with T/R hub P/N 2591 or 161–1 installed. This AD requires using a 10X or higher power magnifying glass when inspecting the area where the T/R blade attaching arm extends from the T/R hub for a crack, corrosion, and pitting, whereas SL 102 does not specify using a magnifying glass and only specifies inspecting for a crack in that area. This AD requires dye penetrant inspecting the radius at the shoulder of each T/R spindle for a crack and pitting, whereas SL 102 only specifies dye penetrant inspecting for a crack in those areas. SL102 specifies reporting any cracks to Brantly Operators, Inc., whereas this AD does not require reporting any information.

Costs of Compliance

The FAA estimates that this AD affects 57 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Cleaning and inspecting the T/R hub with a magnifying glass takes about 1 work-hour for an estimated cost of $85 per helicopter and $4,845 for the U.S. fleet, per inspection cycle. Cleaning and dye penetrant inspecting the T/R hub takes about 2 work-hours for an estimated cost of $170 per helicopter and $9,690 for the U.S. fleet, per inspection cycle. If required, replacing a T/R hub takes about 0.5 work-hour and parts cost about $500 for an estimated cost of $543 per replacement.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–26–09 Brantly Helicopters Industries U.S.A. Co., Ltd., and Brantly International, Inc.: Amendment 39–21868; Docket No. FAA–2021–0610; Project Identifier AD–2021–00126–R.

(a) Effective Date

This airworthiness directive (AD) is effective January 19, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Brantly Helicopters Industries U.S.A. Co., Ltd., Model 305 helicopters and Brantly International, Inc., Model B–2, B–2A, and B–2B helicopters, certificated in any category, with a tail rotor (T/R) hub part number 161–1 or 2951, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6420, Tail Rotor Head.

(e) Unsafe Condition

This AD was prompted by a report of a crack in the T/R hub. The FAA is issuing this AD to address cracking of the T/R hub. The unsafe condition, if not addressed, could result in loss of T/R control and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Within 100 hours time-in-service (TIS) or at the next annual inspection after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS and at each annual inspection:

(1) Clean, and using a 10X or higher power magnifying glass, inspect the areas where each T/R blade attaching arm extends from the T/R hub for a crack, corrosion, and pitting. If there is a crack, corrosion, or pitting, before further flight, remove the T/R hub from service.

(2) Clean and dye penetrant inspect the radius at the shoulder of each T/R hub spindle for a crack and pitting. If there is a crack or pitting, before further flight, remove the T/R hub from service.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i) of this AD.

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

(i) Related Information

For more information about this AD, contact Marc Belhumeur, Senior Project Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5177; email *9-ASW-FWACO@faa.gov.*

(j) Material Incorporated by Reference

None.

Issued on December 9, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27052 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0655; Project Identifier MCAI–2020–01497–E; Amendment 39–21846; AD 2021–25–03]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd. & Co KG (RRD) Trent 7000–72 and Trent 7000–72C model turbofan engines. This AD was prompted by the manufacturer revising the engine Time Limits Manual (TLM) life limits of certain critical rotating parts and updating certain

maintenance tasks. This AD requires the operator to revise the airworthiness limitation section (ALS) of their existing approved continuous airworthiness maintenance program (CAMP) by incorporating the revised tasks of the applicable TLM for each affected model turbofan engine, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 19, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 19, 2022.

ADDRESSES: For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0655. For material identified in this AD that is not incorporated by reference, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424 fax: +44 (0)1332 249936; website: *https://www.rolls-royce.com/contact-us.aspx.*

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0655; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, M–30, West Building Ground Floor, Room W12 140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0244, dated November 5, 2020 (EASA AD 2020–0244) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all RRD Trent 7000–72 and Trent 7000–72C model turbofan engines.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all RRD Trent 7000–72 and Trent 7000–72C model turbofan engines. The NPRM published in the **Federal Register** on August 12, 2021 (86 FR 44316). The NPRM was prompted by the manufacturer revising the engine TLM life limits of certain critical rotating parts and updating certain maintenance tasks. In the NPRM, the FAA proposed to require accomplishing the actions specified in EASA AD 2020–0244, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.'' The FAA is issuing this AD to address the unsafe condition on these products. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from three commenters. The commenters were Air Line Pilots Association, International, The Boeing Company, and Delta Air Lines, Inc. (DAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Add Exception to the Definition of AMP

DAL requested that paragraph (h), Exceptions to EASA AD 2020–0244, of the proposed rule, be updated to provide an exception to the definition of the AMP for airplanes operated under FAA regulations. DAL noted that the EASA AD's definition of an AMP is applicable to an airplane operated under European Union regulations.

The FAA agrees and has updated paragraph (h)(1) of this AD.

Request To Add Exception for High-Pressure Turbine (HPT) Blade Inspection

DAL requested that paragraph (h), Exceptions to EASA AD 2020–0244, of this AD, be updated to provide an exception for the HPT blade visual inspections in the TLM to make the FAA AD consistent with the most recent publication of RR Trent 7000 TLM–T–T7000–1RR (the TLM) and with EASA AD 2021–0169, dated July 19, 2021 (EASA AD 2021–1069). DAL reasoned that EASA AD 2021–0169 incorporates a life limit of 1,000 flight cycles since new on the HPT blade and explicitly cancels the inspection intervals defined in the TLM.

The FAA disagrees with adding this exception to paragraph (h) of this AD. The unsafe condition and corrective actions in EASA AD 2021–0169 are beyond the scope of this AD. The FAA may consider future rulemaking in response to EASA AD 2021–0169.

Support for the AD

Air Line Pilots Association, International, and The Boeing Company supported the AD without change.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2020–0244. EASA AD 2020–0244 specifies revising the approved AMP by incorporating the limitations, tasks, and associated thresholds and intervals described in the TLM. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA reviewed Chapter 05–10 of RR Trent 7000 TLM T–T7000–1RR, dated July 10, 2020. RR Trent 7000 TLM T–T7000–1RR, Chapter 05–10, identifies the reduced life limits of certain critical rotating parts.

The FAA also reviewed Chapter 05–20 of RR Trent 7000 TLM T–T7000–1RR, dated July 10, 2020. RR Trent 7000 TLM T–T7000–1RR, Chapter 05–20, identifies the critical rotating part inspection thresholds and intervals.

Costs of Compliance

The FAA estimates that this AD affects 10 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS	1 work-hour × $85 per hour = $85	$0	$85	$850

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–25–03 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21846; Docket No. FAA–2021–0655; Project Identifier MCAI–2020–01497–E.

(a) Effective Date

This airworthiness directive (AD) is effective January 19, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd. & Co KG (RRD) (Type Certificate previously held by Rolls-Royce plc) Trent 7000–72 and Trent 7000–72C model turbofan engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the engine Time Limits Manual (TLM) life limits of certain critical rotating parts and updating certain maintenance tasks. The FAA is issuing this AD prevent the failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2020–0244, dated November 5, 2020 (EASA AD 2020–0244).

(h) Exceptions to EASA AD 2020–0244

(1) EASA AD 2020–0244 defines the AMP as: ''The approved Aircraft Maintenance Programme (AMP) on the basis of which the operator or the owner ensures the continuing airworthiness of each operated engine. For engines installed on aeroplanes operated under EU regulations, compliance with the approved AMP is required by Commission Regulation (EU) 1321/2014, Part M.A.301, paragraph 3.'' In lieu of that definition, this AD defines the AMP as the existing approved Continuous Airworthiness Maintenance Program (CAMP) that is the basis for which the operator or the owner ensures the continuous airworthiness of each operated airplane.

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0244 are not required by this AD.

(3) Where EASA AD 2020–0244 requires compliance from its effective date, this AD requires using the effective date of this AD.

(4) Paragraph (3) of EASA AD 2020–0244 specifies revising the approved AMP within 12 months after its effective date, but this AD requires revising the existing approved CAMP within 90 days after the effective date of this AD.

(5) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2020–0244.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

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

(2) For material identified in this AD that is not incorporated by reference, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424 fax: +44 (0)1332 249936; website: *https://www.rolls-royce.com/contact-us.aspx.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0244, dated November 5, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0244, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on November 24, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–27033 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31402; Amdt. No. 3985]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective December 15, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 2021.

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

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

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

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

effective date at least 30 days after publication is provided.

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

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

Lists of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on November 26, 2021.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service, Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 30 December 2021

Boston, MA, KBOS, RNAV (RNP) X RWY 33L, Orig
Portsmouth, NH, KPSM, ILS OR LOC RWY 16, Amdt 3A
Portsmouth, NH, KPSM, RNAV (GPS) RWY 16, Amdt 3A
New York, NY, KLGA, ILS OR LOC RWY 4, Amdt 38
New York, NY, KLGA, RNAV (GPS) Y RWY 4, Amdt 4
New York, NY, KLGA, RNAV (RNP) Z RWY 4, Amdt 2

Effective 27 January 2022

Kodiak, AK, PADQ, ILS Y OR LOC Y RWY 26, Amdt 4
Headland, AL, KHDL, RNAV (GPS) RWY 9, Amdt 1B
Headland, AL, KHDL, RNAV (GPS) RWY 27, Amdt 1B
Orlando, FL, KMCO, RNAV (GPS) RWY 17L, Amdt 2B
Donalsonville, GA, Donalsonville Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Spencer, IA, KSPW, RNAV (GPS) RWY 12, Amdt 1
Spencer, IA, KSPW, RNAV (GPS) RWY 30, Amdt 1C
Spencer, IA, KSPW, RNAV (GPS) RWY 36, Amdt 1B
Huntington, IN, KHHG, RNAV (GPS) RWY 10, Amdt 1
Huntington, IN, KHHG, RNAV (GPS) RWY 28, Amdt 1
Marshall, MI, KRMY, VOR/DME–A, Orig-B, CANCELLED
Jackson, MN, KMJQ, RNAV (GPS) RWY 13, Amdt 2
Moberly, MO, KMBY, RNAV (GPS) RWY 13, Amdt 1
Moberly, MO, KMBY, RNAV (GPS) RWY 31, Amdt 1
Moberly, MO, Omar N Bradley, Takeoff Minimums and Obstacle DP, Amdt 1
Grand Island, NE, KGRI, ILS OR LOC RWY 35, Amdt 10
Wurtsboro, NY, Wurtsboro-Sullivan County, Takeoff Minimums and Obstacle DP, Amdt 2A
Burnet, TX, KBMQ, RNAV (GPS) RWY 19, Orig-D

[FR Doc. 2021–27054 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31403; Amdt. No. 3986]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective December 15, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 15, 2021.

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

For Examination

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

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

Availability

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

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on November 26, 2021.

Thomas J. Nichols,

Aviation Safety, Flight Standards Service Manager, Standards Section, Flight Procedures & Airspace Group, Flight Technologies & Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

* * * *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
30–Dec–21 ..	NH	Haverhill	Dean Meml	1/2641	9/3/21	This NOTAM, published in Docket No. 31401, Amdt No. 3984, TL 22–01, (86 FR 68541, December 3, 2021), is hereby rescinded in its entirety.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
30–Dec–21	IA	Hampton	Hampton Muni	1/6841	10/27/21	This NOTAM, published in Docket No. 31401, Amdt No. 3984, TL 22–01, (86 FR 68541, December 3, 2021), is hereby rescinded in its entirety.
30–Dec–21	KS	Wichita	Colonel James Jabara	1/8670	8/16/21	This NOTAM, published in Docket No. 31401, Amdt No. 3984, TL 22–01, (86 FR 68541, December 3, 2021), is hereby rescinded in its entirety.
30–Dec–21	IA	Hampton	Hampton Muni	1/0780	11/23/21	VOR/DME RWY 35, Amdt 1F.
30–Dec–21	MI	Bellaire	Antrim County	1/0823	11/23/21	RNAV (GPS) RWY 2, Orig.
30–Dec–21	SC	Columbia	Columbia Metro	1/1158	11/10/21	ILS OR LOC RWY 5, Amdt 1E.
30–Dec–21	MO	Aurora	Jerry Sumners Sr Aurora Muni	1/1417	11/9/21	RNAV (GPS) RWY 18, Orig-B.
30–Dec–21	MO	Aurora	Jerry Sumners Sr Aurora Muni	1/1419	11/9/21	RNAV (GPS) RWY 36, Orig-B.
30–Dec–21	KS	Wichita	Wichita Dwight D Eisenhower Ntl.	1/1513	11/9/21	ILS OR LOC RWY 1L, Amdt 3C.
30–Dec–21	MN	Worthington	Worthington Muni	1/2202	11/9/21	RNAV (GPS) RWY 18, Orig-B.
30–Dec–21	MN	Worthington	Worthington Muni	1/2203	11/9/21	RNAV (GPS) RWY 11, Orig-A.
30–Dec–21	MN	Worthington	Worthington Muni	1/2204	11/9/21	RNAV (GPS) RWY 29, Orig-A.
30–Dec–21	MN	Worthington	Worthington Muni	1/2205	11/9/21	RNAV (GPS) RWY 36, Orig-A.
30–Dec–21	MN	Worthington	Worthington Muni	1/2208	11/9/21	ILS OR LOC RWY 29, Amdt 1A.
30–Dec–21	IA	Ottumwa	Ottumwa Rgnl	1/2220	11/9/21	ILS OR LOC RWY 31, Amdt 5E.
30–Dec–21	IA	Ottumwa	Ottumwa Rgnl	1/2221	11/9/21	LOC/DME BC RWY 13, Amdt 3B.
30–Dec–21	IA	Ottumwa	Ottumwa Rgnl	1/2222	11/9/21	RNAV (GPS) RWY 13, Orig-B.
30–Dec–21	IA	Ottumwa	Ottumwa Rgnl	1/2223	11/9/21	RNAV (GPS) RWY 31, Orig.
30–Dec–21	IA	Ottumwa	Ottumwa Rgnl	1/2224	11/9/21	VOR/DME RWY 13, Amdt 7B.
30–Dec–21	TX	Jasper	Jasper County-Bell Fld	1/3206	11/9/21	RNAV (GPS) RWY 18, Orig.
30–Dec–21	TX	Jasper	Jasper County-Bell Fld	1/3207	11/9/21	RNAV (GPS) RWY 36, Orig-B.
30–Dec–21	MN	International Falls	Falls Intl-Einarson Fld	1/3225	11/10/21	VOR RWY 31, Amdt 15B.
30–Dec–21	MN	International Falls	Falls Intl-Einarson Fld	1/3227	11/10/21	VOR RWY 13, Amdt 14A.
30–Dec–21	MN	International Falls	Falls Intl-Einarson Fld	1/3231	11/10/21	RNAV (GPS) RWY 31, Orig-A.
30–Dec–21	MN	International Falls	Falls Intl-Einarson Fld	1/3233	11/10/21	RNAV (GPS) RWY 13, Orig-A.
30–Dec–21	NY	Batavia	Genesee County	1/3291	11/9/21	RNAV (GPS) RWY 10, Orig-B.
30–Dec–21	IL	Salem	Salem-Leckrone	1/4314	11/10/21	RNAV (GPS) RWY 18, Amdt 1A.
30–Dec–21	IL	Salem	Salem-Leckrone	1/4315	11/10/21	RNAV (GPS) RWY 36, Amdt 1A.
30–Dec–21	TX	Houston	Houston Exec	1/4390	11/10/21	RNAV (GPS) RWY 18, Orig-A.
30–Dec–21	TX	Houston	Houston Exec	1/4391	11/10/21	RNAV (GPS) RWY 36, Amdt 1.
30–Dec–21	IL	Flora	Flora Muni	1/4418	11/12/21	RNAV (GPS) RWY 21, Amdt 2D.
30–Dec–21	IL	Flora	Flora Muni	1/4420	11/12/21	RNAV (GPS) RWY 3, Amdt 2B.
30–Dec–21	NC	Hickory	Hickory Rgnl	1/5283	11/10/21	RNAV (GPS) RWY 1, Amdt 1B.
30–Dec–21	NY	Millbrook	Sky Acres	1/5336	11/10/21	VOR–A, Amdt 8.
30–Dec–21	KS	Wichita	Wichita Dwight D Eisenhower Ntl.	1/5763	11/9/21	ILS OR LOC RWY 19R, Amdt 5G.
30–Dec–21	KS	Wichita	Wichita Dwight D Eisenhower Ntl.	1/5764	11/9/21	ILS OR LOC RWY 1R, Amdt 17D.
30–Dec–21	MA	Boston	General Edward Lawrence Logan Intl.	1/5872	11/10/21	RNAV (GPS) RWY 33L, Amdt 2C.
30–Dec–21	OH	Shelby	Shelby Community	1/5921	11/12/21	VOR–A, Amdt 5A.
30–Dec–21	WI	Kenosha	Kenosha Rgnl	1/6158	11/12/21	RNAV (GPS) RWY 15, Orig-B.
30–Dec–21	WI	Kenosha	Kenosha Rgnl	1/6160	11/12/21	RNAV (GPS) RWY 33, Orig-B.
30–Dec–21	MS	Hattiesburg	Hattiesburg Bobby L Chain Muni.	1/6996	11/15/21	RNAV (GPS) Y RWY 13, Amdt 2B.
30–Dec–21	MS	Hattiesburg	Hattiesburg Bobby L Chain Muni.	1/6997	11/15/21	RNAV (GPS) Z RWY 13, Amdt 1B.
30–Dec–21	FL	Jacksonville	Jacksonville Intl	1/7884	11/10/21	VOR/DME RWY 32, Amdt 2B.
30–Dec–21	FL	Jacksonville	Jacksonville Intl	1/7887	11/10/21	RNAV (GPS) Z RWY 32, Amdt 2D.
30–Dec–21	FL	Jacksonville	Jacksonville Intl	1/7889	11/10/21	RNAV (GPS) Z RWY 26, Amdt 2C.
30–Dec–21	FL	Jacksonville	Jacksonville Intl	1/7891	11/10/21	RNAV (GPS) Z RWY 14, Amdt 2B.
30–Dec–21	FL	Jacksonville	Jacksonville Intl	1/7894	11/10/21	RNAV (GPS) Z RWY 8, Amdt 2B.
30–Dec–21	NY	Batavia	Genesee County	1/8401	11/9/21	VOR/DME–A, Amdt 5B.
30–Dec–21	NY	Batavia	Genesee County	1/8417	11/9/21	ILS OR LOC RWY 28, Amdt 6B.
30–Dec–21	NY	Batavia	Genesee County	1/9021	11/9/21	RNAV (GPS) RWY 28, Orig.
30–Dec–21	SC	Columbia	Columbia Metro	1/9033	11/10/21	VOR–A, Amdt 16A.
30–Dec–21	SC	Columbia	Columbia Metro	1/9035	11/10/21	RNAV (GPS) RWY 29, Amdt 1C.
30–Dec–21	SC	Columbia	Columbia Metro	1/9038	11/10/21	RNAV (GPS) RWY 23, Amdt 2B.
30–Dec–21	SC	Columbia	Columbia Metro	1/9041	11/10/21	RNAV (GPS) RWY 11, Amdt 1C.
30–Dec–21	SC	Columbia	Columbia Metro	1/9044	11/10/21	RNAV (GPS) RWY 5, Amdt 2C.
30–Dec–21	SC	Columbia	Columbia Metro	1/9046	11/10/21	ILS OR LOC RWY 29, Amdt 3I.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
30–Dec–21 ..	SC	Columbia	Columbia Metro	1/9048	11/10/21	ILS OR LOC RWY 11, Amdt 15A.
30–Dec–21 ..	TX	Fredericksburg	Gillespie County	1/9053	11/10/21	VOR/DME–A, Amdt 3B.
30–Dec–21 ..	CA	Riverside	Riverside Muni	1/9359	11/5/21	RNAV (GPS) RWY 9, Amdt 2C.
30–Dec–21 ..	CA	Riverside	Riverside Muni	1/9373	11/5/21	ILS OR LOC RWY 9, Amdt 8D.
30–Dec–21 ..	NH	Haverhill	Dean Meml	1/9780	9/3/21	RNAV (GPS) RWY 19, Orig.

[FR Doc. 2021–27055 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2021–N–0583]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Nonimplanted Nerve Stimulator for Functional Abdominal Pain Relief

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the nonimplanted nerve stimulator for functional abdominal pain relief into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the nonimplanted nerve stimulator for functional abdominal pain relief's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective December 15, 2021. The classification was applicable on June 7, 2019.

FOR FURTHER INFORMATION CONTACT: Pamela Scott, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4208, Silver Spring, MD 20993–0002, 301–796–5433, *PamelaD.Scott@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the nonimplanted nerve stimulator for functional abdominal pain relief as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation, by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On October 25, 2018, Innovative Health Solutions, Inc. submitted a request for De Novo classification of the IB-Stim. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA

has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on June 7, 2019, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 876.5340.[1] We have named the generic type of device nonimplanted nerve stimulator for functional abdominal pain relief, and it is identified as a device that stimulates nerves remotely from the source of pain with the intent to relieve functional abdominal pain. This generic type of device does not include devices designed to relieve pelvic pain.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—NONIMPLANTED NERVE STIMULATOR FOR FUNCTIONAL ABDOMINAL PAIN RELIEF RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation, and Labeling.
Electrical, mechanical, or thermal hazards leading to user discomfort or injury.	Electromagnetic compatibility testing; Electrical, mechanical, and thermal safety testing; Nonclinical performance testing; Software verification, validation and hazard analysis; and Labeling.
Infection	Sterility testing, Shelf life testing, and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k).

At the time of classification, nonimplanted nerve stimulators for functional abdominal pain relief are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

■ 1. The authority citation for part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 876.5340 to subpart F to read as follows:

§ 876.5340 Nonimplanted nerve stimulator for functional abdominal pain relief.

(a) *Identification.* A nonimplanted nerve stimulator for functional abdominal pain relief is a device that stimulates nerves remotely from the source of pain with the intent to relieve functional abdominal pain. This generic type of device does not include devices designed to relieve pelvic pain.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The patient-contacting components of the device must be demonstrated to be biocompatible.

(2) Electromagnetic compatibility and electrical, mechanical, and thermal safety testing must be performed.

(3) Electrical performance testing of the device and electrodes must be conducted to validate the specified electrical output and duration of stimulation of the device.

(4) Software verification, validation, and hazard analysis must be performed.

(5) Sterility testing of the percutaneous components of the device must be performed.

(6) Shelf life testing must be performed to demonstrate continued sterility, package integrity, and device functionality over the labeled shelf life.

(7) Labeling must include the following:

(i) A detailed summary of the device technical parameters;

(ii) A warning stating that the device is only for use on clean, intact skin;

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

(iii) Instructions for use, including placement of the device on the patient; and

(iv) A shelf life.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27132 Filed 12–14–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2021–N–0590]

Medical Devices; Gastroenterology-Urology Devices; Classification of the Endoscopic Transhepatic Venous Access Needle

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the endoscopic transhepatic venous access needle into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the endoscopic transhepatic venous access needle's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective December 15, 2021. The classification was applicable on November 20, 2019.

FOR FURTHER INFORMATION CONTACT: Thelma Valdes, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2610, Silver Spring, MD 20993–0002, 301–796–9621, *Thelma.Valdes@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the endoscopic transhepatic venous access needle as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients' access to beneficial innovation.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)'s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining ''substantial equivalence''). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On November 19, 2018, Cook Ireland Ltd. submitted a request for De Novo classification of the EchoTip® Insight™ Portosystemic Pressure Gradient Measuring System. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on November 20, 2019, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 876.1050. [1] We have named the generic type of device Endoscopic transhepatic venous access needle, and it is identified as a device that is inserted through the liver into the

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

patient's portal/hepatic venous system under endoscopic ultrasound guidance. It is connected to a separate device intended to measure a physiological parameter.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—ENDOSCOPIC TRANSHEPATIC VENOUS ACCESS NEEDLE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility testing.
Infection	Pyrogenicity testing. Sterilization validation. Pyrogenicity testing. Shelf life testing. Package integrity testing.
Use error leading to: • Access site hemorrhage/thrombosis. • Portal vein penetration leading to intrahepatic bleeding	Labeling.
Improper patient management due to inaccurate measurement	Non-clinical performance testing. Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k).

At the time of classification, Endoscopic transhepatic venous access needles are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collection of information in 21 CFR part 801, regarding labeling have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

■ 1.The authority citation for part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l*, 371.

■ 2. Add § 876.1050 to subpart B to read as follows:

§ 876.1050 Endoscopic transhepatic venous access needle.

(a) *Identification.* An endoscopic transhepatic venous access needle is inserted through the liver into the patient's portal/hepatic venous system under endoscopic ultrasound guidance. It is connected to a separate device intended to measure a physiological parameter.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The patient-contacting components of the device must be demonstrated to be biocompatible.

(2) Performance data must demonstrate the sterility of the patient-contacting components of the device.

(3) The patient-contacting components of the device must be demonstrated to be non-pyrogenic.

(4) Performance testing must support the shelf life of device components provided sterile by demonstrating continued sterility and package integrity over the labeled shelf life.

(5) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. The following must be tested:

(i) Needle crumple testing;

(ii) Tensile testing;

(iii) Dimensional verification for all components; and

(iv) Simulated use testing.

(6) Labeling must include the following:

(i) Instructions for use, including specific instructions regarding device preparation;

(ii) The recommended training for safe use of the device; and

(iii) A shelf life for any sterile components.

Dated: December 10, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27135 Filed 12–14–21; 8:45 am]

BILLING CODE 4164–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the asset allocation regulation for plans with valuation dates in the first quarter of 2022. These interest assumptions are used for valuing benefits under terminating single-employer plans and for other purposes.

DATES: Effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–229–3839. (TTY users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–229–3839.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions—including interest assumptions—for valuing benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulation are also published on PBGC's website (*https://www.pbgc.gov*).

PBGC uses the interest assumptions in appendix B to part 4044 (''Interest Rates Used to Value Benefits'') to determine the present value of annuities in an involuntary or distress termination of a single-employer plan under the asset allocation regulation. The assumptions are also used to determine the value of multiemployer plan benefits and certain assets when a plan terminates by mass withdrawal in accordance with PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281).

The first quarter 2022 interest assumptions will be 2.37 percent for the first 20 years following the valuation date and 2.03 percent thereafter. In comparison with the interest assumptions in effect for the fourth quarter of 2021, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.03 percent in the select rate, and a decrease of 0.08 percent in the ultimate rate (the final rate).

Need for Immediate Guidance

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC routinely updates the interest assumptions in appendix B of the asset allocation regulation each quarter so that they are available to value benefits. Accordingly, PBGC finds that the public interest is best served by issuing this rule expeditiously, without an opportunity for notice and comment, and that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication to allow the use of the proper assumptions to estimate the value of plan benefits for plans with valuation dates early in the first quarter of 2022.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. In appendix B to part 4044, an entry for ''January–March 2022'' is added at the end of the table to read as follows:

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
January–March 2022	0.0237	1–20	0.0203	>20	N/A	N/A

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2021–27079 Filed 12–14–21; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0876]

RIN 1625–AA87

Security Zone; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 500-yard radius temporary moving security zone around Motor Vessel (M/V) *Liberty Pride.* This zone is needed to protect the vessel, which will be carrying specialized cargo onboard, while they are transiting the Corpus Christi Ship Channel in Corpus Christi, TX. Entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

DATES: This rule is effective without actual notice from December 15, 2021 through December 16, 2021. For the

purposes of enforcement, actual notice will be used from December 12, 2021 until December 15, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *Anthony.M.Garofalo@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish the security zone by December 12, 2021 to ensure security of this vessel and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide for the security of this vessels.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the transit of the M/V *Liberty Pride* when loaded with specialized cargo will be a security concern within a 500-yard radius of the vessel. This rule is needed to protect the vessels while they are transiting within Corpus Christi, TX, from December 12 through December 16, 2021.

IV. Discussion of the Rule

The Coast Guard is establishing a 500-yard radius temporary moving security zone around M/V *Liberty Pride.* The zone for the vessel will be enforced from the time the vessel arrives on December 12, 2021, until it enters the Inner Harbor. The duration of the zone is intended to protect the vessels and specialized cargo on board while the vessels are in transit. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or a designated representative.

Entry into the security zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi. Persons or vessels desiring to enter or pass through the zone must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 361–939–0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the security zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and location of the security zone. This rule will impact a small designated area of 500-yards around the vessel during the vessel's transits within the Corpus Christi Ship Channel while loaded with cargo over a five-day period. Moreover, the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a security zone lasting for the duration of time that the M/V LIBERTY PRIDE is within the Corpus Christi Ship Channel. It will prohibit entry within a 500 yard radius of the M/V LIBERTY PRIDE while the vessel is transiting within the Corpus Christi Ship Channel. It is categorically excluded from further review under paragraph L60(c) in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T08–0616 to read as follows:

§ 165.T08–0876 Security Zone; Corpus Christi Ship Channel, Corpus Christi, TX.

(a) *Location.* The following area is a moving security zone: All navigable waters encompassing a 500-yard radius around Motor Vessel (M/V) *Liberty Pride* while the vessel is in the Corpus Christi Ship Channel.

(b) *Enforcement period.* This section will be enforced from December 12, 2021. through December 16, 2021.

(c) *Regulations.* (1) The general regulations in § 165.33 of this part apply. Entry into the zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons or vessels desiring to enter or pass through the zone must request permission from the COTP Sector Corpus Christi on VHF–FM channel 16 or by telephone at 361–939–0450.

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

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the security zone.

Dated: December 8, 2021.

H.C. Govertsen,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2021–27107 Filed 12–14–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–COLO–31886; GPO Deposit Account 4311H2]

RIN 1024–AE39

Colonial National Historical Park; Vessels and Commercial Passenger-Carrying Motor Vehicles

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service amends the special regulations for Colonial National Historical Park. This rule removes a regulation that prevents the Superintendent from designating sites within the park for launching and landing private vessels. The rule also removes outdated permit and fee requirements for commercial passenger-carrying vehicles.

DATES: This rule is effective on January 14, 2022.

ADDRESSES: The comments received on the proposed rule are available on *www.regulations.gov* in Docket ID: NPS–2020–0004.

FOR FURTHER INFORMATION CONTACT: Steven Williams, Acting Superintendent, Colonial National Historical Park. Phone: (757) 898–3400; Email: *Steven_Williams@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Colonial National Historical Park is located along the James and York Rivers and encompasses the historic Jamestown Island, Colonial Parkway, and the Yorktown Battlefield. There are also small, inland parcels of the park

located at Greenspring, Gloucester Point, and Fort Story. The park tells the story of the Colonial era from the origins of the occupancy of Jamestown Island in 1607 to the last major battle of the Revolutionary War at Yorktown in 1781. These two sites are connected by the Colonial Parkway, which winds 23 miles through scenic forests, over waterways, along river banks, and under Colonial Williamsburg. Much of the park is surrounded by water and includes an extensive amount of shoreline. All of the waterways in the area are a part of the Captain John Smith Chesapeake National Historic Trail that overlays the entire Chesapeake Bay and a large portion of its navigable tributaries. The park and the national historic trail are both administered by the National Park Service (NPS) and go hand-in-hand in this area of Virginia.

Final Rule

Launching and Retrieving Vessels

Since the park was established in the 1930s, the NPS has prohibited the launching or landing of watercraft, except in emergency situations. The current prohibition at 36 CFR 7.1(a) states that, except in emergencies, no privately owned vessel shall be launched from land within the park and no privately owned vessel shall be beached or landed on land within the park. Consistent with the 2003 Record of Decision for the Jamestown Project Development Concept Plan, the NPS has been exploring new opportunities for boating within the park. Local partners and members of the community have approached the NPS to discuss funding the construction of potential launch sites to better connect a variety of visitors to the shared history of the area. The NPS and its partners share an interest in establishing access to the James and York Rivers, and thus the Captain John Smith Chesapeake National Historic Trail, for water-based educational and recreational activities.

In order to allow the NPS to pursue these management objectives, this rule removes the special regulation at 36 CFR 7.1(a). Without this park-specific prohibition, the launching and landing of vessels will be governed by NPS general regulations at 36 CFR 3.8(a)(2). This regulation prohibits the launching or recovering (*i.e.,* retrieval) of a vessel, except at launch sites designated by the Superintendent. Under this general regulation, the Superintendent of a park has the discretion to designate launch and retrieval sites within the park. Under NPS policy, this would only occur if the Superintendent determines that the use of those sites for boating activities is appropriate to the purpose for which the park was established and can be sustained without causing unacceptable impacts. See NPS Management Policies 8.1.1. The Superintendent would provide notice to the public of any such designation using one or more of the methods set forth in 36 CFR 1.7.

Commercial Passenger-Carrying Motor Vehicles

This rule also removes the special regulations for the park at 36 CFR 7.1(b). These regulations require a permit for the operation of commercial passenger-carrying motor vehicles within the park and establish a fee structure for obtaining a permit. For each seat carrying a passenger, an annual permit costs $3.50 and a quarterly permit costs $1. One-day permits are available for $1 (up to 5-passenger vehicles) or $3 (over 5 passenger vehicles). 36 CFR 7.1(b)(1) through (4).

The permit requirement is unnecessary because it is redundant with the NPS general regulation at 36 CFR 5.3, which requires a permit, contract, or other written agreement in order to engage in business operations within a park area. The NPS uses commercial use authorizations (CUAs) to authorize commercial passenger-carrying motor vehicles. A CUA is a type of permit that allows an individual, group, company, or other for-profit entity to conduct commercial activities and provide specific visitor services within a unit of the National Park System.

The fee structure in 36 CFR 7.1(b) is over 30 years old. The NPS no longer charges those fees because they would not come close to offsetting the increasing administrative costs of managing commercial passenger-carrying vehicles within the park. Instead, the NPS charges an entrance fee for commercial passenger-carrying vehicles under section 803 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802) and CUA fees under 54 U.S.C. 101925.

Summary of Public Comments

The NPS published a proposed rule in the **Federal Register** on October 6, 2020 (85 FR 63062). The NPS accepted public comments on the proposed rule for 60 days via the mail, hand delivery, and the Federal eRulemaking Portal at *http://www.regulations.gov.* Comments were accepted through December 7, 2020. A total of 73 comments were submitted and reviewed. Many commenters supported the proposed rule and did not raise any issues or suggest any changes. Several commenters supported the potential of launch and retrieval sites to create recreational and educational opportunities in the park and a stronger connection with local communities. Some commenters raised concerns or questions about the proposed rule that the NPS summarizes and responds to below. After considering the public comments and after additional review, the NPS did not make any changes to the rule.

1. Comment: Several commenters asked whether the NPS will evaluate potential impacts to the environment before designating launch and retrieval sites within the park. Commenters raised concerns that increased boating activity would harm wildlife and submerged vegetation, erode shorelines, degrade water quality and introduce aquatic invasive species.

NPS Response: Decisions to construct and designate launch and retrieval sites will be subject to compliance with the National Environmental Policy Act, which means the NPS will evaluate potential impacts to the environment from construction activities and the expected use of the launch and retrieval sites prior to making such decisions. The Superintendent may develop sites and allow the launching and retrieval of vessels only if such activity is appropriate to the purpose for which the park was established and can be sustained without causing unacceptable impacts to the environment.

2. Comment: One commenter stated that the NPS should undergo notice-and-comment rulemaking prior to designating launch and retrieval sites within the park in order to allow interested parties to comment.

NPS Response: NPS general regulations at 36 CFR 3.8(a)(2) provide the Superintendent with discretionary authority to designate launch and retrieval sites within the park. The Superintendent may exercise this discretionary authority at the park level without the need to promulgate special regulations, which would require notice-and-comment rulemaking under the Administrative Procedure Act. Many NPS regulations give the Superintendent similar discretionary authorities to designate areas for visitor use activities. See, for example, regulations allowing the Superintendent to designate: (1) Campsites (36 CFR 2.10); (2) trails, routes and areas for the use of use of horses or pack animals (36 CFR 2.16); and (3) areas for using roller skates, skateboards, roller skis, coasting vehicles, or similar devices (36 CFR 2.20). In contrast to 36 CFR 3.8(a)(2) and regulations that provide similar discretionary authority to

Superintendents, other NPS regulations specifically require rulemaking. See, for example, regulations governing the use of: (1) Aircraft (36 CFR 2.17); (2) snowmobiles (36 CFR 2.18); (3) personal watercraft (36 CFR 3.9); and (3) motor vehicles off park roads and parking areas (36 CFR 4.10).

Even though 36 CFR 3.8(a)(2) does not require a special regulation, the NPS will provide interested stakeholders with an opportunity to review and comment on proposed launch sites through the Planning, Environment and Public Comment (PEPC) website (*https://parkplanning.nps.gov/*). All discretionary actions taken by the Superintendent must be compiled in writing, updated annually, and made available to the public upon request. 36 CFR 1.7(b). This compilation is referred to as the Superintendent's Compendium. The Superintendent will identify designated launch and retrieval sites in the Superintendent's Compendium for the park, which is available on the park's website (*https://www.nps.gov/colo/learn/management/lawsandpolicies.htm*).

3. Comment: Several commenters asked the NPS to clarify the types of vessels that could be allowed to launch and land within the park. Many commenters supported the use of nonmotorized vessels only and suggested that motorized vessels be prohibited in order to preserve the visitor experience on the beaches and the pristine nature and soundscape of the park.

NPS Response: NPS general regulations at 36 CFR 3.8(a)(2) allow the Superintendent to designate launch and retrieval sites for ''vessels,'' which are defined broadly in 36 CFR 1.4 to mean ''every description of watercraft, or other artificial contrivance used, or capable of being used, as a means of transportation on the water.'' As a result, the Superintendent will have the discretion to allow motorized vessels to launch and land from designated sites in the park. The Superintendent may limit use to nonmotorized vessels, however, if that is appropriate given the purpose of the park and potential impacts to the environment or other park visitors from motorized vessels. At this time, the NPS does not plan to allow motorized vessels to launch and land from designated sites within the park.

4. Comment: Several commenters suggested specific launch and retrieval sites within the park, including sites along the York River, James River, College Creek, and Mill Creek. Other commenters identified sites that should not be considered due to the potential for adverse visual impacts to the historical character of certain locations within the park, including Jamestown Island and the Yorktown Battlefield. One commenter requested that the NPS select sites that would minimize trail and sidewalk construction.

NPS Response: The NPS will engage with the public prior to site selection to better understand potential impacts to resources and visitors, support for, and controversy associated with a particular location. The NPS will evaluate existing conditions and potential management strategies at potential sites within the park to serve a diversity of visitor needs and enhance the quality of the visitor experience. A decision to develop a site for launch and retrieval facilities will take into account both primary impacts of development (such as noise, air, and water pollution), and secondary impacts (including cumulative effects over time) that recreational use associated with the development may have on park resources and visitor enjoyment. Any launch location will be carefully sited and designed to avoid unacceptable adverse effects on historical sites and aquatic and riparian habitats, and to minimize conflicts between boaters and other visitors who enjoy the park.

5. Comment: Several commenters questioned the cost of constructing launch and retrieval sites. Some commenters stated that the NPS would not be able to justify the cost of building launch sites for motorized vessels due to the availability of nearby marinas that can be used for this purpose outside of the park. One commenter expressed concern that new boating activity could have broader cost implications for the NPS if it leads to increased traffic on the parkway, which the commenter stated is already in need of rehabilitation.

NPS Response: The planning process for selecting launch and retrieval sites will consider the costs of initial construction as well as ongoing maintenance. Local partners and members of the community have approached the NPS to discuss funding the construction of potential launch sites to better connect a variety of visitors to the shared history of the area. The Superintendent is exploring different opportunities for cost-sharing, such as fundraising through a Friends Group or receiving direct support from the local county. This would alleviate the financial burden to the NPS associated with initial construction costs. The Superintendent will not select a site for development if the NPS would not be able to cover these costs in a manner that would maintain the site in good working order. The evaluation of costs will include those associated with the site itself and those associated other park facilities, including roads, that would be impacted by increased visitation caused by the launch and retrieval sites. The NPS will consider the availability of nearby launch and retrieval sites when determining the magnitude of potential benefits to park visitors from the development of sites within the park.

6. Comment: One commenter expressed concern that increased boating activity will lead to commercialization and economic expansion that will negatively impact park values.

NPS Response: This rule will not change the level of commercial activity within the park. Engaging in any business within the park is prohibited except in accordance with the provisions of a permit, contract, or other written agreement. 36 CFR 5.3. This prohibition on commercial activity within the park applies to commercial passenger-carrying vessels, which are not authorized under 36 CFR 3.8(a)(2) without some separate written authorization. At this time, the NPS is not considering any written authorization that would allow commercial passenger-carrying vessels to operate from launch sites within the park.

7. Comment: Several commenters questioned how the NPS will promote boating safety if launch and retrieval sites are designated by the Superintendent. One commenter expressed concern that designating launch and retrieval sites will lead to personal watercraft (PWC) use within the park, which would present a high risk of injury and fatality for park visitors.

NPS Response: The NPS will provide information to park visitors about boating safety if launch and retrieval sites are developed and designated within the park. This information will be provided at launch sites and on the park's website (*www.nps.gov/colo*). Under no circumstances would PWCs be allowed to launch and land from within the boundary of the park. This is prohibited by NPS general regulations at 36 CFR 3.9. PWC use that originates and occurs outside the boundary of the park is not subject to NPS jurisdiction.

8. Comment: Several commenters encouraged the NPS to work with Indian tribes to select launch and retrieval sites and to create an interpretive program associated with boating activities that represents the experience of Virginia Indians in the shared landscape of the park.

NPS Response: The NPS will consult with federally recognized tribes if and

when launching and retrieval sites for vessels are proposed for designation. The NPS recognizes that the Pamunkey Tribe may be particularly interested in siting decisions because of the potential for increased water access to the shorelines of Jamestown Island which is a traditional area and has historical significance for the tribe.

9. Comment: Several commenters expressed concern that removing the permit requirement for commercial passenger-carrying motor vehicles would result in less revenue for the NPS and more commercial vehicle use of the parkway, which would harm park resources.

NPS Response: Revenue to the NPS from commercial passenger-carrying vehicles will not be affected by this rule. The fee structure being removed is over 30 years old and is no longer implemented by the NPS because the stated fees would not come close to offsetting the increasing administrative costs of managing commercial passenger-carrying vehicles within the park. In order to offset these costs, the NPS charges an entrance fee for commercial passenger-carrying vehicles under section 803 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802) and CUA fees under 54 U.S.C. 101925. The NPS does not expect the rule to change the level of commercial vehicle use of the parkway because the NPS has not used the permit and fee structure in the special regulations for many years.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

This rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Regulations for Vessels and Commercial Passenger-Carrying Motor Vehicles at Colonial National Historical Park.'' The document may be viewed at *www.regulations.gov* by searching for ''1024–AE39.''

Congressional Review Act

This rulemaking is not a major rule under 5 U.S.C. 804(2), the CRA. This rulemaking:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rulemaking does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rulemaking does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rulemaking only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking complies with the requirements of Executive Order 12988. This rulemaking:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rulemaking under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. During a scheduled formal consultation about park issues with the Chiefs of the Chickahominy, Eastern Chickahominy, Mattaponi, Nansemond, Pamunkey, Rappahannock, and Upper Mattaponi, the NPS briefed them on the proposed change for launching and landing private vessels at the park. All of the Chiefs expressed their support for the rule and the opportunity it would provide for the tribes to expand their interpretative programs to tell Native stories in Native places. The NPS will consult with federally recognized tribes if and when launching and retrieval sites for vessels are designated.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rulemaking is covered by a categorical exclusion. The NPS has determined the rule is categorically excluded under 43 CFR 46.210(i). The environmental effects of removing 36 CFR 7.1(a) are too broad, speculative, or conjectural to lend themselves to meaningful analysis. Decisions to construct and designate launching and retrieval sites will later be subject to the NEPA process, either collectively or case-by-case. The nature of the proposal to remove 36 CFR 7.1(b) is administrative, financial and legal. The NPS has determined the rulemaking does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rulemaking is not a significant energy action under the definition in Executive Order 13211. The rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A Statement of Energy Effects in not required.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

§ 7.1 [Removed and Reserved]

■ 2. Remove and reserve § 7.1.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–27138 Filed 12–14–21; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0691; FRL–9273–01–OCSPP]

MCPA; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation modifies existing tolerances for residues of MCPA in or on clover, forage and clover, hay. The Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 15, 2021. Objections and requests for hearings must be received on or before February 14, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0691, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health emergency, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide customer service via email, phone, and webform. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Acting Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40*.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0691 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before February 14, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0691, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the online instructions for submitting

comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets*.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 28, 2021 (86 FR 33922) (FRL–10025–08) EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E8864) by IR–4, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.339 be amended by revising tolerances for residues of the herbicide MCPA ((4-chloro-2-methylphenoxy)acetic acid), both free and conjugated, resulting from the direct application of MCPA or its sodium, dimethylamine salts or its 2-ethylhexyl ester in or on the raw agricultural commodities clover, forage at 0.1 parts per million (ppm), and clover, hay at 0.1 ppm. The petitioned-for tolerances are lower than the existing tolerances for these commodities due to the results from clover residue data that were generated by IR–4 which indicated that lower tolerances were appropriate for clover, forage and clover, hay. Previously, no clover-specific data had been generated. That document referenced a summary of the petition, which is available in the docket, *https://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing the tolerances at different levels than petitioned for. Additionally, the tolerance expression is being modified to be consistent with Agency policy. A discussion of these modifications can be found in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for MCPA including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with MCPA follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking, and EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a tolerance rulemaking for MCPA in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to MCPA and established tolerances for residues of that chemical. EPA is incorporating previously published sections from that rulemaking as described further in this rulemaking, as they remain unchanged.

Toxicological profile. For a discussion of the Toxicological Profile of MCPA, see Unit III.A. of the MCPA tolerance rulemaking published in the **Federal Register** of April 13, 2021 (86 FR 19145) (FRL–10020–79).

Toxicological points of departure/Levels of concern. For a summary of the Toxicological Points of Departure/Levels of Concern for MCPA used for human risk assessment, please reference Unit III.B. of the April 13, 2021 rulemaking.

Exposure assessment. The new use on clover does not impact the dietary assessment, because the clover use does not result in a significant increase in dietary exposure. For a description of the approach to and assumptions for the exposure assessment, including with respect to estimated drinking water concentrations, non-occupational exposure, and cumulative exposure, please reference Unit III.C. of the April 13, 2021 rulemaking.

Safety factor for infants and children. EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor from 10X to 1X, except for acute dietary (general population, including infants and children) and inhalation scenarios where a 10X safety factor is retained as a lowest-observed-adverse-effect-level (LOAEL) to no-observed-adverse-effect-level (NOAEL) extrapolation factor. See Unit III.D. of the April 13, 2021 rulemaking for a discussion of the Agency's rationale for that determination.

Aggregate risks and determination of safety. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

Acute dietary risks are below the Agency's level of concern of 100% of the aPAD; they are 29% of the aPAD for all infants less than 1 year old, the group with the highest exposure. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 28% of the cPAD for all infants less than 1 year old, the group with the highest exposure. EPA has concluded the combined short-term food, water, and residential exposures result in aggregate margins of exposure at or above the level of concern of 100 for all scenarios assessed and are not of concern. An intermediate-term adverse effect was identified; however, MCPA is not registered for any use patterns that would result in intermediate-term residential exposure. EPA relies on the

chronic dietary risk assessment for evaluating intermediate-term risk for MCPA, which is below the Agency's level of concern. MCPA is classified as ''Not Likely to Be Carcinogenic to Humans''; therefore, EPA does not expect MCPA exposures to pose an aggregate cancer risk.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to MCPA residues. More detailed information on this action can be found in the document titled ''MCPA. Human Health Risk Assessment in Support of a Section 3 Registration for Use of MCPA on Clover'' in docket ID EPA–HQ–OPP–2020–0691.

IV. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the April 13, 2021 rulemaking.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

Currently, there are no Codex MRLs for residues of MCPA in or on clover. Therefore, harmonization is not an issue.

C. Revisions to Petitioned-For Tolerances

All residues at or below the limit of quantitation (LOQ) equate to a recommended LOQ tolerance level of 0.05 ppm for both clover, forage and clover, hay, as opposed to the tolerances that were proposed (0.1 ppm for both clover, forage and clover, hay). The tolerances include residues of parent (MCPA) and metabolite 2-HMCPA [(4-chloro-2-hydroxymethylphenoxy)acetic acid]. However, MCPA is the only residue of concern for tolerance enforcement purposes. In addition, EPA is modifying the tolerance expression to use the Chemical Abstracts Service (CAS) name for consistency with other tolerance expressions.

Finally, EPA has revised the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of MCPA not specifically mentioned; and (2) that compliance with the specified tolerance levels is to be determined by measuring only the specific compound mentioned in the tolerance expression.

V. Conclusion

Therefore, tolerances are modified for residues of MCPA in or on Clover, forage from 0.5 ppm to 0.05 ppm, and Clover, hay from 2.0 ppm to 0.05 ppm and the tolerance expression is updated.

VI. Statutory and Executive Order Reviews

This action modifies tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides, and pests, Reporting and recordkeeping requirements.

Dated: December 9, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter 1 as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Revise § 180.339, to read as follows:

§ 180.339 MCPA; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide MCPA, including its metabolites and degradates, in or on the commodities in table 1 to this paragraph (a). Compliance with the tolerance levels specified in Table 1 to this paragraph (a) is to be

determined by measuring only MCPA, 2-(4-chloro-2-methylphenoxy)acetic acid, in or on the commodity.

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Alfalfa, forage	0.5
Alfalfa, hay	2.0
Barley, grain	1.0
Barley, hay	40
Barley, straw	25
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Clover, forage	0.05
Clover, hay	0.05
Flax, seed	0.1
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Grain, aspirated fractions	3.0
Grass, forage	300
Grass, hay	20
Hog, fat	0.1
Hog, meat	0.1
Hog, meat byproducts	0.1
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Lespedeza, forage	0.5
Lespedeza, hay	2.0
Milk	0.1
Oat, forage	20
Oat, grain	1.0
Oat, hay	115
Oat, straw	25
Pea, dry	0.1
Pea, field, hay	0.1
Pea, field, vines	0.1
Pea, succulent	0.1
Rye, forage	20
Rye, grain	1.0
Rye, straw	25
Sheep meat	0.1
Sheep meat byproducts	0.1
Sheep, fat	0.1
Tea, dried	0.3
Trefoil, forage	0.5
Trefoil, hay	2.0
Vetch, forage	0.5
Vetch, hay	2.0
Wheat, forage	20
Wheat, grain	1.0
Wheat, hay	115
Wheat, straw	25
Wheatgrass, intermediate, forage	50
Wheatgrass, intermediate, grain	0.2
Wheatgrass, intermediate, hay	50
Wheatgrass, intermediate, straw	50

(b)–(d) [Reserved]

[FR Doc. 2021–27134 Filed 12–14–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0538; FRL–9194–01–OSCPP]

Mefentrifluconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of mefentrifluconazole in or on banana and coffee, green bean. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 15, 2021. Objections and requests for hearings must be received on or before February 14, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0538, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

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

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0538 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before February 14, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0538, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting

comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 21, 2020 (85 FR 82998) (FRL–10016–93), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E8849) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 22709–3528. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of mefentrifluconazole in or on banana at 1.5 parts per million (ppm) and coffee at 0.4 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the petitioner, which is available in the docket for this action, docket ID number EPA–HQ–OPP–2020–0538 at, *https://www.regulations.gov.* One comment from an anonymous citizen was received in response to the notice of filing (NOF). The Agency response is listed in Unit IV.C.

With respect to the subject action, the proposed tolerance levels were not altered, but the commodity definition for coffee was revised. The reason for this change is explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

A. Statutory Background

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for mefentrifluconazole, including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with mefentrifluconazole follows.

B. Aggregate Risk Assessment

In an effort to streamline **Federal Register** publications, EPA is directing readers to certain sections of **Federal Register** notices for previous tolerance rulemakings for the same pesticide that contain information that has not changed in the current risk assessment. To that end, on June 28, 2019, EPA published in the **Federal Register** a final rule establishing a tolerance for residues of mefentrifluconazole in or on many livestock, corn, fruit, grain, nut and vegetable commodities based on the Agency's conclusion that aggregate exposure to mefentrifluconazole is safe for the general population, including infants and children. See 84 FR 30939 (FRL–9994–51). Please refer to the following sections of the aforementioned tolerance rulemaking that contain information that has remained the same under the current risk assessment for this rulemaking: Units III.A (Toxicological Profile); III.B (Toxicological Points of Departure/Levels of Concern); III.C (Exposure Assessment), except as explained in the next paragraph; and III.D (Safety Factor for Infants and Children).

Updates to exposure assessment. The Agency conducted an updated risk assessment to evaluate exposure to residues of mefentrifluconazole on banana and coffee. EPA's acute and chronic dietary (food and drinking water) exposure assessments have been updated to include the additional exposure from use of mefentrifluconazole on banana and coffee. As to residue levels in food, a partially refined chronic dietary exposure and risk assessment was conducted assuming 100 percent crop treated (PCT) and using average field-trial residues for some commodities and tolerance-level residues for other commodities (banana and coffee). There will be no U.S. registrations for use of mefentrifluconazole on banana and coffee, and there is no proposed new residential use. Therefore, EPA's assessments of dietary exposure from drinking water and non-dietary (*i.e.,* residential) exposure, as well as cancer classification and cumulative effects from substances with a common mechanism of toxicity, have not changed and are described in the June 2019 tolerance rulemaking.

Assessment of aggregate risks. Acute aggregate risk estimates are equal to acute dietary (food and drinking water) risk estimates, which are below the Agency's level of concern of 100% of the acute population adjusted dose (aPAD): The exposure estimate is 5.6% of the aPAD at the 95th percentile of exposure for females 13 to 49 years old, which is the population subgroup with the highest exposure estimate. Chronic aggregate risk estimates are equal to chronic dietary (food and drinking water) risk estimates, which are below the Agency's level of concern of 100% of the chronic population adjusted does (cPAD): The exposure estimate is 82% of the cPAD for children 1 to 2 years old, which is the population subgroup with the highest exposure estimate. Short-term aggregate risk estimates are equal to the total short-term residential post-application dermal exposure estimates plus average dietary exposure estimates. For adults, the most conservative residential exposure estimate is from post-application dermal exposure from golfing activities after applications to golf courses, with a margin of exposure (MOE) above the Agency's level of concern of 100 (MOE = 2600). For children 6 to less than 11 years old, the most highly exposed child subgroup for residential exposure, the most conservative residential exposure estimate is from post-application dermal exposure from golfing activities after applications to golf courses. The dietary exposure for children 6 to 12 years old was used to calculate aggregate exposure as this subgroup is similar to the subgroup children 6 to less than 11 years old. The MOE is above the Agency's level of concern of 100 (MOE = 1900). Children 1 to <2 years old were the highest exposed child subgroup for dietary exposures, which does not match the most highly exposed child subgroup for residential exposure (children 6 to <11 years old). However, the selected residential exposure scenarios for aggregation, adults and children (6 to <11 years old), represent

the worst-case risk estimates and are protective of all other life stages and exposure scenarios. Considering both the total short-term residential post-application dermal exposures and average dietary exposures for both adults and children, EPA has concluded the short-term aggregate MOEs are 790 and 620 for adults and children 6 to less than 11 years old, respectively, which are above the level of concern of 100 and therefore are not of concern. Intermediate-term residential exposures are not expected from the residential use of mefentrifluconazole; therefore, intermediate-term aggregate risk is not a concern and quantitative estimates were not calculated. Mefentrifluconazole is classified as ''not likely to be carcinogenic to humans''; therefore, a quantitative cancer assessment was not conducted.

C. Determination of Safety

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to mefentrifluconazole residues. More detailed information on the subject action to establish a tolerance in or on banana and coffee can be found in the document entitled, ''Mefentrifluconazole. Human Health Risk Assessment for Petition for the Establishment of Permanent Tolerances for Use on Banana and Coffee without U.S. Registration.'' dated 10/20/2021 at *https://www.regulations.gov,* under docket ID number EPA–HQ–OPP–2020–0538.

IV. Other Considerations

A. Analytical Enforcement Methodology

The analytical enforcement methodologies found in Unit IV.A. of the final rule published in the **Federal Register** on June 28, 2019, establishing tolerances for residues of mefentrifluconazole in or on multiple commodities are adequate for banana and coffee. See 84 FR 30939 (FRL–9994–51). The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). Codex is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are currently no Codex or Canadian MRLs established for residues of mefentrifluconazole in banana or coffee; therefore, there are no issues with harmonization.

C. Response to Comments

One anonymous comment to the NOF was submitted insisting that no residues of fluoride, which is a different chemical, should be permitted for bananas and coffee. Even so, no additional information was provided that would support a conclusion that the tolerances requested for mefentrifluconazole are not safe. Although some individuals do not want pesticides to be used on food, the FFDCA authorizes EPA to establish tolerances that permit certain levels of pesticide residues in or on food when the Agency can determine that such residues are safe. EPA has made that determination for the tolerances subject to this action, and the commenter provided no information to support a determination that the tolerance is not safe.

D. Revisions to Petitioned-For Tolerances

EPA is establishing a tolerance on ''coffee, green bean'' rather than the requested tolerance on ''coffee'' to be consistent with the terminology the Agency uses for that commodity.

V. Conclusion

Therefore, tolerances are established for residues of mefentrifluconazole in or on banana at 1.5 ppm and coffee, green bean, at 0.4 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 9, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.705, amend table 1 to paragraph (a) by adding in alphabetical order the entries ''Banana'' and ''Coffee, green bean'' to read as follows:

§ 180.705 Mefentrifluconazole; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	
Banana [1]	1.5
* * * * *	
Coffee, green bean [1]	0.4
* * * * *	

[1] There are no U.S. registrations as of December 15, 2021.

* * * * *

[FR Doc. 2021–27093 Filed 12–14–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0421; FRL–9282–01–OCSPP]

Pyflubumide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pyflubumide in or on tea, dried and tea, instant. Nichino America, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective December 15, 2021. Objections and requests for hearings must be received on or before February 14, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0421, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

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

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40*.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0421 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 14, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0421, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/contacts.html*. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets*.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of April 22, 2021 (86 FR 21317) (FRL–10022–59), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E8829) by Nichino America, Inc. 4550 Linden Hill Road, Suite 501, Wilmington, DE 19808. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of the insecticide pyflubumide, including its metabolites and degradates, in or on the raw agricultural commodity tea, dried at 70 parts per million (ppm). That document referenced a summary of the petition prepared by Nichino America, Inc., the registrant, which is available in the docket, *https://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing the tolerance for tea, dried at a different level than requested and is also establishing a tolerance for tea, instant. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Neither of these exposures are relevant to this action, however. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for pyflubumide. EPA's assessment of exposures and risks associated with pyflubumide follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicological database for pyflubumide is complete for the establishment of a tolerance without U.S. registration. Based on a weight-of-evidence approach and considering all available pyflubumide hazard and exposure information, EPA waived the requirement for a subchronic neurotoxicity (SCN) study, an immunotoxicity study, and a comparative thyroid assay (CTA). The affected target organs following the administration of pyflubumide included the thyroid (rat, mouse, and dog), liver (rat, mouse, rabbit, and dog), kidney (rat and dog), adrenal gland (mouse, rat, and dog), heart (rat and dog), and lung (developing rat).

No evidence of increased qualitative or quantitative susceptibility was seen in the rat and rabbit developmental toxicity studies. Increased quantitative susceptibility was observed in the multigeneration reproduction toxicity study where lung lesions in offspring were observed at a lower dose (6 mg/kg/day) than the dose eliciting parental toxicity (29 mg/kg/day).

There was no evidence of neurotoxicity in the available acute neurotoxicity (ACN) study or throughout the database (subchronic, chronic, and mechanistic studies). The chronic point of departure (POD) (1 mg/kg/day) is protective of effects seen in the multigeneration reproduction toxicity study.

For the acute dietary exposure scenario (females of childbearing age and infants), the point of departure (POD) is based on the increased incidence of lung lesions (alveolar dilatation) from dosing on two consecutive days (post-natal day (PND) 4–5 or PND 6–7) in a mechanistic study that evaluated the occurrence of alveolar dilatation in rat pups by short term oral administration of pyflubumide. Since these lung effects resulted from at most two exposures, this finding was selected to be protective of potential acute lung effects that could occur due to a single day's exposure to pyflubumide during the perinatal period. The increased incidence of lung lesions was observed in rat pups and was not found in maternal rats. Nursing pups may be exposed through the mother's milk which can result in the observed lung effects.

The POD selected for chronic dietary is based on bile duct hyperplasia and decreased triglycerides in both sexes; increased liver weights in females; increased urinary protein, urine volume, increased incidence of kidney urinary casts; and increased incidence of tubular basophilic change in the kidney in males in a one-year chronic rat toxicity study. This POD is protective of all adverse effects observed in the multigeneration reproductive, the chronic dog, the rat carcinogenicity, and the mouse carcinogenicity studies. It is also protective of lung effects observed across studies.

Pyflubumide is classified as: ''Suggestive Evidence of Carcinogenic Potential'' based on treatment-related hepatocellular adenomas in male mice at a dose level of 176 mg/kg/day. There is no mutagenic concern for pyflubumide. The quantification of risk using a non-linear approach (*i.e.,* a chronic population adjusted dose) will adequately account for all chronic toxicity, including potential carcinogenicity, that could result from exposure to pyflubumide.

Specific information on the studies received and the nature of the adverse effects caused by pyflubumide as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *https://www.regulations.gov* in document ''Pyflubumide. Human Health Risk Assessment for a Petition for the Establishment of Permanent Tolerances for Residues on Tea without a U.S. Registration. New Active Ingredient.'' hereinafter ''Pyflubumide Human Health Risk Assessment'' at pages 24–67 in docket ID number EPA–HQ–OPP–2020–0421.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *https://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticide*.

A summary of the toxicological endpoints for pyflubumide used for human risk assessment can be found in the Pyflubumide Human Health Risk Assessment.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pyflubumide, EPA considered exposure under the petitioned-for tolerances. EPA assessed dietary exposures from pyflubumide in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for pyflubumide for only infants (<1 year old). Although no adverse effects were observed for females of childbearing age (13 to 49 years old), risk estimates for females of childbearing age (13 to 49 years old) are provided since there is still the potential for nursing infants to be exposed to pyflubumide from breast milk of mothers who consume treated tea. Thus, the risk estimate for females of childbearing age (13 to 49 years old) is protective for nursing infants. No acute dietary analysis was performed for the general population because an appropriate acute toxicological endpoint was not identified for the general population. In estimating acute dietary exposure, EPA used 2003–2008 food consumption data from the United States Department of Agriculture (USDA), National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, EPA used the Maximum Residue Limit (MRL) calculator to estimate the upper bound limit for combined residues of pyflubumide (parent) and pyflubumide-NH (metabolite) with 100 percent crop treated (PCT) assumptions.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used 2003–2008 food consumption data from the USDA NHANES/WWEIA. As to residue levels in food, EPA used the MRL calculator to estimate the upper bound limit for combined residues of pyflubumide and pyflubumide-NH with 100 PCT assumptions.

iii. *Cancer.* EPA determines whether quantitative cancer exposure and risk assessments are appropriate for a food-use pesticide based on the weight of the evidence from cancer studies and other relevant data. Based on the data discussed in Unit III.A., EPA has concluded that a chronic reference dose (cRfD) and chronic population-adjusted dose (cPAD) are protective for all chronic toxicity, including any potential carcinogenicity. Thus, a separate quantitative cancer dietary exposure assessment was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for pyflubumide. An estimated upper bound limit based on the combined residue levels of pyflubumide and pyflubumide-NH at a 7-day preharvest interval, and 100 PCT, were assumed for all food commodities.

2. *Dietary exposure from drinking water.* EPA assumes that there is no exposure through drinking water because pyflubumide is not registered for use in the United States. Because residues are not expected in drinking water, dietary risk estimates include exposures from food only.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Pyflubumide is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency considers ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to pyflubumide and any other substances. In addition, pyflubumide does not appear to produce a toxic metabolite that is produced by other substances. For the purposes of this action, therefore, EPA has not assumed that pyflubumide has a common mechanism of toxicity with other substances.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects. The margin of safety accounts for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines, based on reliable data, that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased qualitative or quantitative susceptibility was seen in the rat and rabbit developmental toxicity studies. However, increased quantitative susceptibility was observed in the offspring of the multigeneration reproduction toxicity study where lung lesions in offspring were observed at a lower dose than the dose eliciting parental toxicity. A mechanistic study found that the increased incidence of lung lesions (alveolar dilatation and hemorrhage), following exposure to pyflubumide, was observed during post-natal exposure without any effects seen during *in utero* exposure. Although

quantitative susceptibility was observed in the multigeneration reproduction study at 6 mg/kg/day, a clear level at which no adverse effects occurred was identified at 1 mg/kg/day. In two mechanistic studies where lung lesions were identified, a clear NOAEL was established. Oral gavage administration of the parent compound (pyflubumide) to rat pups led to the increased incidence of lung lesions at a lower dose (10 mg/kg/day) than the metabolites (50 mg/kg/day) and a clear NOAEL was established at 2 mg/kg/day. In addition, oral gavage administration of the parent (50 mg/kg/day) over a two-day period (post-natal day [PND] 4–5 or PND 6–7), led to the increased incidence of lung (alveolar enlargement) lesions in the pups and a clear NOAEL was established at 10 mg/kg/day. An acute exposure below 10 mg/kg/day is not likely to result in the development of lung lesions. A point of departure was established for both the acute (10 mg/kg/day) and chronic dietary (1 mg/kg/day) exposure scenario which is protective of lung effects observed in the aforementioned studies. The combination of these factors provided a weight of the evidence to support reducing the FQPA safety factor to 1X.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for pyflubumide is complete for evaluating and characterizing toxicity, assessing offspring susceptibility under FQPA, and selecting endpoints for the exposure pathways of concern. The developmental toxicity studies in rats and rabbits, a multigeneration reproduction toxicity study, an acute neurotoxicity study in rats, and mechanistic studies on the incidence of lung lesions in rat pups are available for FQPA consideration.

ii. There is no indication that pyflubumide is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. As stated above, no evidence of increased qualitative or quantitative susceptibility was seen in the rat and rabbit developmental toxicity studies. However, increased quantitative susceptibility was observed in the offspring of the multigeneration reproduction toxicity study where lung lesions in offspring were observed at a lower dose than the dose eliciting parental toxicity. The concern for the susceptibility observed in the multigeneration reproductive toxicity study is low, as there is a clear NOAEL established for the offspring effects and the PODs selected for risk assessment are protective of the observed susceptibility.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% PCT and combined residue levels for pyflubumide and pyflubumide-NH at a 7-day preharvest interval. These assessments will not underestimate the exposure and risks posed by pyflubumide.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions described in this unit for acute exposure, EPA has concluded that acute exposure to pyflubumide from food only will utilize 3.5% of the aPAD for females (13 to 49 years old). The acute dietary risk estimate for females (13 to 49 years old) is protective for nursing infants because lactating mothers who consume tea with pyflubumide residues are not expected to have lower exposures than infants who subsequently consume the mother's breast milk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pyflubumide from food only will utilize 7.7% of the cPAD for adults (50 to 99 years old), the most highly exposed population subgroup. There are no residential uses for pyflubumide.

3. *Short and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because pyflubumide is not registered in the United States, the only exposures will be dietary, from residues in or on imported tea; therefore, no short-term or intermediate-term residential exposure is expected. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for pyflubumide.

4. *Aggregate cancer risk for U.S. population.* As stated in Unit III.A, EPA has concluded that the chronic reference dose (cRfD) will adequately account for all repeated exposure/chronic toxicity, including carcinogenicity, which could result from exposure to pyflubumide. Based on the lack of chronic risk at regulated levels of exposure, EPA concludes that exposure to pyflubumide will not pose an aggregate cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to pyflubumide residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (QuEChERS-based high-performance liquid chromatography method with tandem mass spectrometry detection (LC/MS/MS), Method A) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The Codex has not yet established a MRL for pyflubumide residues in or on tea, dried or tea, instant. The Joint Food and Agriculture Organization (FAO)/World Health Organization (WHO) Meeting on Pesticide Residues (JMPR)

evaluated toxicology and residue data for apple and tea submitted by Nichino in September 2019. JMPR proposed an MRL level of 80 ppm for tea, dried (Pesticide Residues in Food 2019—Joint FAO/WHO Meeting on Pesticide Residues, pg 1620–1622; *https://www.fao.org/3/ca7455en/ca7455en.pdf*). The U.S. tolerance of 80 ppm for residues of pyflubumide in/on tea, dried is harmonized with the MRL proposed by JMPR.

C. Revisions to Petitioned-For Tolerances

The petition requested tolerances for residues of pyflubumide in or on tea, dried at 70 ppm. EPA is establishing the tolerance for residues of pyflubumide in or on tea, dried at 80 ppm. Two of the submitted field residue trials were conducted at half the label rate. EPA normalized those resulting residues to a 1X rate using proportionality and used the Organization for Economic Co-operation and Development (OECD) MRL calculation procedures, which resulted in a tolerance level of 80 ppm for tea, dried. EPA is also establishing a tolerance for tea, instant, which is another processed commodity of tea, plucked leaves, and EPA has determined that the same tolerance of 80 ppm is appropriate for instant tea.

V. Conclusion

Therefore, tolerances are established for residues of pyflubumide, including its metabolites and degradates, in or on tea, dried at 80 ppm and tea, instant at 80 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 9, 2021.

Edward Messina,

Director, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.722 to subpart C to read as follows:

§ 180.722 Pyflubumide; tolerances for residues.

(a) *General.* Tolerances are established for residues of pyflubumide, including its metabolites and degradates, in or on the commodities in Table 1 to this paragraph (a). Compliance with the tolerance levels specified in Table 1 to this paragraph (a) is to be determined by measuring residues of pyflubumide (1,3,5-trimethyl-*N*-(2-methyl-1-oxopropyl)-*N*-[3-(2-methylpropyl)-4-[2,2,2-trifluoro-1-methoxy-1-(trifluoromethyl)ethyl]phenyl]-1*H*-pyrazole-4-carboxamide) in or on the following commodities:

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
Tea, dried	80
Tea, instant	80

(b)–(d) [Reserved].

[FR Doc. 2021–27147 Filed 12–14–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 211208–0254]

RIN 0648–BK69

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport in Newport, Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS, upon request of the U.S. Navy (Navy), hereby issues regulations to govern the unintentional taking of marine mammals incidental to construction activities for bulkhead replacement and repairs at Naval Station Newport (NAVSTA Newport) over the course of five years (2022–2027). These regulations, which allow for the issuance of a Letter of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, 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, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from May 15, 2022, through May 14, 2027.

ADDRESSES: A copy of the Navy's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-construction-naval-station-newport-rhode-island*. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

We received an application from the Navy requesting five-year regulations and authorization to take multiple species of marine mammals. This rule establishes a framework under the authority of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take by Level A and Level B harassment incidental to the Navy's construction activities, including impact and vibratory pile driving. Please see Background below for definitions of harassment.

Legal Authority for the Planned Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs 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 for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the Mitigation section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart R provide the legal basis for issuing this final rule containing five-year regulations, and for any subsequent LOAs. As directed by this legal authority, this final rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Final Rule

Following is a summary of the major provisions of this final rule regarding Navy construction activities. These measures include:

- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities;
- Shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power.

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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, regulations are issued, and notice is provided to the public.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of the 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).

Summary of Request

In July 2020, NMFS received a request from the Navy requesting authorization to take small numbers of seven species of marine mammals incidental to construction activities including bulkhead replacement and repairs at NAVSTA Newport. NMFS reviewed the Navy's application, and the Navy provided responses addressing NMFS' questions and comments on February 22, 2021. The application was deemed adequate and complete and published for public review and comment on May 19, 2021 (86 FR 27069). We did not receive substantive comments on that notice and request for comments and information. We subsequently published a proposed rule in the **Federal Register** on October 13, 2021 (86 FR 56857). Comments received during the public comment period on the proposed regulations are addressed in the Comments and Responses section of this final rule.

The Navy requested authorization to take a small number of seven species of marine mammals by Level A and B harassment. Neither the Navy nor NMFS expects serious injury or mortality to result from this activity. The regulations are valid for five years (2022–2027).

Description of Specified Activity

The Navy plans to replace or repair several sections of deteriorating, unstable, hazardous, and eroding bulkhead, sheet pile, and revetment (approximately 2,730 total linear feet (ft)) along the Coddington Cove waterfront of NAVSTA Newport. Over time, the existing storm sewer systems and bulkheads along the Coddington Cove waterfront have severely degraded due to erosion from under-capacity stormwater system piping and aging infrastructure. This impacts the ability of the installation to minimize shoreline erosion and minimize safety risks from associated upland subsidence, while also maintaining potential berthing space. The Navy plans to conduct

necessary work, including impact and vibratory pile driving, to repair and replace bulkheads over five years. The specified activities may occur at any time during the 5-year period of validity of the regulations. The Navy expects pile driving to occur on approximately 222 non-consecutive in-water pile driving days over the five-year duration. Pile driving activities are anticipated to be completed within 4 years. However, because the planned construction is dependent on the allocation of funding, the Navy requested that the LOA be issued for the entire 5-year construction period to ensure flexibility in the project schedule. Table 1 provides the anticipated construction schedule for the planned activities.

TABLE 1—CODDINGTON COVE BULKHEAD REPLACEMENT AND REPAIR SUMMARY SCHEDULE

Section ID	Bulkhead replacement (lf)	Revetment replacement (lf)	Outfalls replaced	Dredging area (ft^2)	Dredging volume (cy)	Construction start date
S45	310	250	Yes (3)	8,400	650	May 15, 2022.
S366	90	0	Yes (1)	1,350	100	October 15, 2023.
Pier 1	100	0	No	1,500	120	October 15, 2023.
LNG	650	0	Yes (2)	9,750	760	October 15, 2024.
S499/Pier 2	510	90	Yes (5)	9,000	700	October 15, 2025.
S50	730 (repair)	0	Yes (2)	0	0	October 15, 2026.

Source: NAVFAC Mid-Atlantic 2018.

The specific sections planned for bulkhead repair and replacement are described in detail in the proposed rule (86 FR 56857; October 13, 2021) and are summarized in Table 2 below.

TABLE 2—BULKHEAD PILE INSTALLATION ACTIVITY

Facility	Method of pile driving	Pile type	Pile size	Number of sheets (pairs)/ piles	Strikes per pile	Vibratory driving minutes per pile	Maximum number of piles installed per day	Maximum number of pile driving days
S45	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/ 22.5-in each.	80 pair	530	13	10	27
	Impact	Steel Pipe Pile	30-in	4	530	NA	2	4
	Vibratory	Steel H-pile	14-in	76	NA	10	12	13
S366	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/ 22.5-in each.	14 pair	530	13	10	5
	Impact	Steel pipe pile	30-in diameter	15	530	NA	2	15
	Vibratory	Steel H-pile	14-in	14	NA	10	12	3
S499/Pier 2	Vibratory/Impact	Z-shaped Steel Sheet Pile.	5.25 ft per pair/ 31.5-in each.	70 pair	530	13	8	23
	Impact	Steel Pipe Pile	42-in	35	530	NA	4	18
	Vibratory	Steel H-pile	14-in	79	NA	10	12	14
LNG	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/ 22.5-in each.	173 pair	530	13	10	58
	Vibratory	Steel H-pile	14-in	164	NA	10	12	28
Pier 01	Vibratory/Impact	Z-shaped Steel Sheet Pile.	3.75 ft per pair/ 22.5-in each.	27 pair	530	13	10	9
	Vibratory	Steel H-pile	14-in	26	NA	10	12	5
Total sheet piles pairs/pipe and H-piles installed				364/413.				
Total days pile driving								222

Legend: NA = not applicable, ft = foot; Start date of in-water work and duration are to be determined.

Since the proposed rule, which contains a detailed description of the planned construction, was published (86 FR 56857; October 13, 2021), no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to the proposed rule for further description of the specific activity.

Comments and Responses

We published a proposed rule in the **Federal Register** on October 13, 2021 (86 FR 56857). During the 30-day comment period, we received six comments from private citizens, with five expressing general support for the project and one expressing general opposition to the project.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the Navy's application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species or stocks for which take is expected and planned for authorization, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2021).

PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Atlantic and Gulf of Mexico SARs (*e.g.,* Hayes *et al.* 2021). All values presented in Table 3 are the most recent available at the time of publication and are available in the 2020 SARs (Hayes *et al.* 2021) or the 2021 draft SARS, available at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.*

TABLE 3—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Atlantic white-sided dolphin	*Lagenorhynchus acutus*	Western North Atlantic	-, -; N	93,233 (0.71; 54,443; 2016)	544	27
Common dolphin	*Delphinus delphis*	Western North Atlantic	-, -; N	172,974 (0.21; 145,216; 2016)	1,452	390
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	95,543 (0.31; 74,043; 2016)	851	164
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	Western North Atlantic	-,-; N	61,336(0.08/; 57,637, 2018)	1,729	339
Gray seal	*Halichoerus grypus*	Western North Atlantic	-,-; N	27,300 (0.22, 22,785, 2016) [4]	1,389	4,453
Harp seal	*Pagophilus groenlandicus*	Western North Atlantic	-,-; N	7,600,000 (unk,7,100.000, 2019).	426,000	178,573
Hooded seal	*Cystophora cristata*	Western North Atlantic	-,-; N	593,500	unknown	1,680

[1]—Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2]—NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3]—These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual Mortality/Serious Injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4]—This abundance value and the associated PBR value reflect the US population only. Estimated abundance for the entire Western North Atlantic stock, including animals in Canada, is 451,600. The annual M/SI estimate is for the entire stock.

As indicated above, all seven species in Table 3 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized take. Several depleted species of whales occur seasonally in the waters off Rhode Island including Humpback (*Megaptera novaeangliae*), Fin (*Balaenoptera physalus*), Sei (*Balaenoptera borealis*), Sperm (*Physeter macrocephalus*) and North Atlantic Right whales (*Eubaleana glacialis*). These whales are seasonally present in New England waters; however, due to the depths of Narragansett Bay and near shore location of the project area, these listed marine mammals are unlikely to occur. Therefore, no takes were requested and none are anticipated or planned for authorization by NMFS and they are not discussed further.

A detailed description of the species likely to be affected by the Navy's project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the proposed rule (86 FR 56857; October 13, 2021). We are not aware of any changes in the status of these species and stocks since that time. Please refer to the proposed rule for these descriptions (86 FR 56857; October 13, 2021).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible, thus the lower bound from Southall *et al.* (2007) is retained. Marine

mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.* 2006; Kastelein *et al.* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Seven marine mammal species (three cetacean and four phocid pinniped species) have the reasonable potential to co-occur with the planned construction activities. Please refer to Table 3. Of the cetacean species that may be present, two are classified as a mid-frequency cetacean (*i.e.,* dolphins), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the Navy's activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the project area. The proposed rule (86 FR 56857; October 13, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the Navy's construction activities on marine mammals and their habitat. That information and analysis applies to this final rule and is not repeated here; please refer to the proposed rule (86 FR 56857; October 13, 2021).

The Estimated Take section in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Mitigation Measures section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks. We also provided additional description of sound sources in our proposed rule (86 FR 56857; October 13, 2021).

Estimated Take

This section provides an estimate of the number of incidental takes authorized, which will inform both NMFS' consideration of small numbers and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of 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).

Authorized takes would be by Level A and B harassment, in the form of disruption of behavioral patterns and potential TTS and PTS for individual marine mammals resulting from exposure to pile driving and removal. As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.* 2007, Ellison *et al.* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic

noise above received levels of 120 dB re 1 μPa (rms) (reference pressure microPascal, root mean square) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

The Navy's construction includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the level of 120 and 160 dB re 1 μPa (rms) is applicable.

Level A harassment—NMFS' *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing* (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise. The technical guidance identifies the received levels, or thresholds, above which individual marine mammals are predicted to experience changes in their hearing sensitivity for all underwater anthropogenic sound sources, and reflects the best available science on the potential for noise to affect auditory sensitivity. The technical guidance does this by identifying threshholds in the follow manner:

- Dividing sound sources into two groups (*i.e.,* impulsive and non-impulsive) based on their potential to affect hearing sensitivity;
- Choosing metrics that best address the impacts of noise on hearing sensitivity, *i.e.,* sound pressure level (peak SPL) and sound exposure level (SEL) (also accounting for duration of exposure); and
- Dividing marine mammals into hearing groups and developing auditory weighting functions based on the science supporting the fact that not all marine mammals hear and use sound in the same manner.

These thresholds were developed by compiling and synthesizing the best available science and are provided in Table 5 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection.*

The Navy's planned construction includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

TABLE 5—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 217 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels transmission loss coefficient.

Sound Propagation

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

Where

B = transmission loss coefficient (assumed to be 15)

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions, including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log(range)). As is common practice in coastal waters, here we assume practical spreading (4.5 dB reduction in sound level for each doubling of distance). Practical spreading is a compromise that is often used under conditions where water depth increases as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading was used to determine sound propagation for this project.

Sound Source Levels

The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes

place. There are sound source level (SSL) measurements available for certain pile types and sizes from the similar environments from other Navy pile driving projects that were evaluated and used as proxy sound source levels to determine reasonable sound source levels likely to result from the pile driving and removal activities (Table 6). Some of the proxy source levels are expected to be conservative, as the values are from larger pile sizes.

TABLE 6—UNDERWATER NOISE SOUND SOURCE LEVELS MODELED FOR IMPACT AND VIBRATORY PILE DRIVING

Pile size, type	Method	Sound pressure levels (SPL) or sound exposure level (SEL) at 10 m distance		
		Peak SPL	RMS SPL	SEL
42-in Diameter Steel Pipe [1]	Impact	211	196	181
30-in Diameter Steel Pipe [2]	Impact	211	196	181
14-in Steel H-pile [3]	Vibratory	NA	158	158
31.5-in Z-shaped Steel Sheet [4]	Impact	211	196	181
31.5-in Z-shaped Steel Sheet [5]	Vibratory	NA	163	163
22.5-in Z-shaped Steel Sheet [3]	Impact	205	190	180
22.5-in Z-shaped Steel Sheet [5]	Vibratory	NA	163	163

Legend: All sound pressure levels (SPLs) are unattenuated; dB = decibels; rms = root mean square, SEL = sound exposure level; NA = Not applicable; NR = Not reported.

Notes:

[1] Navy pers comm. 2021.

[2] Navy San Diego Bay Acoustic Compendium (NAVFAC SW 2020).

[3] Caltrans 2015.

[4] A proxy value for 31-in sheet piles could not be found for impact driving so the proxy for a 30-in steel pipe pile has been used from NAVFAC SW (2020). This value was also used for Z-shaped steel sheets for the Navy's Dry Dock 1 Modification and Expansion, Portsmouth Naval Shipyard, Kittery, Maine 2021 IHA (86 FR 14598; March 17, 2021).

[5] For vibratory driving of 31-in sheet piles and 22.5-in Z-shaped steel sheet piles, 163 dB SPL was used based on measurements conducted by the Naval Facilities Engineering Command Mid-Atlantic (NAVFAC Mid-Atlantic) in the Technical Memorandum Nearshore Marine Mammal Surveys, Portsmouth Naval Shipyard (2018).

For 42-in steel piles, a SSL of 181 dB SEL was used for impact driving and is similar to SSL of 180 dB SEL for 36-in piles in CALTRANS (2015). There are no SSL values for 42-in piles in CALTRANS, the nearest values are for 36-in and 60-in steel pipe piles. For 30-in steel pipe piles, an SSL of 181 dB SEL was used for impact pile driving as a proxy from the Navy's San Diego Bay Acoustic Compendium (NAVFAC SW 2020) (the median value from the greatest sound levels recorded for 30-in steel piles). The SSL used for 30-in steel piles during impact pile driving is also more conservative than the SSL of 177 dB SEL for 30-in steel piles in CALTRANS (2015). For 31.5-in sheet piles, an SSL of 181 dB SEL was used for impact pile driving as a proxy from 30-in steel pipe piles (NAVFAC SW 2020), which is also slightly more conservative than an SSL of 180 dB SEL for 24-in piles in CALTRANS (2015) (no larger sheet piles are described in CALTRANS 2015). During vibratory pile driving of 31.5-in sheet piles, the Navy used an SSL of 163 dB SPL, which is also more conservative than an SSL of 160 dB SPL for 24-in sheet piles in CALTRANS (2015) (no large sheet piles are described in CALTRANS 2015). For 22.5-in Z-shaped steel sheet piles, an SSL of 180 dB SEL was used for impact pile driving and is also equivalent to 24-in sheet piles in CALTRANS (2015). During vibratory pile driving, an SSL of 163 dB SPL is a proxy from NAVFAC Mid-Atlantic (2018) and is also more conservative than 24-in sheet piles in CALTRANS (2015) where the SSL is 160 dB SPL for 24-in sheet piles (no larger sheet piles are described in CALTRANS (2015). For 14-in steel H-piles, an SSL of 158 dB SPL was used from CALTRANS (2015).

Level A Harassment

In conjunction with the NMFS Technical Guidance (2018), in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, NMFS developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that, because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimation of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For stationary sources (such as from impact and vibratory pile driving), the NMFS User Spreadsheet (2020) predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet (Tables 7 and 8), and the resulting isopleths are reported below (Table 9).

TABLE 7—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR VIBRATORY PILE DRIVING

[User spreadsheet input—vibratory pile driving spreadsheet Tab A.1 vibratory pile driving used]

	14-in steel H-pile	22.5-in Z-shaped sheet piles	31.5-in Z-shaped sheet piles
Source Level (RMS SPL)	158	163	163
Weighting Factor Adjustment (kHz)	2.5	2.5	2.5
Number of piles within 24-hr period	12	10	8

TABLE 7—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR VIBRATORY PILE DRIVING—Continued

[User spreadsheet input—vibratory pile driving spreadsheet Tab A.1 vibratory pile driving used]

	14-in steel H-pile	22.5-in Z-shaped sheet piles	31.5-in Z-shaped sheet piles
Duration to drive a single pile (min)	10	13	13
Propagation (xLogR)	15	15	15
Distance of source level measurement (m)	10	10	10

TABLE 8—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET INPUT TO CALCULATE PTS ISOPLETHS FOR IMPACT PILE DRIVING

[User spreadsheet input—Impact pile driving spreadsheet Tab E.1 impact pile driving used]

	22-in Z-shaped piles	31.5-in Z-shaped piles	30-in pile	42-in pile
Source Level (Single Strike/shot SEL)	180	181	181	181
Weighting Factor Adjustment (kHz)	2	2	2	2
Number of strikes per pile	530	530	530	530
Number of piles per day	10	8	2	4
Propagation (xLogR)	15	15	15	15
Distance of source level measurement (m)	10	10	10	10

TABLE 9—NMFS TECHNICAL GUIDANCE (2020) USER SPREADSHEET OUTPUTS TO CALCULATE LEVEL A HARASSMENT PTS ISOPLETHS

User spreadsheet output		PTS isopleths (m)				
		Level A harassment				
Activity	Sound source level at 10 m	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid	Otariid
Vibratory Pile Driving/Removal						
14-in H-pile	158 SPL	6.8	0.6	10.1	4.2	0.3
22.5-in Z-shaped sheet piles.	163 SPL	15.5	1.4	23.0	9.4	0.7
31.5-in Z-shaped sheet piles.	163 SPL	13.4	1.2	19.8	8.1	0.6
Impact Pile Driving						
22.5-in Z-shaped sheet piles.	180 SEL/190 SPL	1,915.4	68.1	2,281.5	1,025.0	74.6
31.5-in Z-shaped sheet piles.	181 SEL/196 SPL	1,942.5	68.4	2,292.4	1,029.9	75.0
30-in pile	181 SEL/196 SPL	763.7	27.2	909.7	408.7	29.8
42-in pile	181 SEL/196 SPL	1,212	43.1	1,444.1	648.8	47.2

Level B Harassment

Utilizing the practical spreading model, NMFS determined underwater noise will fall below the behavioral effects threshold of 120 dB rms for marine mammals at the distances shown in Table 10 for vibratory pile driving. With these radial distances, the largest Level B harassment zone calculated was 7,356 m for sheet piles. However, this distance would be truncated due to the presence of intersecting land masses. For calculating the Level B harassment zone for impact driving, the practical spreading loss model was used with a behavioral threshold of 160 dB rms. The maximum radial distance of the Level B harassment zone for impact piling equaled 2,512 m for 30-in piles, 42-in piles and 31.5-in sheet piles. Table 10 below provides all Level B harassment radial distances (m) and ensonified areas (km^2) during the Navy's planned activities.

TABLE 10—DISTANCES TO RELEVANT BEHAVIORAL ISOPLETHS AND ENSONIFIED AREAS

Year (section)	Activity	Received level at 10 m	Level B harassment zone (m/km^2) *
	Vibratory Pile Driving		

TABLE 10—DISTANCES TO RELEVANT BEHAVIORAL ISOPLETHS AND ENSONIFIED AREAS—Continued

Year (section)	Activity	Received level at 10 m	Level B harassment zone (m/km²) *
Year 1 (S45)	14-in H-piles	158 SPL	3,415 m/5.6 km².
Year 2 (S366); Year 2 (Pier 1)	14-in H-piles	158 SPL	3,415 m/5.8 km².
Year 3 (LNG)	14-in H-piles	158 SPL	3,415 m/5.8 km².
Year 4 (S499/Pier 2)	14-in H-piles	158 SPL	3,415 m/5.7 km².
Year 1 (S45)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/7.9 km².
Year 2 (S366); Year 2 (Pier 1)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/8.3 km².
Year 3 (LNG)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/7.5 km².
Year 4 (S499/Pier 2)	22.5-in Z-shaped sheet piles	163 SPL	7,356 m/7.5 km².
Year 4 (S499/Pier 2)	31.5-in Z-shaped sheet piles	163 SPL	7,356 m/9.5.km².
	Impact Pile Driving		
Year 1 (S45)	22.5-in Z-shaped sheet piles	180 SEL/190 SPL	1,000 m/1.1 km².
Year 2 (S366); Year 2 (Pier 1)	22.5-in Z-shaped sheet piles	180 SEL/190 SPL	1,000 m/1.3 km².
Year 3 (LNG)	22.5-in Z-shaped sheet piles	180 SEL/190 SPL	1,000 m/0.7 km².
Year 4 (S499/Pier 2)	31.5-in Z-shaped sheet piles	181 SEL/196 SPL	2,512 m/3.8 km².
Year 1 (S45)	30-in piles	181 SEL/196 SPL	2,512 m/3.8 km².
Year 2 (S366)	30-in piles	181 SEL/196 SPL	2,512 m/4.0 km².
Year 4 (S499/Pier 2)	42-in piles	181 SEL/196 SPL	2,512 m/3.8 km².

* **Note:** Distances to the Level B harassment zone may vary slightly of the same pile size, due to the section of work being conducted and how the produced sound would be directed (see Figures 6–1 through 6–4 of the Navy's application).

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Potential exposures to impact pile and vibratory pile driving noise for each acoustic threshold were estimated using marine mammal density estimates (N) from the Navy Marine Species Density Database NMSDD (Navy 2017) for which data of monthly densities of species were evaluated in terms of minimum, maximum, and average annual densities within Narragansett Bay and multiplied by the zone of influence (ZOI) and the maximum days of pile driving (take estimate = N × ZOI × days of pile driving). The pile type, size, and installation method that produce the largest ZOI were used to estimate exposure of marine mammals to noise impacts. We describe how the information provided above is brought together to produce a quantitative take estimate in the species sections below.

Atlantic White-Sided dolphins

Atlantic white-sided dolphins occur seasonally, occurring primarily along the continental shelf with occasional unconfirmed opportunistic sightings in Narragansett Bay in fall and winter. The most recent observation of a pod of dolphins in Narragansett Bay was in October 2007 (NUWC Division, 2011). Construction activity could occur at any time of year and would be short-term and intermittent. Therefore, the average species density was determined to be appropriate for estimating takes of Atlantic white-sided dolphin. Based on density data for Narragansett Bay (Navy 2017), the average density of Atlantic white-sided dolphin was determined to be 0.003/km². This density was used to estimate abundance of animals that could be present in the area for exposure. Using this information, 1 take was calculated for Years 1, 3, and 4 and 0 takes in Year 2 (Table 11). However, the annual take by Level B harassment for Atlantic white-sided dolphins has been increased to the average group size (16) (NAVSEA NUWC 2017) for Years 1, 3, and 4, because the calculated annual take is below the average group size. Therefore, the Navy requested, and NMFS authorized, 16 takes annually in Years 1, 3, and 4 (0 in Year 2) for a total of 48 takes by Level B harassment of Atlantic white-sided dolphin (Table 11). No takes by Level A harassment of Atlantic white-sided dolphin are anticipated to occur or are authorized. Because this species' regular occurrence is in much deeper waters than the extent of the ZOI (Hayes *et al.,* 2019), expected takes of this species are extremely low.

TABLE 11—ESTIMATED TAKE FOR ATLANTIC WHITE-SIDED DOLPHIN

Construction year	Calculated level B harassment	Authorized level B harassment
Year 1 (S45)	1	16
Year 2 (S366 and Pier 01)	0	0
Year 3 (LNG)	1	16
Year 4 (S499/Pier 2)	1	16
Total	3	48

Common Dolphin

Common dolphins are the most likely dolphin species to be spotted in Narragansett Bay, and usually occur in late fall or winter (Kenney, 2013). The most recent sighting of a common dolphin recorded in Narragansett Bay was in October of 2016 (Hayes *et al.,* 2019). Construction activity could occur at any time of year and would be short-term and intermittent. Based on density data for Narragansett Bay (NMSDD, Navy, 2017), the average density of common dolphin was determined to be 0.011/km². Using this information, 3 takes by Level B harassment were calculated for Years 1 and 4, 2 takes for Year 2 and 6 takes for Year 3 (Table 12). Because the calculated annual take is below the average group size, the annual take by Level B harassment for common dolphin has been increased to the average group size (28) (NAVSEA NUWC 2017). Therefore, the Navy requested, and NMFS authorized, 28 takes annually (with the exception of Year 2, for which it was doubled to 56 takes as a conservative approach to account for more vibratory and impact

pile driving activities that occur during that year in two sections (S366 and Pier 1)) for a total of 140 takes by Level B harassment of common dolphin (Table 12). No takes by Level A harassment of common dolphin are anticipated to occur or are authorized. Because this species' regular occurrence is in much deeper waters than the extent of the ZOI (Hayes *et al.,* 2019), takes of this species are expected to be extremely low.

TABLE 12—ESTIMATED TAKE FOR COMMON DOLPHIN

Construction year	Calculated level B harassment	Authorized level B harassment
Year 1 (S45)	3	28
Year 2 (S366 and Pier 01)	2	56
Year 3 (LNG)	6	28
Year 4 (S499/Pier 2)	3	28
Total	14	140

Harbor Porpoise

Harbor porpoise are not common to Narragansett Bay but may occur, especially in winter and spring months (Kinney 2013). Harbor porpoise is the most stranded cetacean in Rhode Island, with a strong seasonal occurrence in the spring. Construction activity could occur at any time of year and would be short-term and intermittent. Therefore, the average species density was determined to be appropriate for estimating takes of harbor porpoise. Based on density data for Narragansett Bay (NMSDD, Navy 2017), the average density of harbor porpoise was determined to be 0.012/km². Using this information, 4 takes by Level B harassment were calculated for Years 1 and 4, 2 takes for Year 2, and 7 takes for Year 3 (Table 13). Because the calculated take in Year 2 was less than the group size, the annual take by Level B harassment for harbor porpoise has been increased to the average group size (3) and multiplied by two for 6 takes (NAVSEA NUWC 2017) as a conservative approach to account for more vibratory and impact pile driving activities that occur during that year in two sections (S366 and Pier 1)). Therefore, the Navy requested, and NMFS authorized, 4 takes in Years 1 and 4, 6 takes in Year 2, and 7 takes in Year 3, and a total of 21 takes by Level B harassment of harbor porpoise (Table 13). Level A harassment could occur during years 1, 3 and 4 (Table 13).

TABLE 13—ESTIMATED TAKE FOR HARBOR PORPOISE

Construction year	Authorized level A harassment	Calculated level B harassment	Authorized level B harassment
Year 1 (S45)	1	4	4
Year 2 (S366 and Pier 01)	0	2	6
Year 3 (LNG)	2	7	7
Year 4 (S499/Pier 2)	1	4	4
Total	4	17	21

Harbor Seal

Harbor seals are the most common seal in Narragansett Bay, which is a well-known winter feeding ground for the species (Moll *et al.,* 2017). Seals are commonly observed from late September through April (Moll *et. al.,* 2017; DeAngelis, 2020). Of the 22 known haulouts within Narragansett Bay, The Sisters is the nearest haulout to the project area (0.9 mi). Harbor seals are rarely observed at The Sisters haulout in the early fall (September–October) but consistent numbers are regularly observed in mid-November (0–10 animals). These numbers gradually increase with peak numbers in the upper 40s occurring in March, typically at low tide (DeAngelis, 2020). The NMSDD (Navy, 2017a) models harbor and gray seals as a guild due to the difficulty in distinguishing these species at sea. Harbor seal is expected to be the most common pinniped in Narragansett Bay with year-round occurrence (Kenney and Vigness-Raposa, 2010). Therefore, the maximum species density for the harbor-gray seal guild was determined to be appropriate for estimating takes of harbor seal. Based on density data for Narragansett Bay (Navy, 2017a), the maximum density of seals was determined to be 0.623/km². This density value is for all seals (harbor and gray seals as a guild); therefore, this density value results in some degree of overestimation when applied to harbor seals only. The Navy requested and NMFS authorized a high of 25 takes by Level A harassment and 353 takes by Level B harassment during Year 3, and a low of 13 takes by Level A harassment and 138 takes by Level B harassment during Year 2 (Table 14).

TABLE 14—ESTIMATED TAKE FOR HARBOR SEAL

Construction year	Authorized level A harassment	Authorized/calculated level B harassment
Year 1 (S45)	15	188
Year 2 (S366 and Pier 01)	13	138
Year 3 (LNG)	25	353
Year 4 (S499/Pier 2)	25	221
Total	78	900

Gray Seal

Based on stranding records, gray seals are seasonally present in Rhode Island with the largest populations occurring from February through June with a sharp peak in March and April. The NMSDD (Navy, 2017a) provides combined densities for harbor seal and gray seal (as discussed above). Gray seals are the second most likely seal to be observed in Rhode Island waters, next to harbor seals, and more of an occasional visitor (Kenney, 2020); therefore, the average species density for the harbor-gray seal guild was determined to be appropriate for determining takes of gray seal. Based on density data for Narragansett Bay (Navy, 2017a), the average density of seals was determined to be 0.131/km². This

density value is for all seals (harbor and gray seals as a guild); therefore, it results in some degree of overestimation when applied to gray seals only. Calculated takes by Level A harassment and Level B harassment may occur each construction year with up to 5 takes by Level A harassment and 74 takes by Level B harassment during Year 3. Fewer annual takes were calculated for Year 2 and 3 by Level A harassment and 28 takes by Level B (Table 15). Because the calculated annual take is below the average group size, the annual take by Level B harassment for gray seal has been increased to the average group size (50 gray seals) (NAVSEA NUWC 2017) and conservatively doubled for Year 1, 2, and 4, during which years calculated takes were less than group size. Therefore, the Navy requested, and NMFS authorized, 100 takes of gray seals in Years 1, 2 and 4, and 74 takes in Year 3, and a total of 374 takes by Level B harassment of gray seals. A total of 17 takes of gray seals by Level A harassment is also authorized.

TABLE 15—ESTIMATED TAKE FOR GRAY SEAL

Construction year	Authorized level A harassment	Calculated level B harassment	Authorized level B harassment
Year 1 (S45)	3	40	100
Year 2 (S366 and Pier 01)	3	28	100
Year 3 (LNG)	5	74	74
Year 4 (S499/Pier 2)	6	41	100
Total	17	183	374

Harp Seal

Harp seals may be present in the project vicinity January through May. In general, harp seals are much rarer than the harbor seal and gray seal in Narragansett Bay and are rarely observed in the bay (Kenney, 2015). Therefore, the minimum species density was determined to be appropriate for determining takes of harp seal. Based on density data for Narragansett Bay obtained from the NMSDD (Navy 2017), the minimum density of harp seal was determined to be 0.050/km². The Navy requested and NMFS authorized that 2 takes by Level A harassment could occur in Year 3, and 1 take by Level A harassment in Years 1, 2, and 4, for a total of 5 takes (Table 16). Calculated takes by Level B harassment range from 11 to 29 and total 72 takes over the project (Table 16).

TABLE 16—ESTIMATED TAKE FOR HARP SEAL

Construction year	Authorized level A harassment	Authorized/calculated level B harassment
Year 1 (S45)	1	16
Year 2 (S366 and Pier 1)	1	11
Year 3 (LNG)	2	29
Year 4 (S499/Pier 2)	2	18
Total	6	74

Hooded Seal

Hooded seals may be present in the project vicinity from January through May, although their exact seasonal densities are unknown. In general, hooded seals are much rarer than the harbor seal and gray seal in Narragansett Bay and are rarely observed in the Bay (Kenney, 2005). Based on density data for Narragansett Bay obtained from the NMSDD, the minimum density of hooded seal was determined to be 0.001/km². Hooded seals have the potential to occur but are considered the least likely seal to be present in Narragansett Bay. No Level A (PTS onset) or Level B (behavioral) takes are anticipated during any construction year. However, in order to guard against unauthorized take, the Navy is requesting, and NMFS authorized, 1 Level B (behavioral) take of hooded seal per month of construction when this species may occur (Jan through May) for each construction year for a total of 20 takes by Level B harassment (Table 17). No take by Level A harassment is anticipated to occur or is authorized.

TABLE 17—ESTIMATED TAKE FOR HOODED SEAL

Construction year	Authorized Level B harassment
Year 1 (S45)	5
Year 2 (S366 and Pier 1)	5
Year 3 (LNG)	5
Year 4 (S499/Pier 2)	5
Total	20

Table 18 below summarizes the authorized take for all the species described above as a percentage of stock abundance.

TABLE 18—TAKE ESTIMATES AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock (N_{EST})	Level A harassment	Level B harassment	Percent of stock
Atlantic White-sided Dolphin	Western North Atlantic (93,233)	0	48	Less than 1 percent.
Common Dolphin	Western North Atlantic (172,974)	0	140	Less than 1 percent.
Harbor Porpoise	Gulf of Maine/Bay of Fundy (95,543)	4	21	Less than 1 percent.
Harbor Seal	Western North Atlantic (61,336)	78	900	Less than 2 percent.
Gray Seal	Western North Atlantic (451,600)	17	374	Less than 1 percent.
Harp Seal	Western North Atlantic (7.6 million)	6	74	Less than 1 percent.
Hooded Seal	Western North Atlantic (593,500)	0	20	Less than 1 percent.

Mitigation

Under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable adverse impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The following mitigation measures are planned for the Navy's in-water construction activities.

General

The Navy will follow mitigation procedures as described below. In general, if poor environmental conditions restrict full visibility of the shutdown zone, pile driving activities would be delayed.

Training

The Navy will ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained and prior to the start of construction activity subject to this rule, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project will be trained prior to commencing work.

Avoiding Direct Physical Interaction

The Navy will avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations will cease and vessels will reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction.

Shutdown Zones

The Navy will establish shutdown zones for all pile driving activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the activity type and marine mammal hearing group (Table 19). For those activities with larger Level A (PTS onset) harassment zones, the shutdown zone would be limited to 150 m from the point of noise generation to ensure adequate monitoring for each bulkhead section and the remaining area would be considered part of the ''disturbance zone.'' The disturbance zone is the Level B harassment zone and, where present, the Level A harassment zone (PTS onset) beyond 150 m from the point of noise generation (see Figures 6–1 through 6–4 of the Navy's application). For activities where the Level A (PTS onset) harassment zones are smaller, the disturbance zone would include the entire region of influence (ROI) and is the full extent of potential underwater noise impact (Level A and Level B calculated harassment zones). Work will be allowed to proceed without cessation while marine mammals are in the disturbance zone and marine mammal behavior within the disturbance zone will be monitored and documented.

TABLE 19—PILE DRIVING SHUTDOWN ZONE AND DISTURBANCE ZONES DURING PROJECT ACTIVITIES

Pile type	Installation method	Pile diameter (in)	Shut down zone for cetaceans (m)	Shut down zone for pinnipeds (m)	Disturbance zone (m)
Steel pipe	Impact	30	150	150	2,500
	Impact	42	150	50	2,500
Steel H	Vibratory	14	10	10	ROI
Z-Shaped Steel Sheet	Vibratory	22.5	30	10	ROI
	Impact	22.5	150	150	2,500
	Vibratory	31.5	20	10	ROI
	Impact	31.5	150	150	2,500

* ROI = region of influence and is the full extent of potential underwater noise impact (Level A and Level B calculated harassment zones).

Soft Start

The Navy will use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. Then two subsequent reduced-energy strike sets would occur. A soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

Based on our evaluation of the applicant's planned measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as for ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The Navy will submit a Marine Mammal Monitoring Plan to NMFS for approval in advance of the start of construction.

Monitoring Zones

The Navy will conduct monitoring to include the area within the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and the 120 dB rms threshold during vibratory pile driving) (see Disturbance Zones in Table 19). These disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of the disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area, but outside the shutdown zone, and thus prepare for potential shutdowns of activity.

Visual Monitoring

Monitoring must take place from 30 minutes (min) prior to initiation of pile driving activity (*i.e.,* pre-start clearance monitoring) through 30 min post-completion of pile driving activity. If a marine mammal is observed entering or within the shutdown zones, pile driving will be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 min have passed without re-detection of the animal. Pile driving activity will be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the disturbance zone.

PSO Monitoring Requirements and Locations

PSOs will be responsible for monitoring, the shutdown zones, the disturbance zones and the pre-clearance zones, as well as effectively documenting Level A and B harassment take. As described in more detail in the Reporting section below, they will also (1) document the frequency at which marine mammals are present in the project area, (2) document behavior and group composition, (3) record all construction activities, and (4) document observed reactions (changes in behavior or movement) of marine mammals during each sighting. The PSOs will monitor for marine mammals during all in-water pile activities associated with the project. The Navy will monitor the project area to the extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. Visual monitoring will be conducted by, at a minimum, by two PSOs. It is assumed that two to three PSOs would be sufficient to monitor the respective ROIs given the abundance of suitable vantage points. Any activity that would result in threshold exceedance at or more than 1,000 m would require a minimum of three PSOs to effectively monitor the entire ROI. However, additional monitors may be added if warranted by site conditions and/or the level of marine mammal activity in the area. Trained PSOs will be placed at the best vantage point(s) practicable such as on nearby breakwaters, Gould Island, Coddington Point, or Taylor Point (see Figure 11–1 of the Navy's application) to monitor for marine mammals and implement shutdown/delay procedures when applicable. The PSOs must record all observations of marine mammals, regardless of distance from the pile being driven.

In addition, PSOs will work in shifts lasting no longer than 4 hrs with at least a 1-hr break between shifts and will not perform duties as a PSO for more than 12 hrs in a 24-hr period (to reduce PSO fatigue).

Monitoring of pile driving will be conducted by qualified, NMFS-approved PSOs. The Navy shall adhere to the following conditions when selecting PSOs:

- PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods;
- At least one PSO must have prior experience performing the duties of a PSO during construction activities pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training;
- Where a team of three PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization; and
- PSOs must be approved by NMFS prior to beginning any activity subject to this rule.

The Navy will ensure that the PSOs have the following additional qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

- Experience and ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Acoustic Monitoring

The Navy will conduct a sound source verification (SSV) study for all pile types and will follow accepted methodological standards to achieve their objectives. The Navy will submit an acoustic monitoring plan to NMFS for approval prior to the start of construction.

Reporting

The Navy will submit a draft report to NMFS within 90 workdays of the completion of required monitoring for each portion of the project as well as a comprehensive summary report at the end of the project. The report will detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports (each portion of the project and comprehensive) must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report shall be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. All draft and final marine mammal monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Egger@noaa.gov.* The reports must contain the following informational elements, at minimum, (and be included in the Marine Mammal Monitoring Plan), including:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including:
  - How many and what type of piles were driven and by what method (*e.g.,* impact or vibratory); and
  - Total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving);
- PSO locations during marine mammal monitoring;
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;
- Upon observation of a marine mammal, the following information:
  - PSO who sighted the animal and PSO location and activity at time of sighting;
  - Time of sighting;
  - Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;
  - Distance and bearing of each marine mammal observed to the pile being driven for each sighting (if pile driving was occurring at time of sighting);
  - Estimated number of animals (minimum/maximum/best);
  - Estimated number of animals by cohort (adults, juveniles, neonates, group composition, etc.;
  - Animal's closest point of approach and estimated time spent within the harassment zone; and
  - Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses to the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);
- Detailed information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal, if any; and
- All PSO datasheets and/or raw sightings data.

Reporting of Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy will report the incident to NMFS Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS (301–427–8401) and to the Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator (866–755–6622) as soon as feasible. If the death or injury was clearly caused by the specified activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this rule. The Navy will not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact 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 (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be taken through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are

incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, this introductory discussion of our analyses applies to all of the species listed in Table 3, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks in anticipated individual responses to activities, impacts of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving activities associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment from underwater sounds generated by pile driving. Potential takes could occur if marine mammals are present in zones ensonified above the thresholds for Level A and Level B harassment, identified above, while activities are underway.

No serious injury or mortality would be expected even in the absence of the planned mitigation measures. During all impact driving, implementation of soft start procedures and monitoring of established shutdown zones will be required, significantly reducing the possibility of injury. Given sufficient notice through use of soft start (for impact driving), marine mammals are expected to move away from an irritating sound source prior to it becoming potentially injurious. In addition, PSOs will be stationed within the action area whenever pile driving activities are underway. Depending on the activity, the Navy will employ the use of at least two and up to three PSOs to ensure all monitoring and shutdown zones are properly observed. For Atlantic white-sided dolphins, common dolphins and hooded seals, no Level A harassment is anticipated. Atlantic white-sided dolphin and common dolphin are both species in which regular occurrence is in much deeper waters than the project area, and, given the small Level A harassment zone sizes for mid-frequency cetaceans, we do not anticipate take by Level A harassment. For hooded seals which are a rare species in Narragansett Bay, with the absence of any major rookeries and only one pinniped haulout (The Sisters) within the project area, we do not anticipate any take by Level A harassment.

The Navy's planned pile driving activities and associated impacts will occur within a limited portion of the confluence of the Narraganset Bay area. Exposures to elevated sound levels produced during pile driving activities may cause behavioral disturbance of some individuals, but they are expected to be mild and temporary. However, as described previously, the mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, as enumerated in the Estimated Take section, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006). Most likely, individual animals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along both Atlantic and Pacific coasts, which have taken place with no known long-term adverse consequences from behavioral harassment. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Level B harassment will be minimized through use of mitigation measures described herein, and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring, particularly as the project is located on a waterfront with vessel traffic from both Navy and non-Navy activities.

The project is also not expected to have significant adverse effects on any marine mammal habitat. The project activities will not modify existing marine mammal habitat since the project will occur within the same footprint as existing marine infrastructure. Impacts to the immediate substrate during installation and removal of piles are anticipated, but these would be limited to minor, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time but which would not be expected to have any effects on individual marine mammals. The nearshore and intertidal habitat where the project will occur is an area of consistent vessel traffic from Navy and non-Navy vessels, and some local individuals would likely be somewhat habituated to the level of activity in the area, further reducing the likelihood of more severe impacts. The closest pinniped haulout, The Sisters, is used by harbor seals and is less than a mile from the project area; however, for the reasons described immediately above (including the nature of expected responses and the duration of the project), impacts to reproduction or survival of individuals is not anticipated, much less effects on the species or stock. There are no other biologically important areas for marine mammals near the project area.

In addition, impacts to marine mammal prey species are expected to be minor and temporary. Overall, the area impacted by the project is very small compared to the available habitat in Narragansett Bay. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. During pile driving activities, it is expected that some fish and marine mammals would temporarily leave the area of disturbance, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range. But, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- No Level A harassment is anticipated or authorized for Atlantic white-sided dolphins, Short-beaked common dolphins, and hooded seals;
- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior;
- The required mitigation measures (*i.e.,* shutdown zones) are expected to be effective in reducing the effects of the specified activity;
- Minimal impacts to marine mammal habitat/prey are expected;
- The action area is located within an active marine waterfront area, and
- There are no known biologically important areas in the vicinity of the project, with the exception of one harbor seal haulout (The Sisters)—however, as described above, exposure

to the work conducted in the vicinity of the haulout is not expected to impact the reproduction or survival of any individual seals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat and, taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers, so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Take of seven of the marine mammal stocks authorized will comprise at most approximately 2 percent or less of the stock abundance (Table 18). The number of animals authorized to be taken from these stocks would be considered small relative to the relevant stock's abundances even if each estimated take occurred to a new individual, which is an unlikely scenario. Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Adaptive Management

The regulations governing the take of marine mammals incidental to Navy construction activities would contain an adaptive management component. The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from completed projects to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Endangered Species Act

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of incidental take authorizations, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of incidental take authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that this action qualifies to be categorically excluded from further NEPA review.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this final rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that would be subject to the requirements in these regulations, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required, and none has been prepared.

This final rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act (PRA) because the applicant is a federal agency.

List of Subjects in 50 CFR Part 217

Administrative practice and procedure, Alaska, Endangered and threatened species, Exports, Fish, Imports, Indians, Labeling, Marine mammals, Oil and gas exploration, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation, Wildlife.

Dated: December 10, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 217 is amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Effective from May 15, 2022, through May 14, 2027, add subpart R to read as follows:

Subpart R—Taking and Importing Marine Mammals Incidental to U.S. Navy Bulkhead Replacement/Repairs at Naval Station Newport in Newport, Rhode Island

Sec.

217.70 Specified activity and geographical region.
217.71 Effective dates.
217.72 Permissible methods of taking.
217.73 Prohibitions.
217.74 Mitigation requirements.
217.75 Requirements for monitoring and reporting.
217.76 Letters of Authorization.
217.77 Renewals and modifications of Letters of Authorization.
217.78–217.79 [Reserved]

Subpart R—Taking and Importing Marine Mammals Incidental to U.S. Navy Bulkhead Replacement/Repairs at Naval Station Newport in Newport, Rhode Island

§ 217.70 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy (Navy) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to construction activities including for bulkhead replacement and repairs at Naval Station (NAVSTA) Newport, Rhode Island.

(b) The taking of marine mammals by the Navy may be authorized in a Letter of Authorization (LOA) only if it occurs at NAVSTA Newport, Rhode Island.

§ 217.71 Effective dates.

Regulations in this subpart are effective from May 15, 2022, through May 14, 2027.

§ 217.72 Permissible methods of taking.

Under an LOA issued pursuant to §§ 216.106 of this chapter and 217.76, the Holder of the LOA (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.70(b) by harassment associated with bulkhead replacement and repairs construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

§ 217.73 Prohibitions.

(a) Except for the takings contemplated in § 217.72 and authorized by a LOA issued under §§ 216.106 of this chapter and 217.76, it is unlawful for any person to do any of the following in connection with the activities described in § 217.70:

(1) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 217.76;

(2) Take any marine mammal not specified in such LOA;

(3) Take any marine mammal specified in such LOA in any manner other than as specified;

(4) Take a marine mammal specified in such LOA if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(b) [Reserved]

§ 217.74 Mitigation requirements.

(a) When conducting the activities identified in § 217.71(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.76 must be implemented. These mitigation measures must include but are not limited to:

(1) A copy of any issued LOA must be in the possession of the Navy, supervisory construction personnel, lead protected species observers (PSOs), and any other relevant designees of the Holder operating under the authority of this LOA at all times that activities subject to this LOA are being conducted.

(2) The Navy will follow mitigation procedures as described in this section. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone would not be visible (*e.g.,* fog, heavy rain, night), the Holder shall delay pile driving and removal until observers are confident marine mammals within the shutdown zone could be detected.

(3) The Navy will ensure that construction supervisors and crews, the monitoring team, and relevant Navy staff are trained prior to the start of all activities subject to this rule, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project will be trained prior to commencing work.

(4) The Navy, construction supervisors and crews, PSOs, and relevant Navy staff will avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations will cease and vessels will reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary, to avoid direct physical interaction.

(5) The Navy will employ PSOs and establish monitoring locations as described in this rule and the Marine Mammal Monitoring Plan. The Navy will monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.

(6) Monitoring will take place from 30 minutes prior to initiation of pile driving activity (*i.e.,* pre-start clearance monitoring) through 30 minutes post-completion of pile driving activity.

(7) If a marine mammal is observed entering or within the shutdown zones indicated in this rule, pile driving activity must be delayed or halted. If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal.

(8) The Navy will establish shutdown zones for all pile driving activities. Shutdown zones are limited to 150 m from the point of noise generation. Any remaining area within estimated Level A harassment zones shall be considered part of the ''disturbance zone,'' *i.e.,* the Level B harassment zone and, where present, the Level A harassment zone (PTS onset) beyond 150 m from the point of noise generation. For activities where the estimated Level A (PTS onset) harassment zones are smaller than 150 m, the disturbance zone shall include the entire region of influence (ROI), *i.e.,* estimated Level A and Level B harassment zones). Work may proceed without cessation while marine mammals are in the disturbance zone and marine mammal behavior within the disturbance zone will be monitored and documented.

(9) The Navy will conduct monitoring to include the area within the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and the 120 dB rms threshold during vibratory pile driving (disturbance zone).

(10) Pre-start clearance monitoring will be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals. Pile driving

may commence following 30 minutes of observation when the determination is made that the shutdown zones are clear of marine mammals.

(11) If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone indicated or 15 minutes have passed without re-detection of the animal.

(12) The Navy will use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. Then two subsequent reduced-energy strike sets would occur. A soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving activities.

(13) Pile driving activity must be halted upon observation of either a species entering or within the harassment zone, for which incidental take is not authorized, or a species for which incidental take has been authorized but the authorized number of takes has been met.

(b) [Reserved]

§ 217.75 Requirements for monitoring and reporting.

(a) Marine Mammal monitoring must be conducted in accordance with the conditions in this section and the Marine Mammal Monitoring Plan. The Navy must submit a Marine Mammal Monitoring Plan to NMFS for approval in advance of construction.

(b) Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following conditions:

(1) PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods.

(2) At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(3) Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(4) Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.

(5) PSOs must be approved by NMFS prior to beginning any activity subject to this LOA.

(c) The Navy will establish the following monitoring locations. For all pile driving activities, a minimum of one PSO will be assigned to each active pile driving location to monitor the shutdown zones. Trained PSOs will be placed at the best vantage point(s) practicable such as on nearby breakwaters, Gould Island, Coddington Point, or Taylor Point. Visual monitoring will be conducted by, at a minimum, by two PSOs. It is assumed that two to three PSOs would be sufficient to monitor the respective ROIs given the abundance of suitable vantage points. Any activity that would result in threshold exceedance at or more than 1,000 m would require a minimum of three PSOs to effectively monitor the entire ROI. However, additional monitors may be added if warranted by site conditions and/or the level of marine mammal activity in the area.

(d) PSOs must record all observations of marine mammals, regardless of distance from the pile being driven, as well as the additional data indicated in the reporting requirements.

(e) Acoustic monitoring will be conducted in accordance with the Acoustic Monitoring Plan. The Navy will conduct hydroacoustic data collection (sound source verification and propagation loss) in accordance with a hydroacoustic monitoring plan that must be approved by NMFS in advance of construction.

(f) The shutdown/disturbances zones may be modified with NMFS' approval following NMFS' acceptance of an acoustic monitoring report.

(g) The Navy will submit a draft monitoring report to NMFS within 90 calendar days of the completion of required monitoring for each portion of the project as well as a comprehensive summary report at the end of the project. The report will detail the monitoring protocol and summarize the data recorded during monitoring. Final annual reports (each portion of the project and comprehensive) must be prepared and submitted within 30 days following resolution of any NMFS comments on the draft report. If no comments are received from NMFS within 30 days of receipt of the draft report, the report must be considered final. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

(h) All draft and final monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Egger@noaa.gov.*

(i) The marine mammal report must contain the informational elements described ed in the Marine Mammal Monitoring Plan and, at minimum, include:

(1) Dates and times (begin and end) of all marine mammal monitoring;

(2) Construction activities occurring during each daily observation period, including: the number and types of piles were driven or removed and by what method (*i.e.,* impact or vibratory) and the total duration of driving time for each pile (vibratory driving) and number of strikes for each pile (impact driving); and

(3) PSO locations during marine mammal monitoring;

(4) Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance;

(5) Upon observation of a marine mammal, the following information:

(i) Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting.

(ii) Time of sighting; and

(iii) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

(iv) Distances and location of each marine mammal observed relative to the pile being driven or removed;

(v) Estimated number of animals (min/max/best);

(vi) Estimated number of animals by cohort (adults, juveniles, neonates, group composition etc.);

(vii) Animal's closest point of approach and estimated time spent within the harassment zone; and

(viii) Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

(6) Number of marine mammals detected within the harassment zones, by species;

(7) Detailed information about any implementation of any mitigation

triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting of the behavior of the animal, if any;

(8) The Navy will submit all PSO datasheets and/or raw sightings data with the draft reports.

(j) The Navy must report the hydroacoustic data collected as required by a LOA issued under §§ 216.106 of this chapter and 217.76 and as described in the Acoustic Monitoring Plan, and at a minimum, must include:

(1) Hydrophone equipment and methods: recording device, sampling rate, distance (m) from the pile where recordings were made; depth of water and recording device(s);

(2) Type and size of pile being driven, substrate type, method of driving during recordings (*e.g.,* hammer model and energy), and total pile driving duration;

(i) Whether a sound attenuation device is used and, if so, a detailed description of the device used and the duration of its use per pile;

(ii) For impact pile driving (per pile): Number of strikes and strike rate; depth of substrate to penetrate; pulse duration and mean, median, and maximum sound levels (dB re: 1 μPa): Root mean square sound pressure level (SPLrms); cumulative sound exposure level (SELcum), peak sound pressure level (SPLpeak), and single-strike sound exposure level (SELs-s);

(iii) For vibratory driving/removal (per pile): Duration of driving per pile; mean, median, and maximum sound levels (dB re: 1 μPa): Root mean square sound pressure level (SPLrms), cumulative sound exposure level (SELcum) (and timeframe over which the sound is averaged); and

(iv) One-third octave band spectrum and power spectral density plot.

(k) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy must report the incident to NMFS Office of Protected Resources (OPR), NMFS (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.Egger@noaa.gov*) Monitoring) and to the Greater Atlantic Region New England/Mid-Atlantic Stranding Coordinator, as soon as feasible. If the death or injury was clearly caused by the specified activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this rule and the LOA issued under §§ 216.106 of this chapter and 217.76. The Navy will not resume their activities until notified by NMFS. The report must include the following information:

(1) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(2) Species identification (if known) or description of the animal(s) involved;

(3) Condition of the animal(s) (including carcass condition if the animal is dead);

(4) Observed behaviors of the animal(s), if alive;

(5) If available, photographs or video footage of the animal(s); and

(6) General circumstances under which the animal was discovered.

§ 217.76 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the Navy must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, the Navy may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, the Navy must apply for and obtain a modification of the LOA as described in § 217.77.

(e) The LOA will set forth the following information:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA will 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.

(g) Notice of issuance or denial of an LOA will be published in the **Federal Register** within 30 days of a determination.

§ 217.77 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.76 for the activity identified in § 217.70(a) may be renewed or modified upon request by the applicant, provided that:

(1) The specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations; and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under §§ 216.106 of this chapter and 217.76 for the activity identified in § 217.70(a) may be modified by NMFS under the following circumstances:

(1) NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from Navy's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs; and

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment;

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to §§ 216.106 of this chapter and 217.76, a LOA may be modified without prior notice or opportunity for public comment. Notification would be published in the **Federal Register** within 30 days of the action.

§§ 217.78–217.79 [Reserved]

[FR Doc. 2021–27133 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 201214–0338; RTID 0648–XB649]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From NC to VA

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

ACTION: Notification of quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2021 commercial summer flounder quota to the Commonwealth of Virginia. This adjustment to the 2021 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised 2021 commercial quotas for North Carolina and Virginia.

DATES: Effective December 10, 2021 through December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281–9225.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2021 allocations were published on December 21, 2020 (85 FR 82946).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan (FMP), as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: The transfer or combinations would not preclude the overall annual quota from being fully harvested; the transfer addresses an unforeseen variation or contingency in the fishery; and the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act. The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 14,285 lb (6,480 kg) to Virginia through mutual agreement of the states. This transfer was requested to repay landings made by out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2021 are: North Carolina, 2,918,480 lb (1,323,800 lb) and Virginia, 2,374,061 lb (1,076,856 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.162(e)(1)(i) through (iii), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: December 10, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27130 Filed 12–10–21; 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–XB065]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in 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 directed fishing for Pacific ocean perch in the Eastern Aleutian district (EAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2021 total allowable catch (TAC) of Pacific ocean perch in the EAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 10, 2021, through 2400 hrs, 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 exclusive economic zone according to the Fishery Management Plan (FMP) for Groundfish of the BSAI 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 BSAI FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2021 TAC of Pacific ocean perch, in the EAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 742 metric tons 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)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the EAI by vessels participating in the BSAI trawl limited access sector fishery. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

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 closure of Pacific ocean perch directed fishery in the EAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 9, 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: December 10, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27131 Filed 12–10–21; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 238
Wednesday, December 15, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2021–1023; Notice No. 25–21–05–SC]

Special Conditions: The Boeing Company, Model 737–10 Airplane; Dynamic Test Requirements for Single-Occupant, Oblique (Side-Facing) Seats Installed at a 49-Degrees With Airbag Devices and 3-Point Restraints

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

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for The Boeing Company (Boeing) Model 737–10 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is single-occupant, passenger oblique seats, with airbag devices and 3-point restraints, installed at 49 degrees relative to the airplane cabin bow-to-stern centerline. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send comments on or before January 31, 2022.

ADDRESSES: Send comments identified by Docket No. FAA–2021–1023 using any of the following methods:

- *Federal eRegulations Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of these special conditions. Send submissions containing CBI to the Information Contact below. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these special conditions.

Docket: Background documents or comments received may be read at *https://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Shelden, Human Machine Interface Section, AIR–626, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3214; email *john.shelden@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On January 30, 2019, Boeing applied for a change to Type Certificate No. A16WE for the installation of single-occupant oblique seats, with airbag devices and 3-point restraints, installed at 49 degrees relative to the airplane cabin bow-to-stern centerline in the Boeing Model 737–10 airplane. The Boeing Model 737–10 airplane is a twin-engine, transport-category airplane with seating for 230 passengers and a maximum takeoff weight of 197,900 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Boeing must show that the Model 737–10 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A16WE, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 737–10 airplane because of a novel or unusual design

feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 737–10 airplane must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 737–10 airplane will incorporate the following novel or unusual design feature:

Single-occupant, oblique seats, with airbag devices and 3-point restraints, installed at 49 degrees relative to the airplane cabin bow-to-stern centerline.

Discussion

Section 25.785(d) requires that each occupant of a seat installed at an angle of more than 18 degrees, relative to bow-to-stern airplane cabin centerline, must be protected from head injury using a seatbelt and an energy-absorbing rest that supports the arms, shoulders, head, and spine; or using a seatbelt and shoulder harness designed to prevent the head from contacting any injurious object.

The proposed Boeing Model 737–10 airplane single-occupant, oblique seat installation with airbag devices and 3-point restraints is novel such that the current requirements do not adequately address airbag devices and protection of the occupant's neck, spine, torso, and legs for seating configurations that are positioned at an angle of 49 degrees from the airplane centerline. The proposed seating configuration installation angle is beyond the installation-design limits of current special conditions issued for seat positions at angles between 18 degrees and 45 degrees. For example, at these angles, lateral neck bending and other injury mechanisms prevalent from a fully side-facing installation become a concern. Although special conditions no. 25–552–SC was issued for Boeing Model 787 airplane seats installed at 49 degrees in 2014, that document is no longer applicable because they were issued prior to the current oblique seat special conditions that are based on the July 11, 2018, FAA policy statement PS–AIR–25–27, ''Technical Criteria for Approving Oblique Seats.'' These proposed special conditions are based on the 787 special conditions with updates from this policy statement, and to align with the fully side-facing seat policy statement PS–ANM–25–03–R1, ''Technical Criteria for Approving Side-Facing Seats.''

To provide a level of safety equivalent to that afforded to occupants of forward- and aft-facing seats, additional airworthiness standards, in the form of dynamic testing requirements, including both the injury criteria limits from the oblique seat policy and the fully side-facing seat policy through new special conditions, are necessary.

The proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 737–10 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Boeing Model 737–10 airplanes.

In addition to the requirements of §§ 25.562 and 25.785, passenger seats, with airbag devices and 3-point restraints, installed at an angle 49 degrees relative to the airplane cabin bow-to-stern centerline, must meet the following:

a. Head Injury Criteria (HIC)

HIC assessments are required only for head contact with the seat and other structure.

1. Compliance with § 25.562(c)(5) is required, except that, because an airbag device is present in addition to the 3-point restraint system, when the anthropomorphic test dummy (ATD) has no apparent contact with the seat and other structure but has contact with the airbag, a HIC score in excess of 1,000 is acceptable, provided the HIC15 score (calculated in accordance with 49 CFR 571.208) for that contact is less than 700.

2. ATD head contact with the seat or other structure, through the airbag, or contact subsequent to contact with the airbag, requires an HIC value not exceeding 1,000.

3. The HIC value must not exceed 1,000 in any condition in which the airbag does or does not deploy, up to the maximum severity pulse specified by the existing requirements.

4. To accommodate a range of occupant heights (5th percentile female to 95th percentile male), any surface, airbag or otherwise, that provides support for the occupant head must provide that support in a consistent manner regardless of occupant stature. Otherwise, additional HIC assessment tests may be needed.

b. Body-to-Wall/Furnishing Contact

If a seat is installed aft of structure, such as an interior wall or furnishing that does not provide a homogenous contact surface for the expected range of occupants and yaw angles, then additional analysis and tests may be required to demonstrate that the injury criteria are met for the area an occupant could contact. For example, different yaw angles could result in different injury considerations and airbag performance, and may require additional analysis, or separate tests may be necessary to evaluate performance.

c. Neck Injury Criteria

1. The seating system must protect the occupant from experiencing serious neck injury. The assessment of neck injury must be conducted with the airbag device activated, unless there is reason to also consider that the neck injury potential would be higher for impacts below the airbag device deployment threshold.

2. Rotation of the head about its vertical axis, relative to the torso, is limited to 105 degrees in either direction from forward-facing.

3. The neck must not impact any surface that would produce concentrated loading on the neck.

4. Assess neck injury for fore and aft neck bending using an FAA Hybrid III ATD, as described in SAE 1999–01–1609, ''A Lumbar Spine Modification to the Hybrid III ATD for Aircraft Seat Tests,'', applying the following criteria:

The N_{ij}, calculated in accordance with 49 CFR 571.208, must be below 1.0, where $N_{ij} = F_z/F_{zc} + M_y/M_{yc}$, and N_{ij} critical values are:

F_{zc} = 1,530 lbs (6805 N) for tension
F_{zc} = 1,385 lbs (6160 N) for compression
M_{yc} = 229 lb-ft (301 Nm) in flexion
M_{yc} = 100 lb-ft (136 Nm) in extension

In addition, peak upper-neck F_z must be below 937 lbs (4168 N) in tension and 899 lbs (3999 N) in compression.

5. When lateral neck bending is present, assess it using an ES–2re ATD as defined by 49 CFR part 572, subpart U. The data must be filtered at channel frequency class (CFC) 600 as defined in SAE Recommended Practice J211–1, ''Instrumentation for Impact Test Part 1-Electrionic Instrumentation:''

i. The upper-neck tension force at the occipital condyle (O.C.) location must be less than 405 lbs (1,800 N).

ii. The upper-neck compression force at the O.C. location must be less than 405 lbs (1,800 N).

iii. The upper-neck bending torque about the ATD x-axis at the O.C. location must be less than 1,018 in-lbs (115 Nm).

iv. The upper-neck resultant shear force at the O.C. location must be less than 186 lbs (825 N).

d. Spine and Torso Injury Criteria

1. The seating system must protect the occupant from experiencing spine and torso injury. The assessment of spine and torso injury must be conducted with the airbag device activated, unless it is necessary to also consider that the occupant-injury potential would be higher for impacts below the airbag-device deployment threshold.

2. Assess spine and torso injury, for oblique torso bending, using an FAA Hybrid III ATD, applying the following criteria:

i. The lumbar spine tension (F_z) cannot exceed 1,200 lbs (5338 N).

ii. Significant concentrated loading on the occupant's spine, in the area between the pelvis and shoulders during impact, including rebound, is not acceptable. During this type of contact, the interval for any rearward (X direction) acceleration exceeding 20g must be less than 3 milliseconds, as measured by the thoracic instrumentation specified in 49 CFR part 572, subpart E, filtered in accordance with SAE Recommended Practice J211–1.

3. When lateral torso bending is present, assess spine and torso injury using an ES–2re ATD, applying the following criteria:

i. *Thoracic:* The deflection of any of the ES–2re ATD upper, middle, and lower ribs must not exceed 1.73 inches (44 mm). Process the data as defined in Federal Motor Vehicle Safety Standards (FMVSS) 571.214, title 49 of the CFR.

ii. *Abdominal:* The sum of the measured ES–2re ATD front, middle, and rear abdominal forces must not exceed 562 lbs (2,500 N). Process the data as defined in FMVSS 571.214.

iii. *Upper-torso support:* The lateral flexion of the ATD torso must not exceed 40 degrees from the normal upright positions during impact.

e. Pelvic Criteria

1. The seating system must protect the occupant from experiencing pelvis injury.

2. Any part of the load-bearing portion of the bottom of the ATD pelvis must not translate beyond the edges of the seat bottom seat-cushion supporting structure.

3. When pelvis contact with the armrest or surrounding interior components is present, assess it using an ES–2re ATD. The pubic symphysis force measured by the ES–2re ATD must not exceed 1,350 lbs (6,000 N). Process the data as defined in FMVSS 571.214.

f. Femur Criteria

Limit axial rotations of the upper leg (about the z-axis of the femur, per SAE Recommended Practice J211–1) to 35 degrees from the nominal seated position. Evaluation during rebound does not need to be considered.

g. ATD and Test Condition

1. Perform longitudinal tests, conducted to measure the injury criteria above, using the FAA Hybrid III ATD or using the ES–2re ATD,. Conduct the tests with the undeformed floor, at the most-critical yaw cases for injury, and with all lateral structural supports (*e.g.,* armrests or walls) installed.

2. For longitudinal tests conducted in accordance with § 25.562(b)(2), to show compliance with the seat-strength requirements of § 25.562(c)(7) and (8), and these special conditions, to ensure proper loading of the seat by the occupant, the ATD pelvis must remain supported by the seat pan, and the restraint system must remain on the pelvis of the ATD until rebound begins. No injury criteria evaluation is necessary for tests conducted only to assess seat-strength requirements.

3. If a seat installation includes adjacent items that are within contact range of an occupant, assess the injury potential of that contact. To make this assessment, tests may be conducted to include the actual contact item, located and attached in a representative fashion. Alternatively, the injury potential may be assessed through a combination of tests with contact items having the same geometry as the actual contact item, but having stiffness characteristics that would create the worst case for injury, such as injuries due to both contact with the item and lack of support from the item.

4. Conduct the combined horizontal and vertical test, required by § 25.562(b)(1) and these special conditions, with a Hybrid II ATD (49 CFR part 572, subpart B, as specified in § 25.562) or equivalent.

5. The design and installation of seatbelt buckles must prevent unbuckling due to applied inertial forces, or impact from seat occupant hands and arms, during an emergency landing.

h. Inflatable Airbag-Restraint System Special Conditions

An inflatable airbag-restraint system will be installed, and must meet the requirements of Special Conditions No. 25–386–SC, ''Boeing Model 737–600/–700/–700C/–800/–900 and 900ER Series Airplanes; Seats With Inflatable Lapbelts,'' applicable to Boeing Model 737–10 series airplanes.

i. General Test Guidelines

1. The determination of the appropriate ATD to be used in assessing occupant injury (FAA Hybrid III or ES–2re) is based on the occupant kinematics at the selected test angle. At the +10-degree yaw angle, the occupant kinematics show that occupant injury tests, using both ATDs, are required.

2. Conduct vertical tests with Hybrid II ATD or equivalent, with existing pass/fail criteria.

3. Conduct longitudinal structural tests with the Hybrid II ATD or equivalent, deformed floor, with 10 degrees yaw, and with all lateral structural supports (*e.g.,* armrests or walls) required to support the occupant.

4. Conduct longitudinal occupant-injury tests, as necessary, with the Hybrid III ATD or ES–2re ATD, undeformed floor, yaw, and with all lateral structural supports (*e.g.,* armrests or walls) critically represented, and

which are within contact range of the occupant.

i. Pass/fail injury assessments:

A. Perform HIC, fore and aft neck injury, spinal tension, and femur evaluations using an FAA Hybrid III ATD.

B. Perform lateral neck injury, thoracic, abdominal, pelvis, and femur evaluations using an ES–2re ATD.

5. For injury assessments accomplished by testing with an ES–2re ATD for longitudinal tests conducted in accordance with § 25.562(b)(2) and these special conditions, the ATDs must be positioned, clothed, and have lateral instrumentation configured as follows:

i. ES–2re ATD Lateral Instrumentation:

The rib-module linear slides are directional (*i.e.,* deflection occurs in either a positive or negative ATD y-axis direction). Install the modules such that the moving end of the rib module is toward the front of the airplane. Install the three abdominal-force sensors such that they are on the side of the ATD toward the front of the airplane.

ii. ATD Clothing:

Clothe each ATD in form-fitting cotton-stretch garments with short- to full-length sleeves, mid-calf to full-length pants, and size 11E (45) shoes weighing about 2.5 lbs (1.1 kg), and having a heel height of about 1.5 inches (3.8 cm). The color of the clothing should be in contrast to the color of the restraint system and the background. The color of the clothing should be chosen to avoid overexposing the high-speed images captured during the test. The ES–2re jacket is sufficient for torso clothing, although a form-fitting shirt may be used in addition, if desired.

iii. ATD Positioning:

A. Lower the ATD vertically into the seat while simultaneously:

(1) Aligning the midsagittal plane (a vertical plane through the midline of the body, dividing the body into right and left halves) to approximately the middle of the seat place.

(2) Keeping the upper legs horizontal by supporting them just behind the knees.

(3) Applying a horizontal x-axis direction (in the ES–2re ATD coordinate system) force of about 20 lbs (89 N) to the bottom rib of the ES–2re, to compress the seat back cushion.

B. After all lifting devices have been removed from the ATD:

(1) Rock it slightly to settle it in the seat.

(2) Bend the knees of the ATD.

(3) Separate the knees by about 4 inches (100 mm).

(4) Set the ATD's head at approximately the midpoint of the available range of z-axis rotation (to align the head and torso midsagittal planes).

(5) Position the ATD's arms at the joints' mechanical detent, to position them to an approximately 20- to 40-degree angle with respect to the torso.

(6) Position the feet such that the centerlines of the lower legs are approximately parallel.

Note: Seats installed via plinths or pallets must meet all applicable requirements. Compliance with the guidance contained in policy memorandum PS–ANM–100–2000–00123, ''Guidance for Demonstrating Compliance with Seat Dynamic Testing for Plinths and Pallets,'' dated February 2, 2000, is acceptable to the FAA.

Issued in Kansas City, Missouri, on December 9, 2021.

Patrick R. Mullen,

Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2021–27078 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–1053; Airspace Docket No. 21–ASO–37]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Griffin, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface for Griffin-Spalding County Airport, Griffin, GA. This action would remove the city associated with the Griffin-Spalding County Airport legal description. In addition, this action would increase the airport's radius and increase the extensions to the northwest and to the southeast of the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before January 31, 2022.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–1053; Airspace Docket No. 21–ASO–37 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: John Goodson, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–5966.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2021–1053 and Airspace Docket No. 21–ASO–37) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–1053; Airspace Docket No. 21–ASO–37.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface at Griffin-Spalding County Airport, Griffin, GA by removing the city associated with the Griffin-Spalding County Airport legal description to comply with FAA Order JO 7400.2, increasing the radius of the airport to 8.7 miles (formerly 6.3 miles), and increasing the extension's off the airports 137° bearing and 317° bearing to 10.5 miles (formerly 10.3 miles).

Class E airspace designations are published in Paragraphs 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'', prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

* * * * *

ASO GA E5 Griffin, GA [Amended]

Griffin-Spalding County Airport, GA
(Lat. 33°13′37″ N, long. 84°16′30″ W)

That airspace extending upward from 700 feet above the surface within a 8.7-mile radius of the Griffin-Spalding County Airport, and within 2 miles either side of a 137° bearing from the airport, extending from the 8.7-mile radius to 10.5 miles southeast of the airport, and within 2 miles either side of a 317° bearing from the airport, extending from the 8.7-mile radius to 10.5 miles northwest of the airport.

Issued in College Park, Georgia, on December 9, 2021.

Andreese C. Davis,

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

[FR Doc. 2021–27074 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Census Bureau

15 CFR Part 30

[Docket Number: 211117–0237]

RIN 0607–AA59

Foreign Trade Regulations (FTR): New Filing Requirement and Clarifications to Current Requirements

AGENCY: Census Bureau, Commerce Department.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Census Bureau is proposing to amend its regulations to reflect new export reporting requirements related to the country of origin. Specifically, the Census Bureau is proposing to add a conditional data element, country of origin, when Foreign origin is selected in the Foreign/Domestic Origin Indicator field in the Automated Export System (AES). In addition to the new export reporting requirement, the proposed rule would make remedial changes to the FTR to improve clarity and to correct errors.

DATES: Written comments must be received on or before February 14, 2022.

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

- *Federal eRulemaking Portal: https://www.regulations.gov.* The identification number for this rulemaking is identified by RIN 0607–AA59; or
- By email directly to *gtmd.ftrnotices@census.gov.* Include RIN 0607–AA59 in the subject line.

All comments received are part of the public record. No comments will be posted to *https://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and 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: Lisa E. Donaldson, Chief, Economic Management Division, Census Bureau by phone (301) 763–7296 or by email *lisa.e.donaldson@census.gov.* Additionally, Stephanie L. Studds, Chief, Economic Indicator Division, Census Bureau by phone (301) 763–2633 or by email *stephanie.l.studds@census.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau is responsible for collecting, compiling, and publishing export trade statistics for the United States under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, Section 301. While the Census Bureau is the official source for U.S. international trade statistics, the Census Bureau works in partnership with U.S. Customs and Border Protection (CBP) to collect data regarding both exports and imports. Additionally, the Census Bureau is responsible for publishing the Foreign Trade Regulations (FTR) that set the export reporting requirements for Electronic Export Information (EEI). The EEI is made up of mandatory, conditional, and optional data elements. The purpose of this rulemaking is to add a conditional data element, country of origin, when Foreign origin is selected in the Foreign/Domestic Origin Indicator field in the EEI. The FTR defines foreign goods as goods that were originally grown, produced, or manufactured in a foreign country, then subsequently entered into the United States, admitted to a U.S. Foreign Trade Zone (FTZ), or entered into a CBP bonded warehouse, but not substantially transformed in form or condition by further processing or manufacturing in the United States, U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands.

Under Section 301 of Title 13 U.S.C., the Secretary of Commerce is authorized to collect and publish import and export information considered necessary or appropriate ''to foster, promote, develop, and further'' domestic commerce. Executive Order (E.O.) 14017, ''America's Supply Chains,'' sets forth the U.S. Government policy to build resilient and diverse supply chains that increase domestic production, diversify the supply of goods, feature redundancies, ensure adequate stockpiles, and leverage the American manufacturing base and workforce. (86 FR 11849; March 01, 2021). E.O. 14017 establishes a multi-agency approach, which includes the Department of Commerce, in assessing and identifying critical supply chain components and gaps in domestic production filled by foreign nations that instead supply these goods. These activities and broader supply chain analysis are necessary and appropriate in furthering domestic commerce. Under the authorities in Chapter 9 of Title 13, the Secretary of Commerce proposes to collect data on the entry and origin of foreign goods into the United States to improve the foreign trade statistics produced by the Census Bureau.

Currently, foreign trade statistics do not provide insight sufficient to identify the gaps in domestic product and supply, evaluate supply chains, or address trade imbalances. U.S. Government agencies and private entities need accurate and complete foreign trade statistics to create and monitor trade agreements, formulate trade policy, assess U.S. supply chain issues, and identify and address trade imbalances. Agencies and the private sector also use foreign trade statistics to identify new markets for U.S. goods and services globally.

The current Foreign/Domestic Origin Indicator field in the Automated Export System (AES) creates significant data challenges and limitations in using the trade statistics produced by the Census Bureau and other Federal agencies because the Indicator does not capture the country of origin. Currently, U.S. agencies rely on foreign trade partners to share the data they collect on the foreign and domestic origin of goods. This reliance limits U.S. agencies' ability to identify asymmetry in imports and exports of goods, as any asymmetry must be inferred by evaluating the data acquired from foreign trading partners with the data collected on U.S. imports by CBP.

The collection of the Country of Origin field in AES for reexports would eliminate the reliance on information provided by foreign partners, thereby increase the accuracy and timeliness of the foreign trade statistics used to monitor trade agreements and policy to assist in assessing U.S. supply chain issues. The collection also would assist U.S. Government agencies that use these statistics to reconcile trade imbalances between the United States and our partner countries. The U.S. Statistical Agencies collaborate globally to identify and understand data asymmetries between one country's imports and the other country's exports statistics.

By augmenting the Country of Origin field for exports in the AES, the Census Bureau could produce trade statistics equivalent to the data collected globally. The increased granularity in data collected through a Country of Origin field would significantly improve the accuracy of asymmetry evaluation as well as the creation, negotiation, and evaluation of U.S. trade agreements and the ability to monitor goods within U.S. supply chains. These data can provide critical insight to U.S. supply chain issues, as the economy emerges from the pandemic. Additionally, many of our trading partners require and collect a detailed country of origin on their imports and exports. In consulting with the Organisation for Economic Co-operation and Development and other countries globally, the Census Bureau learned that this information is mandatory for their collection. Through research conducted with exporting companies, the Census Bureau has determined that these data are available and can be provided by exporters, within an estimated 12–18 months to update internal and/or proprietary computer systems, and/or the technology they utilize to implement the required changes to the AES.

Therefore, the Census Bureau is proposing to collect the Country of Origin field on reexports to create official statistics.

The Census Bureau understands that the addition of country of origin for reexports may have implications for the trade in filing in the AES and complying with the FTR.

The Census Bureau is seeking public comments from data users, businesses and others to assess this proposed change on foreign trade statistics. Below are questions to consider when providing feedback to this proposed rule; however, any pertinent feedback not captured by these questions is welcome.

1. Describe potential uses of the Census Bureau's statistical data of international trade.

2. Describe the potential value of adding country of origin to the EEI if using the Census Bureau's statistical data of international trade.

3. If a stakeholder utilized or managed proprietary software to communicate with the AES, how long would it need to potentially add the Country of Origin field?

4. How long would a company who utilizes or manages proprietary software need to make programming changes to potentially add the country of origin field to its interface to AES?

5. Are there business practices that a company would need to implement in order to come into compliance with the reporting of the Country of Origin field?

6. How would the country of origin be identified when companies store or warehouse goods of multiple origins together?

Program Requirements

To comply with the requirements of the Foreign Relations Act, Public Law 107–228, the Census Bureau is amending relevant sections of the FTR to revise or clarify export reporting requirements. Therefore, the Census Bureau is correcting 15 CFR part 30 by making the following correcting amendments:

- Revise § 30.2(d)(3) to remove the language, ''(See Subpart B of this part for export control requirements for these type of transactions.),'' as the exclusion overrides the export control requirements.
- Revise § 30.3(e)(1) to add the proposed data element, ''Country of origin,'' to the list of required data elements that need to be provided by the U.S. Principal Party in Interest (USPPI) in a routed export transaction.
- Revise § 30.6(a)(1)(iii) to clarify that when the Dun and Bradstreet Number (DUNS) is reported as the USPPI ID, the Employer Identification Number (EIN) of the USPPI also is required to be reported in the Automated Export System.
- Revise § 30.6(b)(3) to amend the Foreign Trade Zone (FTZ) identifier to allow for 9-digits. The increased number of digits is required because of the increase in the number of subzones.
- Revise § 30.6(b)(18) to add the conditional data element ''Country of origin.'' The ''Country of origin'' will be the code issued by the International Standards Organization and reported when Foreign origin is selected in the Foreign/Domestic Origin Indicator field in the Automated Export System.
- Revise § 30.37(u) to remove and reserve the exemption for technical data. This exemption is covered under § 30.2(d)(3), making the exemption redundant.
- Revise § 30.55 to remove the citation ''19 CFR 103.5'' and add in its place ''19 CFR part 103.''
- Revise § 30.71 to amend the Note to paragraph (b) to address the yearly adjustments for civil penalties as a result of inflation.
- Revise § 30.74 to amend paragraph (c)(5) to remove information that may become outdated and referencing the Census Bureau website to obtain the most current method for submitting a Voluntary Self-Disclosure.

Rulemaking Requirements

Regulatory Flexibility Act

The Chief Council for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In the current Foreign Trade Regulations (FTR), the Electronic Export Information (EEI) shall be filed through the Automated Export System (AES) for all exports of physical goods. The AES is the electronic system for collecting Shipper's Export Declaration (SED) (or any successor document) information from persons exporting goods from the United States, Puerto Rico, Foreign Trade Zones located in the United States and Puerto Rico, the U.S. Virgin Islands, between the U.S. and Puerto Rico, and to the U.S. Virgin Islands from the United States or Puerto Rico. In the proposed revisions, export shipments with the Foreign origin selected in the Foreign/Domestic Origin Indicator field will be required to report the country of origin.

In 2020, there were 33,716,623 total number of export records. Of these 33,716,623 records, 23.45% (7,907,049 records) had exports reported with a Foreign origin indicator by the authorized agent or the USPPI. The Census Bureau has conducted research over the last year and contacted 58 U.S. companies across 16 different industries (including major freight forwarders). These companies represented the top 10% by dollar value of exports reported under 31 Harmonized Tariff Schedule (HTS) codes with a Foreign origin indicator. The Center for Economic Studies provided the Census Bureau with questions related to these companies' current ability to adhere to the country of origin requirement. Based on the feedback to the inquiry, the Census Bureau believes this proposed rule will not create any economic impact on all companies including a substantial number of small entities.

Executive Orders

This proposed rule has been determined to not be significant for purposes of Executive Order 12866. This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. This proposed rule has been determined to be not significant for the purposes of Executive Order 14017 ''America's Supply Chains.''

Paperwork Reduction Act

Notwithstanding any other provisions of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a valid Office of Management and Budget (OMB) control number.

This proposed rule covers collections of information subject to the provisions of the PRA, which are cleared by OMB under OMB Control Number 0607–0152—Automated Export System (AES) Program.

This proposed rule will not impact the current reporting-hour burden requirements as approved under OMB Control Number 0607–0152 under provisions of the PRA. The proposed rule will not require any revisions to the information sought under OMB Control Number 0607–0152.

Ron S. Jarmin, Acting Director, Census Bureau, approved the publication of this notice of proposed rulemaking in the **Federal Register**.

List of Subjects in 15 CFR Part 30

Economic statistics, Exports, Foreign trade, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Census Bureau is

proposing to amend 15 CFR part 30 as follows:

PART 30—FOREIGN TRADE REGULATIONS

■ 1. The authority citation for 15 CFR part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301–307; Reorganization plan No. 5 of 1990 (3 CFR 1949–1953 Comp., p.1004); Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended, and No. 35–2B, December 20, 1996, as amended; Public Law 107–228, 116 Stat. 1350.

■ 2. Amend § 30.2 by revising paragraph (d)(3) to read as follows:

§ 30.2 General requirements for filing Electronic Export Information (EEI).

* * * * *

(d) * * *

(3) Electronic transmissions and intangible transfers.

* * * * *

■ 3. Amend § 30.3 by revising paragraphs (e)(1)(ii) and (vii) through (xii) and adding paragraph (e)(1)(xiii) to read as follows:

§ 30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.

* * * * *

(e) * * *

(1) * * *

(ii) USPPI's EIN or DUNS.

* * * * *

(vii) Country of origin.

(viii) Schedule B or HTSUSA, Classification Commodity Code.

(ix) Quantities/units of measure.

(x) Value.

(xi) Export Control Classification Number (ECCN) or sufficient technical information to determine the ECCN.

(xii) All licensing information necessary to file the EEI for commodities where the Department of State, the Department of Commerce, or other U.S. Government agency issues a license for the commodities being exported, or the merchandise is being exported under a license exemption or license exception.

(xiii) Any information that it knows will affect the determination of license authorization (see subpart B of this part for additional information on licensing requirements).

* * * * *

■ 4. Amend § 30.6 by revising paragraphs (a)(1)(iii) and (b)(3) and adding paragraph (b)(18) to read as follows:

§ 30.6 Electronic Export Information data elements.

* * * * *

(a) * * *

(1) * * *

(iii) *USPPI identification number.* Report the Employer Identification Number (EIN) of the USPPI. If the USPPI has only one EIN, report that EIN. If the USPPI has more than one EIN, report the EIN that the USPPI uses to report employee wages and withholdings, and not the EIN used to report only company earnings or receipts. Use of another company's EIN is prohibited. If a USPPI reports a DUNS, the EIN is also required to be reported. If a foreign entity is in the United States at the time goods are purchased or obtained for export, the foreign entity is the USPPI. In such situations, when the foreign entity does not have an EIN, the authorized agent shall report a border crossing number, passport number, or any number assigned by CBP on behalf of the foreign entity.

* * * * *

(b) * * *

(3) *FTZ identifier.* If goods are removed from a FTZ and not entered for consumption, report the FTZ identifier. This is the unique 9-digit alphanumeric identifier assigned by the Foreign Trade Zone Board that identifies the FTZ, subzone or site from which goods are withdrawn for export.

* * * * *

(18) *Country of origin.* If the goods exported are of foreign origin and have undergone no change in form or condition or enhancement in value by further manufacturing in the United States, U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands, report the foreign country in which the commodities were grown, produced, manufactured, or substantially transformed. For commodities with multiple origins, report the foreign country of the commodity with the greatest value. If the USPPI does not know the foreign country where the goods originated from, the country of origin to be shown is the last foreign country, as known to the USPPI at the time of shipment from the United States, from which the goods were shipped in their present form. Report the country of origin using the code issued by the International Standards Organization.

* * * * *

§ 30.37 [Amended]

■ 5. Amend § 30.37 by removing and reserving paragraph (u).

■ 6. Amend § 30.55 by revising the introductory text to read as follows:

§ 30.55 Confidential information, import entries, and withdrawals.

The contents of the statistical copies of import entries and withdrawals on file with the Census Bureau are treated as confidential and will not be released without authorization by CBP, in accordance with 19 CFR part 103 relating to the copies on file in CBP offices. The importer or import broker must provide the Census Bureau with information or documentation necessary to verify the accuracy or resolve problems regarding the reported import transaction.

* * * * *

■ 7. Amend § 30.71 by designating the note to paragraph (b) as note 1 to paragraph (b) and revising the note to read as follows:

§ 30.71 False or fraudulent reporting on or misuse of the Automated Export System.

* * * * *

Note 1 to paragraph (b): The civil monetary penalties are adjusted for inflation annually based on The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410; 28 U.S.C. 2461), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74). In accordance with this Act, as amended, the penalties in Title 13, Chapter 9, Sections 304 and 305(b), United States Code are adjusted and published each year in the **Federal Register** no later than January 15th.

■ 8. Amend § 30.74 by revising paragraph (c)(5) to read as follows:

§ 30.74 Voluntary self-disclosure.

* * * * *

(c) * * *

(5) *Where to make voluntary self-disclosures.* The information constituting a Voluntary Self-Disclosure or any other correspondence pertaining to a Voluntary Self-Disclosure may be submitted to the U.S. Census Bureau, Branch Chief, Trade Regulations Branch by methods permitted by the Census Bureau. See *www.census.gov/foreign-trade* for more details.

* * * * *

Dated: December 7, 2021.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–26874 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. FDA–2021–N–0310]

RIN 0910–AI32

Medical Devices; Orthopedic Devices; Classification of Spinal Spheres for Use in Intervertebral Fusion Procedures

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or Agency) is proposing to classify spinal spheres for use in intervertebral fusion procedures (an unclassified, preamendments device) into class III for which FDA is separately proposing to require the filing of a premarket approval application (PMA). FDA has determined that general controls and special controls together are insufficient to provide reasonable assurance of safety and effectiveness for this device. FDA is publishing this proposed rule based, in part, on the recommendations of the Orthopaedic and Rehabilitation Devices Panel, regarding the classification of spinal spheres for use in intervertebral fusion procedures.

DATES: Submit either electronic or written comments on the proposed rule by March 15, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 15, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 15, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions.'')

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0310 for ''Medical Devices; Orthopedic Devices; Classification of Spinal Spheres for Use in Intervertebral Fusion Procedures.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Constance Soves, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1656, Silver Spring, MD 20993–0002, 301–796–6951, *Constance.Soves@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
  A. Purpose of the Proposed Rule
  B. Summary of the Major Provisions of the Proposed Rule
  C. Legal Authority
  D. Costs and Benefits
II. Table of Abbreviations/Commonly Used Acronyms in This Document
III. Background
  A. Need for the Regulation
  B. FDA's Current Regulatory Framework
  C. History of This Rulemaking
IV. Legal Authority
V. Description of the Proposed Rule
  A. Device Description
  B. Risks to Health and Public Health Benefits
  C. Proposed Classification and FDA's Findings
VI. Proposed Effective/Compliance Dates
VII. Preliminary Economic Analysis of Impacts
  A. Introduction
  B. Summary of Costs and Benefits
VIII. Analysis of Environmental Impact
IX. Paperwork Reduction Act of 1995
X. Federalism
XI. Consultation and Coordination With Indian Tribal Governments
XII. References

I. Executive Summary

A. Purpose of the Proposed Rule

FDA is proposing to classify spinal spheres for use in intervertebral fusion procedures (spinal spheres), which are unclassified, preamendments devices, into class III. A spinal sphere is a prescription device used to provide stabilization of a spinal segment as an adjunct to fusion. FDA currently regulates these unclassified devices as devices requiring premarket notification, with the product code NVR.

FDA initiated the classification of spinal spheres by consulting the Orthopaedic and Rehabilitation Devices Panel (the Panel). The Panel recommended that spinal spheres be classified into class III because there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness, and these devices present a potential unreasonable risk of illness or injury. FDA conducted its own analysis as described below and agrees with the Panel's recommendation. As such, FDA proposes to classify spinal spheres into class III. FDA is also proposing, by proposed order published elsewhere in this issue of the **Federal Register**, to require the filing of PMAs for such devices.

B. Summary of the Major Provisions of the Proposed Rule

This rule proposes to classify spinal spheres into class III. The proposed rule, if finalized, would establish the identification and classification for spinal spheres. In addition, FDA proposes that the use of spinal spheres devices be limited to prescription use.

C. Legal Authority

The Agency is proposing this classification under the authority of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 301). Specifically, the relevant authority related to the proposed classification includes section 513(a) through (d) of the FD&C Act (21 U.S.C. 360c(a) through (d)), regarding device classes, classification, and panels, and section 515 (21 U.S.C. 360e), regarding PMAs.

D. Costs and Benefits

This proposed rule, if finalized, would classify spinal spheres for use in intervertebral fusion procedures (an unclassified, preamendments device) into class III for which FDA is separately proposing to require the filing of a premarket approval application. The costs of the rule include one-time costs associated with reading the proposed rule. FDA is only able to identify the costs of this proposed rule. We estimate that the present value of the costs of the rule are between $427 and $20,480, with a primary estimate of $10,453. Annualizing over a 10-year period at a discount rate of 3 percent, the costs of this proposed rule are estimated to be between $29 and $1,377, with a primary estimate of $703. Annualizing over a 10-year period at a discount rate of 7 percent, the costs of this proposed rule are estimated to be between $40 and $1,933, with a primary estimate of $987.

II. Table of Abbreviations/Commonly Used Acronyms in This Document

TABLE 1—ABBREVIATIONS AND ACRONYMS

Abbreviation or acronym	What it means
510(k)	Premarket Notification.
CoCrMo	cobalt-chromium-molybdenum.
FDA	Food and Drug Administration.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
MAUDE	FDA's Manufacturer and User Facility Device Experience database.
OMB	Office of Management and Budget.
PMA	Premarket Approval Application.

III. Background

A. Need for the Regulation

Currently, spinal spheres are unclassified devices subject to premarket notification (510(k)) under section 510(k) of the FD&C Act (21 U.S.C. 360(k)). Until an unclassified device type has been formally classified by regulation, marketing of new devices within this device type requires FDA clearance of a 510(k). As described below, FDA granted the first clearance for spinal spheres (K051320, September 9, 2005) based on documentation that demonstrated that these devices were substantially equivalent to devices that were in commercial distribution prior to passage of the Medical Device Amendments on May 28, 1976. Because the clinical evidence is limited, FDA is proposing to classify spinal spheres into class III, subject to PMA.

B. FDA's Current Regulatory Framework

The FD&C Act (21 U.S.C. 301 *et seq.*), as amended by the Medical Device Amendments of 1976 (1976 amendments) (Pub. L. 94–295), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: Class I (general controls), class II (special controls), and class III (premarket approval).

Section 513(a)(1) of the FD&C Act defines the three classes of devices. Class I devices are those devices for which the general controls of the FD&C Act (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 of the FD&C Act (21 U.S.C. 351, 352, 360, 360f, 360h, 360i, or 360j) or any combination of such sections) are sufficient to provide reasonable assurance of safety and effectiveness; or those devices for which insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of safety and effectiveness or to establish special controls to provide such assurance, but because the devices are not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, and do not present a potential unreasonable risk of illness or injury, are to be regulated by general controls (section 513(a)(1)(A) of the FD&C Act). Class II devices are those devices for which general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance, including the promulgation of performance standards, postmarket surveillance, patient

registries, development and dissemination of guidelines, recommendations, and other appropriate actions the Agency deems necessary to provide such assurance (section 513(a)(1)(B) of the FD&C Act). Class III devices are those devices for which insufficient information exists to determine that general controls (controls authorized by or under sections 501, 502, 510, 516, 518, 519, or 520 of the FD&C Act or any combination of such sections) and special controls would provide a reasonable assurance of safety and effectiveness, and are purported or represented for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or present a potential unreasonable risk of illness or injury (section 513(a)(1)(C) of the FD&C Act).

Under section 513(d) of the FD&C Act, FDA refers to devices that were in commercial distribution before the 1976 amendments as ''preamendments devices.'' FDA classifies these devices after the Agency: (1) Receives a recommendation from a device classification panel (an FDA advisory committee); (2) publishes the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) publishes a final regulation classifying the device (section 513(d)(1) of the FD&C Act). FDA has classified most preamendments devices under these procedures.

A person may market a preamendments device that has been classified into class III through premarket notification procedures without submission of a PMA until FDA issues a final regulation order under section 515(b) of the FD&C Act requiring premarket approval. FDA is also proposing, by proposed order published elsewhere in this issue of the **Federal Register**, to require the filing of PMAs for such devices.

After the enactment of the 1976 amendments, FDA undertook an effort to identify and classify all preamendments devices in accordance with section 513(d) of the FD&C Act. As part of this effort, FDA issued a proposed rule for classification of 77 generic types of orthopedic devices in the **Federal Register** of September 4, 1987 (52 FR 33686). However, spinal spheres were not included in this action and were never separately classified. FDA initiated the classification of spinal spheres by holding a panel meeting on December 12, 2013, regarding the classification of spinal spheres (Ref. 1).

C. History of This Rulemaking

As described previously, spinal spheres for use in intervertebral fusion procedures are unclassified, preamendments devices. These devices have been subject to premarket review through a 510(k) submission and have been cleared for marketing if FDA considers the device to be substantially equivalent to a legally marketed predicate in accordance with section 513(i) of the FD&C Act. To date, FDA has cleared six spinal sphere devices from four manufacturers. Spinal sphere devices, however, are no longer used due to the widespread adoption of intervertebral body fusion devices (''interbody cages''). Unlike spinal sphere devices, interbody cages generally possess different features to engage with vertebral endplates, allowing them to resist migration and subsidence, and features that allow for the packing of graft material, facilitating bone growth into and through the device.

On December 12, 2013, FDA convened the Panel to secure recommendations regarding the appropriate classification, regulatory controls, as well as risks to health and benefits of spinal spheres (Ref. 1). At the meeting, FDA requested the Panel consider whether this device type fits the statutory definition for a class III device. The Panel considered the information provided by FDA about spinal spheres, including results and analysis from a literature search and search of known adverse events (Ref. 1).

The Panel unanimously recommended that spinal spheres be classified into class III, subject to PMA. The Panel believed that classification in class III is appropriate given that there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness for use in intervertebral body fusion procedures. Furthermore, the Panel unanimously agreed that spinal spheres for use in fusion procedures present an unreasonable risk of illness or injury to the patients. In addition to the risks to health identified by FDA that include removal/revision, pain, and neurologic impairment, the Panel recommended incorporating all known risks generally associated with spinal interbody fusion procedures (see Ref. 1, Panel transcript at page 58). In summary, the Panel unanimously determined that given the lack of available evidence and unreasonable risk profile of spinal spheres devices for use in fusion procedures, these devices should be classified as class III devices which would, after publication of a final order calling for PMAs, require submission of a PMA and approval to market the device. FDA agrees with the Panel's recommendation that there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness, and that the device presents a potential unreasonable risk of illness or injury. FDA further agrees with the Panel's recommendation that spinal sphere devices for use in fusion procedures be classified into class III subject to PMA.

IV. Legal Authority

The Agency is proposing this classification under the authority of the FD&C Act (21 U.S.C. 301). Specifically, the relevant authority related to the proposed classification includes sections 513(a) through (d), regarding device classes, classification, and panels; and section 515, regarding PMAs.

V. Description of the Proposed Rule

We are proposing to amend subpart D of 21 CFR part 888 by adding § 888.3085 to classify spinal spheres for use in intervertebral fusion procedures in accordance with section 513(d) of the FD&C Act. This proposed rule applies to spinal spheres for use in intervertebral fusion procedures regulated under the product code NVR. This proposed rule does not apply to spinal spheres intended for use in non-fusion procedures, which are currently regulated as class III devices subject to PMA requirements.

A. Device Description

A spinal sphere for use in intervertebral fusion procedures is a prescription device that is an implanted, solid, spherical device manufactured from metallic (*e.g.,* cobalt-chromium-molybdenum (CoCrMo)) or polymeric (*e.g.,* polyetheretherketone) materials. They are intended to be inserted into the intervertebral disc space of the lumbar spine following a discectomy in order to maintain disc space height and provide postoperative stabilization to the affected spinal segment during fusion procedures. The device is to be used with bone graft material. FDA currently regulates these unclassified devices as devices requiring a 510(k) submission under product code NVR.

B. Risks to Health and Public Health Benefits

In evaluating the risks to health associated with use of spinal spheres, FDA considered information from the

2013 Orthopaedic and Rehabilitation Panel meeting, the adverse event reports for spinal spheres in FDA's Manufacturer and User Facility Device Experience (MAUDE) database, and published scientific literature, which is discussed in FDA's executive summary for the Panel meeting (Ref. 1). We also considered adverse event reports and literature since that time, which is consistent with the prior information that was analyzed for the Panel meeting.

FDA's review of the information in the MAUDE database, as presented to the Panel, resulted in the identification of 21 unique Medical Device Reports (MDRs) on spinal sphere devices. Of this total, 18 MDRs were reported as injuries and 3 as malfunctions. Three additional MDRs have been reported under this product code since the previous review of the MAUDE database prior to the Panel meeting. One report reflects use of a spinal sphere device without fusion that was also reported in the literature as discussed below. One report was regarding devices that were not spinal spheres, and the remaining report was unclear on the device that caused the event.

Additionally, for the purposes of the Panel, FDA conducted a comprehensive literature review to identify and gather relevant published information regarding the safety and effectiveness of spinal sphere devices for use in fusion procedures. However, no references specifically describing spinal sphere devices for use in fusion procedures were identified. A contemporary search using the same parameters yielded a similar result. Of note, one article, a case study of a patient implanted with a spinal sphere, reflected one of the MDRs reported above; however, this patient did not undergo spinal fusion in conjunction with implantation of the device (Ref. 2). Consequently, FDA concludes there is inadequate information characterizing the safety and effectiveness of spinal sphere devices when used for fusion procedures. The 510(k) clearances of these devices were based solely on nonclinical information and determinations of substantial equivalence to the preamendments device in accordance with section 513(i) of the FD&C Act, which, in light of the available information regarding the risks with no information supporting the benefit of these devices, is inadequate to support a reasonable assurance of safety and effectiveness for these devices.

At the Panel, FDA identified the following risks to health associated with spinal spheres that could result from device-related adverse events, including implant breakage during implantation, device migration and/or subsidence, removal/revision, pain, and neurological impairment. The Panel agreed with the risks to health and emphasized that there would likely be a significantly higher risk of revision or clinical failure as compared to standard intervertebral body fusion devices. Furthermore, the Panel noted that these risks to health may arise from mechanical instability associated with placement of a spherical implant inserted between the parallel vertebral endplates. Additionally, the Panel acknowledged that the risks to health identified for intervertebral body fusion devices would also apply to spinal spheres (Ref. 1). These devices are similar in terms of materials, placement, and insertion, and therefore spheres would also carry similar risks as those already identified for intervertebral body fusion devices. The risks to health associated with use of intervertebral body fusion devices that contain bone grafting material identified during their reclassification were infection, adverse tissue reaction, pain and loss of function, soft tissue injury, vertebral endplate injury, reoperation, and pseudarthrosis (*i.e.,* non-union) (72 FR 32170, June 12, 2007).

FDA agrees with the Panel's recommendations to incorporate the risks to health associated with intervertebral body fusion devices into the list of risks to health FDA identified as associated with spinal spheres to more completely capture the risks to health associated with such devices. FDA notes that the risk of vertebral endplate injury as described in the risks associated with intervertebral body fusion devices also encompasses the risk of subsidence; therefore, we are not listing subsidence as a unique risk to health for spinal spheres. Based on this information, FDA has identified and proposes the following risks to health for spinal spheres:

(1) *Reoperation:* The need for reoperation could result from a failed spinal sphere device or component of the device, from nerve root decompression or adjacent level disease, or from reasons related to any surgery, *e.g.,* infection or bleeding.

(2) *Pain and loss of function:* Some device-related complications that may cause pain and loss of function include device fracture, deformation, loosening, or extrusion. The wear of materials, which may cause osteolysis (dissolution of bone), and component disassembly, fracture, or failure may also result in pain and loss of function.

(3) *Infection:* Infection of the soft tissue, bony tissue, and the disc space may arise due to implantation of a spinal sphere device. Material composition or impurities, wear debris, operative time, and operative environment may compromise the vascular supply to the area or affect the immune system, which could increase the risk of infection. Improper sterilization or packaging may also increase the risk of infection.

(4) *Adverse tissue reaction:* The implantation of the spinal sphere device will elicit a mild inflammatory reaction typical of a normal foreign body response. Incompatible materials or impurities in the materials and wear debris may increase the severity of a local tissue reaction or cause a systemic tissue reaction. If the materials used in the manufacture of the spinal sphere device are not biocompatible, the patient could have an adverse tissue reaction.

(5) *Soft tissue injury:* Soft tissue injury could include injury to major blood vessels, viscera, nerve roots, spinal cord, and cauda equina.

(6) *Vertebral endplate injury:* Surgically inserting a device with a different geometry and modulus of elasticity than bone may lead to vertebral fracture, sinking of the device into the vertebral endplate (subsidence), collapse of the local blood supply, and collapse of the vertebral end plate.

(7) *Pseudarthrosis:* Pseudarthrosis (*i.e.,* non-union) signifies failure of the bony fusion mass and results in persistent instability.

(8) *Implant migration and/or instability:* The spinal sphere device may not adequately stabilize the disc space and may migrate out of its intended placement as it is a spherical implant inserted between the parallel vertebral endplates. This may lead to subsequent adverse clinical sequelae, such as pain or loss of function or pseudarthrosis.

(9) *Implant breakage during insertion:* The device may fracture during implantation, which could result in a mechanical or functional failure. This may lead to subsequent adverse clinical sequelae, such as neurologic, vascular, or osseous injury.

The purported benefit of use of spinal spheres for use in intervertebral fusion procedures is to provide stabilization of a spinal segment, as an adjunct to fusion. As described above, however, FDA is not aware of evidence supporting the stated benefit of spinal spheres for use in fusion procedures.

C. Proposed Classification and FDA's Findings

Based on FDA's experience with spinal spheres, the Panel's recommendations, and other available

information, FDA is proposing to classify spinal spheres for use in intervertebral fusion procedures into class III. FDA is proposing this classification because FDA believes that insufficient information exists to determine that general controls and special controls would provide reasonable assurance of safety and effectiveness for such devices and, based upon assessment of benefits and risks, these devices present a potential unreasonable risk of illness or injury. Elsewhere in this issue of the **Federal Register**, FDA is proposing through a proposed order to require the filing of a PMA under section 515(b) of the FD&C Act. The proposed order will only be finalized if and when FDA finalizes this proposed rule classifying spinal spheres in class III.

VI. Proposed Effective/Compliance Dates

FDA proposes that any final rule, based on this proposed rule, become effective 30 days after its date of publication in the **Federal Register**.

If this proposed rule and related proposed order to require the filing of a PMA are finalized, spinal spheres for use in intervertebral fusion procedures are considered adulterated if a PMA is not filed with FDA within 30 months after the classification of the device into class III, and commercial distribution of the product must cease (see section 501(f)(1)(2)(B) of the FD&C Act). However, the product may be distributed for investigational use only, if the requirements of the investigational device exemptions regulations in 21 CFR part 812 are met.

VII. Preliminary Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all 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, and other advantages; distributive impacts; and equity). We believe that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the estimated costs imposed on any affected firm are very low, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $158 million, using the most current (2020) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

B. Summary of Costs and Benefits

This proposed rule, if finalized would classify spinal spheres for use in intervertebral fusion procedures (an unclassified, preamendments device) into class III for which FDA is separately proposing to require the filing of a PMA.

The costs of the proposed rule are summarized in table 2; we did not quantify benefits for this proposed rule. The costs of the rule include one-time costs associated with reading the proposed rule. The present value of the costs of the rule are estimated to be between $427 and $20,480, with a primary estimate of $10,453. The annualized value of the primary estimate of costs over 10 years at a 3 percent discount rate is approximately $703. The annualized value of the primary estimate of costs over 10 years at a 7 percent discount rate is approximately $987.

TABLE 2—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (percent)	Period covered (years)	
Benefits:							
Annualized					7	10	
Monetized $millions/year					3	10	
Annualized					7	10	
Quantified					3	10	
Qualitative							
Costs:							
Annualized	$0.00099	$0.00004	$0.00193	2019	7	10	
Monetized $millions/year	0.00070	0.00003	0.00138	2019	3	10	
Annualized					7	10	
Quantified					3	10	
Qualitative						10	
Transfers:							
Federal					7	10	
Annualized					3	10	
Monetized $millions/year						10	
From/To	From:			To:			
Other					7	10	
Annualized					3		
Monetized $millions/year						10	

TABLE 2—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF PROPOSED RULE—Continued

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (percent)	Period covered (years)	
From/To	From:			To:			
Effects: State, Local or Tribal Government: None. Small Business: Costs would not exceed 0.002 percent of average small firm annual revenues. Wages: None. Growth: None.							

We have developed a comprehensive Preliminary Economic Analysis of Impacts that assesses the impacts of the proposed rule. The full preliminary analysis of economic impacts is available in the docket for this proposed rule (Ref. 3) and at *https://www.fda.gov/about-fda/reports/economic-impact-analyses-fda-regulations.*

VIII. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

X. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that this proposed rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

XI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

XII. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. * Orthopaedic and Rehabilitation Devices Panel—Classification of Spinal Sphere Devices Meeting, December 12, 2013, available at *https://wayback.archive-it.org/7993/20170405192244/https:/www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/OrthopaedicandRehabilitationDevicesPanel/ucm352525.htm.*

2. Lindley, E.M., B. Levy, E.L. Burger, et al., ''Failure of the Fernstrom Ball in Contemporary Spine Surgery: A Case of History Repeating Itself.'' *Current Orthopaedic Practice,* 25(1): 87–91, 2014.

3. * FDA's full preliminary analysis of economic impacts is available in the Docket No. FDA–2021–N–0310 for this proposed rule and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/Economic Analyses/default.htm.*

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 888 be amended as follows:

PART 888—ORTHOPEDIC DEVICES

■ 1. The authority citation for part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 888.3085 to subpart D to read as follows:

§ 888.3085 Spinal spheres for use in intervertebral fusion procedures.

(a) *Identification.* A spinal sphere device is an implanted, solid, spherical, prescription device manufactured from metallic or polymeric materials. The device is inserted into the intervertebral body space of the lumbar spine to provide stabilization and to help promote intervertebral body fusion. The device is to be used with bone graft material.

(b) *Classification.* Class III.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27137 Filed 12–14–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. FDA–2021–N–0309]

Effective Date of Requirement for Premarket Approval Applications for Spinal Spheres for Use in Intervertebral Fusion Procedures

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Proposed amendment; proposed order.

SUMMARY: The Food and Drug Administration (FDA or Agency) is proposing to require the filing of a premarket approval application (PMA) for spinal spheres for use in intervertebral fusion procedures, which is an unclassified, preamendments device. FDA is summarizing its proposed findings regarding the degree or risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the PMA requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and the benefits to the public from the use of the device.

DATES: Submit either electronic or written comments on the proposed order by March 15, 2022. FDA intends that, if a final order based on this proposed order is issued, anyone who wishes to market spinal spheres for use in intervertebral fusion procedures will need to submit a PMA prior to the last day of the 30th calendar month beginning after the month in which the classification of the device in class III became effective. See section III for the effective date of any final order that may publish based on this proposed order. See section VI of this document for more information about submitting a PMA.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 15, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 15, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions.'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0309 for ''Effective Date of Requirement for Premarket Approval Applications for Spinal Spheres for Use in Intervertebral Fusion Procedures.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Constance Soves, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1656, Silver Spring, MD 20993–0002, 301–796–6951, *Constance.Soves@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The FD&C Act, as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(d)(1) of the FD&C Act, devices that were in commercial distribution before the enactment on May 28, 1976 of the 1976 amendments

(Medical Device Amendments of 1976, Pub. L. 94–295), (generally referred to as ''preamendments devices''), are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

A person may market a preamendments device that has been classified into class III through premarket notification procedures, without submission of a PMA until FDA issues an administrative order under section 515(b) of the FD&C Act (21 U.S.C. 360e(b)) requiring premarket approval.

Section 515(f) of the FD&C Act provides an alternative pathway for meeting the premarket approval requirement. Under section 515(f), manufacturers may meet the premarket approval requirement, if they file a notice of completion of a product development protocol (PDP) approved under section 515(f)(4) of the FD&C Act and FDA declares the PDP completed under section 515(f)(6)(B) of the FD&C Act. Accordingly, the manufacturer of a preamendments class III device may comply with a call for PMAs by filing a PMA or a notice of completion of a PDP. In practice, however, the option of filing a notice of completion of a PDP has rarely been used. For simplicity, although the PDP option remains available to manufacturers in response to a final order under section 515(b) of the FD&C Act, this document will refer only to the requirement for filing and obtaining approval of a PMA.

Section 515(b)(1) of the FD&C Act sets forth the process for issuing a final order. Specifically, prior to the issuance of a final order requiring premarket approval for a preamendments class III device, the following must occur: (1) Publication of a proposed order in the **Federal Register**; (2) a meeting of a device classification panel described in section 513(b) of the FD&C Act; and (3) consideration of comments from all affected stakeholders, including patients, payors, and providers.

Section 515(b)(2) of the FD&C Act provides that a proposed order to require premarket approval shall contain: (1) The proposed order; (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA and the benefit to the public from the use of the device; (3) an opportunity for the submission of comments on the proposed order and the proposed findings; and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(3) of the FD&C Act provides that FDA shall, after the close of the comment period on the proposed order,[1] consideration of any comments received, and a meeting of a device classification panel described in section 513(b) of the FD&C Act, issue a final order to require premarket approval or publish a document terminating the proceeding together with the reasons for such termination. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the FD&C Act, unless the reason for termination is that the device is a banned device under section 516 of the FD&C Act (21 U.S.C. 360f).

A preamendments class III device may be commercially distributed without a PMA until 90 days after FDA issues a final order requiring premarket approval for the device, or 30 months after the classification of the device in class III under section 513 of the FD&C Act becomes effective, whichever is later (section 501(f)(2)(B) of the FD&C Act (21 U.S.C. 351(f)(2)(B)). Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify spinal spheres for use in intervertebral fusion procedures (spinal spheres) to class III. Therefore, if the proposed classification regulation and the order to require PMAs are finalized at the same time, a PMA for spinal spheres for use in intervertebral fusion procedures must be filed within the 30-month period because that will be the later of the two time periods. If a PMA is not timely filed for such devices, then the device would be deemed adulterated under section 501(f) of the FD&C Act.

Also, a preamendments device subject to the order process under section 515(b) of the FD&C Act is not required to have an approved investigational device exemption (IDE) (see part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final order requiring the filing of a PMA for the device. At that time, an IDE is required only if a PMA has not been filed. If the manufacturer, importer, or other sponsor of the device submits an IDE application and FDA approves it, the device may be distributed for investigational use. If a PMA is not filed by the later of the two dates, and the device is not distributed for investigational use under an IDE, the device is deemed adulterated within the meaning of section 501(f)(1)(A) of the FD&C Act and subject to enforcement action.

II. Regulatory History of the Devices

After the enactment of the Medical Device Amendments of 1976, FDA undertook an effort to identify and classify all preamendments devices, in accordance with section 513(d) of the FD&C Act. FDA issued a proposed rule for classification of 77 generic types of orthopedic devices in the **Federal Register** of September 4, 1987 (52 FR 33686). However, spinal spheres for use in intervertebral fusion procedures were not identified in this effort. Subsequently and consistent with the FD&C Act, FDA held a panel meeting on December 12, 2013, regarding the classification of spinal sphere devices for use in intervertebral fusion procedures (Ref. 1). Spinal sphere devices, intended for use in fusion procedures, are no longer used due to the widespread adoption of intervertebral body fusion devices (''interbody cages''). Unlike spinal sphere devices, interbody cages generally possess different features to engage with vertebral endplates, allowing them to resist migration and subsidence, and features that allow for the packing of graft material, facilitating bone growth into and through the device.

Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify unclassified, preamendment spinal spheres for use in intervertebral fusion procedures into class III. A PMA, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device. The proposed rule would also establish the identification, classification, and regulatory controls for spinal spheres.

Spinal spheres for use in intervertebral fusion procedures are unclassified preamendments devices. These devices have been subject to premarket review through a 510(k) submission and have been cleared for marketing if FDA considers the device to be substantially equivalent to a legally marketed predicate in accordance with section 513(i) of the FD&C Act. To date, FDA has cleared six spinal sphere devices from four manufacturers.

[1] In December 2019, FDA began adding the term ''Proposed amendment'' to the ''ACTION'' caption for these documents to indicate that they ''propose to amend'' the Code of Federal Regulations. This editorial change was made in accordance with the Office of the Federal Register's interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

On December 12, 2013, FDA convened the Orthopaedic and Rehabilitation Devices Panel (the Panel) to secure recommendations regarding the appropriate classification, regulatory controls, as well as risks to health and benefits of spinal spheres (Ref. 1). At the meeting, FDA requested that the Panel consider whether this device type fits the statutory definition for a class III device. The Panel considered the information provided by FDA about spinal spheres, including results and analysis from a literature search and search of known adverse events (Ref. 1).

The Panel unanimously recommended that spinal spheres be classified into class III, subject to PMA. The Panel believed that classification in class III is appropriate given that there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness for use in intervertebral body fusion procedures. Furthermore, the Panel unanimously agreed that spinal spheres for use in fusion procedures present an unreasonable risk of illness or injury to the patients. In addition to the risks to health identified by FDA that include removal/revision, pain, and neurologic impairment, the Panel recommended incorporating all known risks generally associated with spinal interbody fusion procedures (see Ref. 1, Panel transcript at page 58).

In summary, the Panel unanimously determined that given the lack of available evidence and unreasonable risk profile of spinal spheres devices for use in fusion procedures, these devices should be classified as class III devices, which would, after publication of a final order calling for PMAs, require submission of a PMA application and approval to market the device. FDA agrees with the Panel's recommendation that there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness, and that the device presents a potential unreasonable risk of illness or injury. FDA further agrees with the Panel's recommendation that spinal sphere devices for use in fusion procedures be classified into class III subject to PMA.

III. Dates New Requirements Apply

If FDA finalizes the proposed classification of spinal spheres, these devices will be classified into class III. In accordance with sections 501(f)(2)(B) and 515(b) of the FD&C Act, FDA is proposing to require that a PMA be filed with the Agency for spinal sphere devices by the last day of the 30th calendar month beginning after the month in which the classification of the device in class III became effective. An applicant whose product was legally in commercial distribution before May 28, 1976, or whose product has been found to be substantially equivalent to such a product, will be permitted to continue marketing such class III product during FDA's review of the PMA, provided that a PMA is timely filed. FDA intends to review any PMA for the device within 180 days. FDA cautions that under section 515(d)(1)(B)(i) of the FD&C Act, the Agency may not enter into an agreement to extend the review period for a PMA beyond 180 days, unless the Agency finds that ''. . . the continued availability of the device is necessary for the public health.''

If a PMA for a class III device is not filed with FDA within 30 months after the classification of the device into class III, commercial distribution of the device must cease. The device may be distributed for investigational use, only if the requirements of the IDE regulations in part 812 are met. The requirements for investigational use of significant risk devices include submitting an IDE application to FDA for review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued under 21 CFR 812.30. FDA, therefore, recommends that IDE applications be submitted to FDA at least 30 days before the date a PMA is required to be filed to avoid interrupting investigations.

IV. Device Subject to This Proposal

A spinal sphere is a prescription device that is an implanted, solid, spherical device manufactured from metallic (*e.g.,* cobalt-chromium-molybdenum (CoCrMo)) or polymeric (*e.g.,* polyetheretherketone (PEEK)) materials. They are intended to be inserted into the intervertebral disc space of the lumbar spine following a discectomy in order to maintain disc space height and provide postoperative stabilization to the affected spinal segment during fusion procedures. The device is to be used with bone graft material. FDA currently regulates these unclassified devices as devices requiring a 510(k) submission under product code NVR.

Elsewhere in this issue of the **Federal Register**, FDA is proposing to classify spinal spheres in class III and identifies these devices as follows: A spinal sphere device is an implanted, solid, spherical, prescription device manufactured from metallic or polymeric materials. The device is inserted into the intervertebral body space of the lumbar spine to provide stabilization and to help promote intervertebral body fusion. The device is to be used with bone graft material.

In accordance with section 515(b)(2)(D) of the FD&C Act, interested persons are being offered the opportunity to comment or request a change on the Agency's proposed classification of spinal spheres based on new information published elsewhere in this **Federal Register**.

V. Proposed Findings With Respect to Risks and Benefits for Spinal Spheres for Use in Intervertebral Fusion Procedures

As required by section 515(b) of the FD&C Act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring that these devices have an approved PMA and (2) the benefits to the public from the use of the devices. These findings are based on the reports and recommendations of the Orthopaedic and Rehabilitation Devices Panel meeting on December 12, 2013 (Ref. 1), and any additional information that FDA has obtained. Additional information regarding the risks can be found below, as well as in the proposed rule published elsewhere in this issue of the **Federal Register**, proposing to classify these devices into class III.

Based on this information, FDA has identified and proposes the following risks to health for spinal spheres:

Reoperation: The need for reoperation could result from a failed spinal sphere device or component of the device, from nerve root decompression or adjacent level disease, or from reasons related to any surgery, *e.g.,* infection or bleeding.

Pain and loss of function: Some device-related complications that may cause pain and loss of function include device fracture, deformation, loosening, or extrusion. The wear of materials, which may cause osteolysis (dissolution of bone), and component disassembly, fracture, or failure may also result in pain and loss of function.

Infection: Infection of the soft tissue, bony tissue, and the disc space may arise due to implantation of a spinal sphere device. Material composition or impurities, wear debris, operative time, and operative environment may compromise the vascular supply to the area or affect the immune system, which could increase the risk of infection. Improper sterilization or packaging may also increase the risk of infection.

Adverse tissue reaction: The implantation of the spinal sphere device will elicit a mild inflammatory reaction typical of a normal foreign body

response. Incompatible materials or impurities in the materials and wear debris may increase the severity of a local tissue reaction or cause a systemic tissue reaction. If the materials used in the manufacture of the spinal sphere device are not biocompatible, the patient could have an adverse tissue reaction.

Soft tissue injury: Soft tissue injury could include injury to major blood vessels, viscera, nerve roots, spinal cord, and cauda equina.

Vertebral endplate injury: Surgically inserting a device with a different geometry and modulus of elasticity than bone may lead to vertebral fracture, sinking of the device into the vertebral endplate (subsidence), collapse of the local blood supply, and collapse of the vertebral end plate.

Pseudarthrosis: Pseudarthrosis (*i.e.,* non-union) signifies failure of the bony fusion mass and results in persistent instability.

Implant migration and/or instability: The spinal sphere device may not adequately stabilize the disc space and may migrate out of its intended placement as it is a spherical implant inserted between the parallel vertebral endplates. This may lead to subsequent adverse clinical sequelae, such as pain or loss of function or pseudarthrosis.

Implant breakage during insertion: The device may fracture during implantation, which could result in a mechanical or functional failure. This may lead to subsequent adverse clinical sequelae, such as neurologic, vascular, or osseous injury.

A. Summary of Data

FDA conducted queries of the Manufacturer and User Facility Device Experience (MAUDE) database to identify adverse events related to use of spinal spheres. The queries resulted in the identification of 21 unique Medical Device Reports (MDRs) on spinal sphere devices at the time of the Panel meeting. Of these 21 MDRS, 18 were reported as injuries and 3 as malfunctions. Three additional MDRs have been reported under this product code since the previous review of the MAUDE database prior to the Panel meeting. One report reflects use of a spinal sphere device without fusion that was also reported in the literature as discussed below. One report was regarding devices that were not spinal spheres, and the remaining report was unclear on the device that caused the event.

Additionally, FDA conducted a comprehensive literature review to identify and gather relevant published information regarding the safety and effectiveness of spinal sphere devices for use in fusion procedures. However, no references specifically describing spinal sphere devices for use in fusion procedures were identified. A contemporary search using the same parameters yielded a similar result. Of note, one article, a case study of a patient implanted with a spinal sphere, reflected one of the MDRs reported above; however, this patient did not undergo spinal fusion in conjunction with implantation of the device (Ref. 2). Consequently, FDA concludes there is inadequate information characterizing the safety and effectiveness of spinal sphere devices when used for fusion procedures. The 510(k) clearances of these devices were based solely on nonclinical information and determinations of substantial equivalence to the preamendments device in accordance with section 513(i) of the FD&C Act, which, in light of the available information regarding the risks with no information supporting the benefit of these devices, is inadequate to support a reasonable assurance of safety and effectiveness for these devices.

Subsequently, on December 12, 2013, FDA convened the Orthopaedic and Rehabilitation Panel described in section I (Ref. 1). The Panel unanimously concluded that there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness for spinal sphere devices for use in fusion procedures. Furthermore, the Panel unanimously agreed that because spinal sphere devices for use in fusion procedures present an unreasonable risk of illness or injury to the patient given the lack of probable benefit, spinal spheres should be classified into class III.

B. Benefits of the Device

The purported benefit of use of spinal spheres for use in intervertebral fusion procedures is to provide stabilization of a spinal segment, as an adjunct to fusion; however, FDA is not aware of evidence supporting the stated benefit of spinal spheres for use in fusion procedures. FDA is proposing a PMA be filed to require that manufacturers demonstrate that a reasonable assurance of safety and effectiveness exists for spinal spheres.

C. Risks to Health

The Panel unanimously determined that there was a lack of available evidence to determine that general and special controls are sufficient to provide reasonable assurance of its safety and effectiveness, and that the device presents a potential unreasonable risk of illness or injury. The unreasonable risk profile of spinal spheres devices for use in fusion procedures includes reoperation, pain and loss of function, infection, adverse tissue reaction, soft tissue injury, vertebral endplate injury, pseudarthrosis, implant migration and/or instability, and implant breakage during insertion. FDA agrees with the Panel's recommendation that insufficient information exists FDA further agrees with the Panel's recommendation that spinal sphere devices for use in fusion procedures be classified into class III subject to PMA.

VI. PMA Requirements

A PMA for spinal sphere devices for use in fusion procedures must include the information required by section 515(c)(1) of the FD&C Act. Such a PMA should also include a detailed discussion of the risks identified in section V, as well as a discussion of the effectiveness of the product for which premarket approval is sought. In addition, a PMA must include all data and information on the following: (1) Any risks known, or that should be reasonably known, to the applicant that have not been identified in this document; (2) the effectiveness of the device that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA must include valid scientific evidence to demonstrate reasonable assurance of the safety and effectiveness of the spinal sphere for its intended use (see § 860.7(c)(2) (21 CFR 860.7(c)(2))). FDA defines valid scientific evidence in § 860.7(c)(2).

To present reasonable assurance of safety and effectiveness of spinal sphere devices, FDA tentatively concludes that manufacturers should submit performance testing, including clinical trials of their product, in order to support PMA approval. Existing published clinical literature relevant to the product may also be leveraged as part of the PMA submission. In addition, FDA strongly encourages manufacturers to meet with the Agency early through the Q-Submission Program for any assistance in preparation of their PMA.

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an

environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

While this proposed order 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 the OMB under the PRA. The collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; and the collections of information in part 812 have been approved under OMB control number 0910–0078.

IX. Proposed Effective Date

FDA is proposing that any final order based on this proposal become effective on the date of its publication in the **Federal Register** or at a later date if stated in the final order.

X. Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(D) of the FD&C Act to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to the classification. A request for a change in the classification of spinal spheres for use in intervertebral fusion procedures should be provided in response to the proposed rule issued elsewhere in this issue of the **Federal Register** and contain the information required by 21 CFR 860.123, including new information relevant to the classification of the device.

XI. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. *Orthopaedic and Rehabilitation Devices Panel—Classification of Spinal Sphere Devices Meeting, December 12, 2013, available at *https://wayback.archive-it.org/7993/20170114044038/http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/MedicalDevices/MedicalDevicesAdvisoryCommittee/OrthopaedicandRehabilitationDevicesPanel/UCM378083.pdf.*

2. Lindley, E.M., B. Levy, E.L. Burger, et al., ''Failure of the Fernstrom Ball in Contemporary Spine Surgery: A Case of History Repeating Itself.'' *Current Orthopaedic Practice,* 25(1): 87–91, 2014.

List of Subjects in 21 CFR Part 888

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR part 888 be amended as follows:

PART 888—ORTHOPEDIC DEVICES

■ 1. The authority citation for part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360*l,* 371.

■ 2. In § 888.3085, add paragraph (c) to read as follows:

§ 888.3085 Spinal spheres for use in intervertebral fusion procedures.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of product development protocol (PDP) is required.* A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before [A DATE WILL BE ADDED ON THE LAST DAY OF THE 30TH FULL CALENDAR MONTH AFTER THE FUTURE FINAL REGULATION THAT CLASSIFIES THE DEVICE INTO CLASS III IS EFFECTIVE], for any spinal sphere for use in intervertebral fusion procedures as identified in paragraph (a) of this section that was in commercial distribution before May 28, 1976, or that has, on or before [A DATE WILL BE ADDED ON THE LAST DAY OF THE 30TH FULL CALENDAR MONTH AFTER THE FUTURE FINAL REGULATION THAT CLASSIFIES THE DEVICE INTO CLASS III IS EFFECTIVE], been found to be substantially equivalent to any spinal sphere device for use in intervertebral fusion procedures identified in paragraph (a) of this section, that was in commercial distribution before May 28, 1976. Any other spinal sphere device for use in an intervertebral fusion procedure identified in paragraph (a) of this section shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27139 Filed 12–14–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Chapter X

[Docket No. FINCEN–2021–0008]

Review of Bank Secrecy Act Regulations and Guidance

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Request for information and comment.

SUMMARY: The Financial Crimes Enforcement Network (FinCEN) is issuing this request for information (RFI) to solicit comment on ways to streamline, modernize, and update the anti-money laundering and countering the financing of terrorism (AML/CFT) regime of the United States. In particular, FinCEN seeks comment on ways to modernize risk-based AML/CFT regulations and guidance, issued pursuant to the Bank Secrecy Act (BSA), so that they, on a continuing basis, protect U.S. national security in a cost-effective and efficient manner. This RFI also supports FinCEN's ongoing formal review of BSA regulations and guidance required pursuant to Section 6216 of the Anti-Money Laundering Act of 2020 (the AML Act). Section 6216 requires the Secretary of the Treasury (the Secretary) to solicit public comment and submit a report, in consultation with specified stakeholders, to Congress by January 1, 2022, that contains the findings and determinations that result from the formal review, including administrative and legislative recommendations.

DATES: Written comments on this RFI must be received on or before February 14, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2021–0008.

• *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2021–0008.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at *https://fincen.gov/contact.*

SUPPLEMENTARY INFORMATION:

I. Scope of the RFI

FinCEN seeks comment on ways to streamline, modernize, and update BSA regulations and guidance so that they, on a continuing basis, protect U.S. national security in a cost-effective and efficient manner. FinCEN is particularly interested in new and innovative approaches to BSA compliance that promote a risk-based approach to protecting the financial system from threats to national security posed by various forms of financial crime, including money laundering, the financing of terrorism and proliferation, while also providing for the reporting of information with a high degree of usefulness to government authorities. FinCEN recognizes the evolving illicit finance threat landscape and appreciates the important role that technology, innovation, and the efficient application of resources to BSA reporting play in promoting a risk-based approach to BSA compliance. In this context, the efficient application of resources can refer to the prioritization of resources by financial institutions to provide more useful information to law enforcement or other U.S. Government entities, including reporting highly useful information in a timely manner, or reducing redundancies and information of little use reported to law enforcement or other U.S. Government entities.

The review of BSA regulations and guidance [1] required by Section 6216 of the AML Act will support these efforts by enhancing the protection of U.S. national security and assisting in the development, revision, or update of regulations that are outdated, redundant, or otherwise do not support an effective and risk-based AML/CFT framework.[2] As described in the BSA, AML/CFT programs should, among other things, be reasonably designed to assure and monitor compliance with the BSA and be risk-based, including ensuring that financial institutions direct more attention and resources toward higher-risk customers and activities, consistent with the risk profile of the financial institution, rather than toward lower-risk customers and activities.[3]

According to Section 6216(a), the purposes of the review are to: (i) Ensure the Department of the Treasury (Treasury) provides, on a continuing basis, for appropriate safeguards to protect the financial system from threats, including money laundering and the financing of terrorism and proliferation, to national security posed by various forms of financial crime; (ii) ensure that the regulations and guidance implementing the BSA continue to require certain reports or records that are highly useful in countering financial crime; and (iii) identify regulations and guidance that may be outdated, redundant, or otherwise do not promote a risk-based AML/CFT compliance regime for financial institutions, or that do not conform with the commitments of the United States to meet international standards to combat money laundering, financing of terrorism, serious tax fraud, or other financial crimes. Comments received in response to this RFI will support FinCEN's efforts to conduct the review required by Section 6216 of the AML Act. Following that review, the Secretary—in consultation with specified stakeholders [4]—is required to make appropriate changes to the regulations and guidance to improve, as appropriate, the efficiency of those provisions, and submit a report to Congress that contains all findings and determinations made in carrying out the review, including administrative or legislative recommendations.

II. Background

A. History of the BSA

Enacted in 1970, the BSA is the principal U.S. law for the prevention of money laundering, terrorist financing and proliferation, and other forms of illicit financial activity. Congress has authorized the Secretary to administer the BSA. The Secretary has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations.[5] FinCEN is authorized to require financial institutions or nonfinancial trades or businesses to maintain procedures to ensure compliance with the BSA and the regulations promulgated thereunder and to guard against money laundering, the financing of terrorism, and other forms of illicit finance.[6] Statutory amendments, most recently through the AML Act, have expanded the scope and range of BSA requirements and the complexity of FinCEN's regulations, including the types of information FinCEN can require financial institutions to maintain or report.

The Money Laundering Control Act of 1986 (MLCA) [7] and the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Annunzio-Wylie) made money laundering a Federal crime, amended the BSA by strengthening sanctions for BSA violations,[8] and authorized Treasury to require the reporting of suspicious activities.[9] Annunzio-Wylie also authorized Treasury to issue regulations requiring all financial institutions, as defined in BSA regulations, to maintain ''minimum standards'' of an AML program.[10] The USA PATRIOT Act also ushered in an expanded role for AML and other financial and economic measures in countering threats to U.S. national security and protecting the U.S. financial system. For example, Title III

[1] FinCEN's regulations are codified at 31 CFR chapter X. For the purposes of this document, ''guidance'' should be interpreted broadly and includes, for instance, all administrative rulings, advisories, bulletins, fact sheets, responses to frequently asked questions, and notices issued by FinCEN and posted on FinCEN's website.

[2] The AML Act is Division F of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (January 1, 2021). The AML Act defines the BSA as section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), chapter 2 of title 1 of Public Law 91–508 (12 U.S.C. 1951 *et seq.*), and subchapter II of chapter 53 of title 31, United States Code. Section 6003(1) of the AML Act.

[3] 31 U.S.C. 5318(h)(2)(B)(iv).

[4] Under Section 6216(a) of the AML Act, the Secretary is required to consult with the Federal functional regulators, the Federal Financial Institutions Examination Council, the Attorney General, Federal law enforcement agencies, the Director of National Intelligence, the Secretary of Homeland Security, and the Commissioner of Internal Revenue. Section 6003(3) of the AML Act defines the term ''Federal functional regulator'' as having: (A) The meaning given the term in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and (B) includes any Federal regulator that examines a financial institution for compliance with the BSA.

[5] Treasury Order 180–01 (Jan. 14, 2020).

[6] 31 U.S.C. 5318(a)(2) (as amended by Section 6102(c)(2) of the AML Act).

[7] Public Law 99–570, 100 Stat. 3207 (Oct. 27, 1986).

[8] Title XV, Public Law102–550, 106 Stat. 3672 (Oct. 28, 1992), at sec. 1502 (authorizing proceedings to terminate federal depository institution and credit union charters when convicted of a criminal violation of the BSA), sec. 1503 (authorizing the termination of federal deposit insurance for federally insured, state-chartered depository institutions, and federal share insurance for federally insured, state-chartered credit unions, when convicted of a criminal violation of the BSA), sec. 1504 (authorizing the removal officers or directors of depository institutions, and institution-affiliated parties of federally insured credit unions, when such parties are found to have violated a BSA requirement).

[9] *Id.* at sec. 1517 (authorizing Treasury to require the reporting of suspicious transactions).

[10] *Id.*

of the USA PATRIOT Act further amended the BSA by authorizing Treasury to require financial institutions to establish customer identification programs and by directly requiring financial institutions to maintain AML programs that satisfied statutorily mandated requirements.[11]

Most recently, the AML Act greatly expanded the express purposes of the BSA. In addition to requiring the filing of certain highly useful reports and the maintenance of certain highly useful records, the express purposes of the BSA now include, among other things:

○ Preventing the laundering of money and the financing of terrorism through the establishment by financial institutions of reasonably designed risk-based programs to combat money laundering and the financing of terrorism;

○ facilitating the tracking of money that has been sourced through criminal activity or is intended to promote criminal or terrorist activity; and

○ assessing the money laundering, terrorism finance, tax evasion, and fraud risks to financial institutions, products, or services to—

▪ protect the financial system of the United States from criminal abuse; and

▪ safeguard the national security of the United States.[12]

B. Regulatory Reform Initiatives Prior to the AML Act

Numerous provisions of the AML Act codify and elaborate upon existing or prior Treasury initiatives on innovation, regulatory reform, and industry engagement, in response to evolving threats. These various efforts include: The BSA Advisory Group; an interagency AML Task Force led by Treasury's Under Secretary for Terrorism and Financial Intelligence;[13] a Regulatory Reform Working Group for Treasury and the Federal Banking Agencies (FBAs);[14] FinCEN Exchange;[15] studying the value of BSA data; and, the FinCEN Innovation Hours Initiative.[16] FinCEN has also issued final rules in recent years that have aimed to close AML regulatory gaps that represent vulnerabilities in the U.S. financial system that illicit actors could exploit.[17] In addition, to fulfill its obligations under the Paperwork Reduction Act, FinCEN issued multiple notices soliciting input from the public in an effort to better understand and estimate the burden and cost of various BSA regulations.[18] Many of the comments that FinCEN received are relevant to the formal review required under Section 6216 of the AML Act.

C. Technology and Application of the BSA

New and innovative approaches in the financial sector in recent years have resulted in the development of new business models, products, and services, fueled in part by rapid advances in technology. As innovation has presented new business and other opportunities, illicit finance threats have also evolved and present new challenges for financial institutions to comply with BSA obligations. FinCEN recognizes the need to consider how to adapt the BSA's regulatory requirements to better address illicit finance threats that have changed considerably in scope, nature, and impact since the initial passage of the BSA. FinCEN also recognizes that innovation and technological advancements can enhance the ability of financial institutions to comply with their BSA obligations, making it easier to collect information that may be highly useful in combatting a variety of financial crimes, and for U.S. Government authorities to better analyze the information reported by financial institutions.

III. Requirements Under Section 6216 of the AML Act

A. Safeguards To Protect the Financial System From Threats

Section 6216 of the AML Act directs FinCEN to review BSA regulations and guidance to ensure that Treasury provides, on a continuing basis, for appropriate safeguards to protect the financial system from threats to national security posed by various forms of financial crime, including money laundering and the financing of terrorism and proliferation.[19] To meet this objective, FinCEN is soliciting input regarding financial services and related activity that present risk of exploitation by illicit actors or otherwise present a risk to the U.S. financial system but might not be addressed, in whole or in part, by existing regulations. At the same time, FinCEN seeks comment on whether these risks can be addressed by new or amended approaches toward AML program rule, recordkeeping, and reporting requirements that protect national security and safeguard the U.S. financial system while minimizing regulatory burden. In addition, FinCEN seeks comment identifying BSA regulations or guidance where the present safeguards do not effectively mitigate the risks they are intended to prevent or mitigate. Specifically, FinCEN seeks to understand whether AML program rule, recordkeeping, and reporting requirements are sufficient to prevent or mitigate the serious risks they are intended to address.

FinCEN views this objective as separate from the objective to identify BSA regulations and guidance that do not promote a risk-based approach, which is described in section C below. For this objective, FinCEN is soliciting input from the public regarding: (i) Threats to the financial system and to national security that are not adequately

[11] Public Law 107–56, 115 Stat. 272 (Oct. 26, 2001). FinCEN issued four interim final AML program rules on April 29, 2002 for financial institutions regulated by a Federal functional regulator: Casinos (67 FR 21110), money services businesses (67 FR 21114), mutual funds (67 FR 21117), and operators of credit card systems (67 FR 21121). FinCEN's rule originally cross-referenced the regulations of the Federal functional regulators and provided that satisfaction of the appropriate Federal functional regulator's AML program rule requirements would be deemed to satisfy the requirements of Treasury's rule.

[12] 31 U.S.C. 5311 (as amended by Section 6101(a) of the AML Act).

[13] *See* Treasury, *Remarks of Under Secretary David S. Cohen at the American Bankers Association and the American Bar Association Money Laundering Enforcement Conference,* (Nov. 10, 2014), available at *https://www.treasury.gov/press-center/press-releases/Pages/jl2692.aspx.*

[14] The FBAs include the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

[15] *See* FinCEN, *FinCEN Exchange,* available at *https://www.fincen.gov/resources/financial-crime-enforcement-network-exchange.*

[16] *See* FinCEN, *FinCEN's Innovation Hours Program,* available at *https://www.fincen.gov/resources/fincens-innovation-hours-program.*

[17] *See* FinCEN, Final rule—Customer Due Diligence Requirements for Financial Institutions, 81 FR 29397 (May 11, 2016); *see also* FinCEN, Final rule—Customer Identification Programs, Anti-Money Laundering Programs, and Beneficial Ownership Requirements for Banks Lacking a Federal Functional Regulator, 85 FR 57129 (Sept. 15, 2020).

[18] *See, e.g.,* FinCEN, Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Bank Secrecy Act Reports of Transactions in Currency Regulations at 31 CFR 1010.310 Through 1010.314, 31 CFR 1021.311, and 31 CFR 1021.313, and FinCEN Report 112—Currency Transaction Report, 85 FR 29022 (May 14, 2020); FinCEN, Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Bank Secrecy Act Reports by Financial Institutions of Suspicious Transactions at 31 CFR 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, and 1029.320, and FinCEN Report 111—Suspicious Activity Report, 85 FR 31598 (May 26, 2020); FinCEN, Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Programs for Certain Financial Institutions, 85 FR 49418 (Aug. 13, 2020); and FinCEN, Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements for Certain Financial Institutions, 85 FR 49425 (Aug. 13, 2020).

[19] Section 6216(a)(1)(A) of the AML Act.

addressed by BSA regulations and guidance; and (ii) regulatory safeguards that FinCEN should implement via regulation or guidance to better protect the financial system from such threats.

B. Reports and Records That Are Highly Useful in Countering Financial Crime

Section 6216 also directs FinCEN to evaluate BSA regulations and guidance to ensure that they continue to require certain reports or records that are highly useful in countering financial crimes.[20] The purposes of the BSA include requiring reports or records that are highly useful in criminal, tax, regulatory, or intelligence matters, and preventing a variety of financial crime, including money laundering and the financing of terrorism.[21] FinCEN is authorized to require financial institutions or nonfinancial trades or businesses to maintain procedures to ensure compliance with the BSA and the regulations implementing it, and to guard against money laundering, the financing of terrorism, and other forms of illicit finance.[22] The BSA and FinCEN's implementing regulations currently require financial institutions, nonfinancial trades and businesses, and individuals to file a variety of reports, including, for example, suspicious activity reports (SARs), currency transaction reports (CTRs), reports of certain domestic coin and currency transactions (Form 8300s), and reports of foreign bank and financial accounts (FBARs). In addition, under 31 U.S.C. 5326(a), if the Secretary finds that reasonable grounds exist for concluding that additional recordkeeping and reporting are necessary to carry out the purposes of the BSA or to prevent evasions thereof, the Secretary may issue an order requiring any domestic financial institution or nonfinancial trade or business or group of domestic financial institutions or nonfinancial trades or businesses in a geographic area to obtain, record, and report information concerning certain transactions (as the Secretary may describe in such order).

The second objective of Section 6216 essentially poses two questions. First, are the reports or records that are currently required to be filed or maintained highly useful in countering financial crime? Second, are there any reports or records that are *not* currently required to be filed or maintained that, if required, would be highly useful in countering financial crime? This objective also poses similar questions with respect to the BSA's numerous recordkeeping requirements—namely, whether the current requirements mandate any recordkeeping that is not highly useful in countering financial crime, and whether different or additional recordkeeping would be highly useful in countering financial crime.

C. Identify BSA Regulations and Guidance That May Be Outdated, Redundant, or Do Not Promote a Risk-Based AML/CFT Regime for Financial Institutions

Section 6216 also requires FinCEN to evaluate BSA regulations and guidance that may be outdated, redundant, or otherwise do not promote a risk-based AML and CFT compliance regime for financial institutions.[23]

FinCEN considers outdated regulations for the purposes of this RFI to include regulations that: (i) No longer promote the maintenance of risk-based safeguards that adequately address the regulation's original purpose; or (ii) are no longer useful or appropriate. That is, if reports filed consistent with a regulation no longer provides highly useful information to the government, or if a regulation once appropriately addressed a significant risk but no longer does so, that regulation is outdated. Outdated regulations would also include regulations that do not promote a risk-based approach to AML/CFT compliance by failing to take into account innovation or technological advancements in the financial system, or are obsolete in light of subsequent statutory or regulatory changes.

FinCEN considers redundant regulations for the purpose of this RFI to include BSA regulations that: (i) Impose requirements on regulated entities that are identical to, or significantly overlap with, the requirements imposed by other BSA regulations; or (ii) were issued under a different statutory authority, but for which it is not possible to comply with both mandates by taking one set of actions. Regulations imposing such requirements will not be considered redundant to the extent that fully satisfying one requirement under one framework fully satisfies the other requirement as well.

Regulations Failing to Promote a Risk-Based Approach: FinCEN looked at several sources to determine how BSA regulations and guidance might fail to promote a risk-based AML/CFT regime for financial institutions, for the purpose of this RFI, including the 2018 National Money Laundering Risk Assessment (NMLRA),[24] FinCEN's AML/CFT National Priorities,[25] and guidance from the Financial Action Task Force (FATF),[26] the international standard-setting body on combatting money laundering and the financing of terrorism and proliferation. The NMLRA in particular provides definitions of several key concepts that can offer helpful clarification in connection with the Section 6216 review:

Threat: The NMLRA uses this term for predicate crimes associated with money laundering.[27] The NMLRA deems the environment in which predicate offenses are committed and criminal proceeds generated as being relevant to understanding why, in some cases, specific crimes are associated with specific money laundering methods.

[20] Section 6216(a)(1)(B) of the AML Act.

[21] 31 U.S.C. 5311 (as amended by Section 6101(a) of the AML Act).

[22] 31 U.S.C. 5318(a)(2) (as amended by Section 6102(c)(2) of the AML Act).

[23] Section 6216(a)(1)(C)(i) of the AML Act.

[24] *See* Treasury, *National Money Laundering Risk Assessment,* (Dec. 20, 2018), at page 6, available at *https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf; see also* Treasury, *National Terrorist Financing Risk Assessment,* (Dec. 20, 2018), available at *https://home.treasury.gov/system/files/136/2018ntfra_12182018.pdf; see also* Treasury, *National Proliferation Financing Risk Assessment,* (Dec. 20, 2018), available at *https://home.treasury.gov/system/files/136/2018npfra_12_18.pdf.*

[25] FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Priorities,* (June 30, 2021), available at *https://www.fincen.gov/sites/default/files/shared/AML_CFT%20Priorities%20(June%2030%2C%202021).pdf.*

[26] The FATF is a member-led taskforce established in 1989 by the Group of 7 (G7). Today it has 39 members, and more than 200 jurisdictions have committed to implementing the FATF standards and are assessed against them by the FATF and/or one of nine FATF-style regional bodies. Through its membership in the G7 and the Group of 20 (G20), the United States has also signed onto numerous G7 and G20 commitments to effectively implement the FATF standards. In 2013, 2019 and 2021, FATF issued guidelines and standards for the assessment of systemic exposures to the risks of money laundering, terrorist financing, and proliferation financing. According to these guidelines, a systemic risk assessment is the result of a process, based on a methodology agreed by those parties involved, that attempts to identify, analyze, and understand the combination of vulnerabilities, threats, and consequences affecting a regulated subject, event, or activity. *See* FATF, *Guidance on National Money Laundering and Terrorist Financing Risk Assessment, (Feb. 2013), at page 6, Introduction and Terminology, Section 1.3-Key concepts and terms relevant to a money laundering risk assessment, available at https://www.fatf-gafi.org/media/fatf/content/images/national_ml_tf_risk_assessment.pdf; see also FATF,* Guidance on Terrorist Financing Risk Assessment, *(Mar. 2019), at pages 7–9 for terminology relevant to a terrorist financing risk assessment, available at https://www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-Financing-Risk-Assessment-Guidance.pdf; see also FATF, Guidance on Proliferation Risk Assessment and Mitigation, (June 2021), at pages 9–10 for key terminology, available at https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Proliferation-Financing-Risk-Assessment-Mitigation.pdf.*

[27] These predicate crimes are enumerated at 18 U.S.C. 1956(c)(7).

Vulnerability: The NMLRA uses this term for circumstances or situations that facilitate or create the opportunity for money laundering. A vulnerability may relate to a specific financial sector or product, or a weakness in regulation, supervision, or enforcement. A vulnerability may also reflect unique circumstances pursuant to which it may be difficult to distinguish legal from illegal activity. The methods that allow for the most amount of money to be laundered most effectively or most quickly present the greatest potential vulnerabilities.

Risk: The NMLRA conceives of risk as a function of threat and vulnerability. Risk represents a synthesis, taking into consideration the effect of mitigating measures including regulation, supervision, and enforcement.

The NMLRA also informed Treasury's 2020 National Strategy for Combating Terrorist and Other Illicit Financing in considering approaches to risk. According to that strategy, a risk-based approach in the context of AML/CFT means allocating resources and implementing measures to prevent or mitigate illicit finance in a way that takes into account identified and well understood risks.[28] Further, in 2019 FinCEN and the FBAs issued a Joint Statement on Risk-Focused BSA/AML Supervision noting that risk-based compliance programs enable the allocation of compliance resources commensurate with risk.[29] The goal of the risk-based approach is to establish and maintain AML/CFT programs proportionate to the risk present in financial institutions based on customers and activities. It focuses available resources in the areas of highest risk in order to have the greatest impact, while reducing the resources devoted to activities carrying lower risk. For purposes of this RFI, when attempting to identify regulations and guidance that do not promote a risk-based AML/CFT regime for financial institutions, commenters are encouraged to identify regulations and guidance that discourage or hinder financial institutions from using or allocating resources commensurate with risk.

D. Identify BSA Regulations and Guidance That Do Not Conform With International Standards To Combat Financial Crime

Section 6216 requires FinCEN to identify regulations and guidance that do not conform to commitments of the United States to meet international standards to combat money laundering, financing of terrorism, serious tax fraud, or other financial crimes.[30] Preeminent among such standards are the FATF Recommendations that promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing, and other related threats to the integrity of the international financial system.[31] FATF monitors countries' progress in implementing the FATF standards through mutual evaluations; reviews money laundering and terrorist financing techniques and counter-measures; and promotes the adoption and implementation of the FATF standards globally.[32] Given their international recognition as standards for AML, CFT, and countering the financing of proliferation, the FATF Recommendations will factor into how Treasury approaches meeting this objective under Section 6216.

FATF published its most recent mutual evaluation of the United States in December 2016 [33] and, in March 2020, issued a follow-up report.[34] The purpose of this third follow-up report was to assess the United States' progress in addressing certain technical compliance deficiencies identified in the 2016 Mutual Evaluation Report, most notably relating to customer due diligence obligations, and to analyze the United States' progress in implementing new requirements relating to FATF Recommendations that have changed since the end of the 2016 Mutual Evaluation.

E. Make Changes to BSA Regulations and Guidance To Improve Efficiency

Finally, Section 6216 requires FinCEN to make changes, as appropriate, to regulations and guidance to improve the efficiency of those provisions.[35] FinCEN is asking the public to identify specific changes to BSA regulations and guidance that would make them more efficient. Efficiency in this context can refer to financial institutions focusing resources on providing information that is more useful to law enforcement, reporting highly useful information in a timely manner, or reducing redundancies and information of little use to law enforcement. As part of this process, FinCEN requests comment on regulations and guidance that do not support timely and cost-effective compliance with BSA obligations that produces highly useful information for law enforcement or U.S. Government entities.

IV. Questions for Comment

A. Safeguards To Protect the Financial System From Threats

1. The objective of Section 6216(a)(1)(A) of the AML Act is to ensure that Treasury provides, on a continuing basis, for appropriate safeguards to protect the financial system from threats to national security posed by various forms of financial crime. Are there any threats, vulnerabilities, or risks that you think Treasury is unaware of, or that you think Treasury is not responding to with sufficient and appropriate safeguards? If so, please identify the threats, along with any suggestions you have for how Treasury might better identify and respond to them, including any safeguards that Treasury should implement.

2. Do AML program requirements for financial institutions sufficiently address the threats, vulnerabilities, and risks faced by the U.S. financial system? If not, what changes do you recommend to ensure that AML program requirements adequately and effectively safeguard U.S. national security?

B. Reports and Records That Are Highly Useful in Countering Financial Crime

3. Are there BSA reporting or recordkeeping requirements that you believe do not provide information that is highly useful in countering financial crimes? If so, what reports or records, and why? Conversely, are there reports

[28] *See* Treasury, *2020 National Strategy for Combating Terrorist and Other Illicit Financing, at pages 6–7, available at https://home.treasury.gov/system/files/136/National-Strategy-to-Counter-Illicit-Financev2.pdf; see also* FATF, *FATF Recommendations: International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation,* (updated Oct. 2021), page 31, Interpretive Note for FATF Recommendation 1 (describing the risk-based approach), available at *http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATFRecommendations2012.pdf.*

[29] *See* FinCEN, *Joint Statement on Risk Focused Bank Secrecy Act Anti Money Laundering Supervision,* (July 22, 2019), available at *https://www.fincen.gov/sites/default/files/2019-10/JointStatementonRisk-FocusedBankSecrecyAct-Anti-MoneyLaunderingSupervisionFINAL1.pdf.*

[30] Section 6216(a)(1)(C)(ii) of the AML Act.

[31] *See* FATF, *FATF Recommendations,—International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation* (''FATF Recommendations''), (updated Oct. 2021), at page 7, available at *https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATFRecommendations2012.pdf*

[32] *See* FATF, *FATF Recommendations,* at page 8.

[33] *See* FATF, Anti-money laundering and counter-terrorist financing measures—United States, Fourth Round Mutual Evaluation Report, (2016), available at *http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-united-states-2016.html.*

[34] *See* FATF, *Anti-money laundering and counter-terrorist financing measures—United States, 3rd Enhanced Follow-up Report & Technical Compliance Re-Rating,* (2020), available at *https://www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Report-United-States-March-2020.pdf.*

[35] Section 6216(a)(2) of the AML Act.

or records not currently required that would be highly useful? If so, what reports and records, and why?

4. Are there specific changes to BSA reporting or recordkeeping requirements that would provide information that is more useful to law enforcement in countering financial crimes or allow financial institutions to better understand what information to report? If so, which reports or records, and what changes do you recommend?

5. How can FinCEN ensure that BSA reporting and recordkeeping requirements are highly useful in countering financial crimes on a continuing basis? For example, should FinCEN conduct certain studies or analyze certain data on a regular basis to ensure BSA reports and records continue to be highly useful in countering financial crimes?

6. Should FinCEN consider certain regular or automatic updates to specific BSA regulations to ensure the reports or records they require continue to be highly useful in countering financial crimes? For example, should FinCEN more regularly update certain BSA reports' fields based on frequency of use, terms included, or other relevant factors and trends identified? What other events might necessitate such updates?

7. Would automatically updating certain BSA reporting or recordkeeping requirements streamline or reduce the potential compliance burden without sacrificing the usefulness of the required BSA reports and records in countering financial crimes? If so, what other requirements might benefit from automatic updates? For example, should automatic updates to dollar thresholds for certain BSA reports and records occur to account for inflation adjustments? What other circumstances might necessitate automatic updates?

8. Should FinCEN consider periodic adjustments, such as customized thresholds, to BSA regulations and guidance to account for changes in risk, such as changes in geographic risk? What circumstances might necessitate customized thresholds and why?

C. Identify BSA Regulations and Guidance That May Be Outdated, Redundant, or Do Not Promote a Risk-Based AML/CFT Regime for Financial Institutions

i. Outdated Regulations

9. Are there BSA regulations or guidance that do not promote risk-based safeguards or that no longer fulfill their original purpose? If so, which regulations or guidance, and what changes do you recommend?

10. Are there BSA regulations or guidance that are obsolete or no longer provide useful information to the government? Alternatively, are there any BSA regulations or guidance that target risks that no longer exists? If so, which regulations or guidance, and what changes do you recommend?

11. Are there any BSA regulations or guidance that are obsolete because of changes in compliance business practices and/or technological innovation in the financial system or elsewhere? If so, how should FinCEN address this?

12. Do FinCEN's regulations and guidance sufficiently allow financial institutions to incorporate innovative and technological approaches to BSA compliance? If not, how can FinCEN facilitate greater use of these tools, while ensuring that appropriate safeguards are in place and highly useful information continues to be reported to government authorities?

ii. Redundant Regulations

13. Are there BSA regulations that impose requirements identical to or significantly overlapping with requirements imposed by other BSA regulations? If so, which BSA regulations, and what amendments do you recommend?

14. Are there BSA regulations that impose requirements that are identical to or significantly overlap with requirements imposed under another regulatory regime? If so, which BSA regulations, and which other regulatory framework?

15. Are there other provisions under the AML Act, or the BSA as amended by the AML Act, that you think will assist in eliminating redundant BSA regulations and guidance? If so, which sections of the AML Act or amended BSA, and why?

iii. Other Regulations That Do Not Promote a Risk-Based Regime

16. Do any BSA regulations or guidance require or encourage resources be allocated inefficiently based on the level of risk that the regulations or guidance are intended to prevent or mitigate? If so, which regulations or guidance, and what changes would you recommend FinCEN make?

17. Aside from any issues mentioned in response to the questions above, are there other BSA regulations or guidance that do not promote a risk-based approach? If so, which regulations or guidance, how do they fail to promote a risk-based regime, and what changes would you recommend FinCEN make? Please distinguish as clearly as possible between issues that result from the content of a regulation or guidance, and issues that result from compliance supervision, examinations, or audits.

18. How else can FinCEN reaffirm that BSA regulations and guidance are intended to foster a risk-based approach?

19. Are there BSA regulations or guidance for which applying a risk-based approach is challenging? If so, which regulations or guidance, what are the challenges, and how might FinCEN reduce or eliminate those challenges?

20. Are there BSA regulations or guidance that are highly effective at promoting a risk-based approach such that they should be used as a model for other BSA regulations and guidance? If so, which regulations or guidance, and why?

D. Identify BSA Regulations and Guidance That Do Not Conform With International Standards To Combat Financial Crime

21. Do any BSA regulations or guidance fail to conform with U.S. commitments to meet international standards, or do not fully implement international standards, including the FATF Recommendations? If so, which regulations or guidance, and why?

22. Which deficiencies identified in the FATF's 2016 U.S. Mutual Evaluation Report and addressed in the third Follow-Up Report most significantly prevent the United States from fully implementing an effective and risk-based approach? What changes to regulations or guidance would you recommend to address the deficiencies identified?

E. Identify Changes to BSA Regulations and Guidance To Improve Efficiency

23. Are there BSA regulations or guidance that should be amended to improve their efficiency? If so, which regulations or guidance, and what amendments do you recommend?

24. Are there BSA regulations or guidance that are unclear or are overly burdensome in comparison to the risk posed? If so, which regulations or guidance? To what do you attribute the additional burden, and in what way (if any) is the burden excessive compared to the benefits of the regulation? Could the burden be reduced without making the regulations or guidance less effective? If so, how?

25. Aside from any regulations or guidance identified in response to previous questions, are there any BSA regulations or guidance with which you believe compliance provides minimal or no benefit to the government, thus making any compliance burden excessive? If so, which regulations or

guidance, and would you propose to amend or repeal them? If amend, how? And if repeal, why repeal rather than amend?

26. In what ways could BSA regulations or guidance be more efficient in light of innovative approaches and new technologies. For should any BSA regulations or guidance account for technological advancements, such as digital identification, machine learning, and artificial intelligence? If so, how?

V. Conclusion

Conducting the formal review required under Section 6216 of the AML Act will assist FinCEN in modernizing and streamlining BSA regulations and guidance to ensure that they continue to: (i) Support the purposes and goals of the BSA and the AML Act, and (ii) safeguard the U.S. financial system. The formal review will also allow FinCEN to identify and, as appropriate, revise regulations and guidance that do not promote a risk-based AML/CFT regime for financial institutions, are not in conformity with international standards, or are outdated, redundant, or inefficient. In addition, the formal review will assist FinCEN in identifying recommendations for administrative and legislative changes to BSA regulations and guidance. FinCEN seeks input from the public on the questions set forth above, including from regulated parties; state, local, and Tribal governments; law enforcement; regulators; other consumers of BSA data; and any other interested parties. We encourage all interested parties to provide their views.

Himamauli Das,

Acting Director, Financial Crimes Enforcement Network.

[FR Doc. 2021–27081 Filed 12–14–21; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2021–OESE–0148]

Proposed Definition—Supporting Effective Educator Development Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed definition.

SUMMARY: The Department of Education (Department) proposes to establish a definition for the Supporting Effective Educator Development (SEED) program, Assistance Listing Number 84.423A. We propose to define ''national nonprofit entity,'' for the purpose of clarifying the SEED program eligibility requirements.

DATES: We must receive your comments on or before January 14, 2022.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Help.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed definition, address them to Christine Miller, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C152 Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Christine Miller, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C152, Washington, DC 20202. Telephone: (202)260–7350. Email: *christine.miller@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed definition. To ensure that your comments have maximum effect in developing the final definition, we urge you to identify clearly the specific section of the proposed definition that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed definition. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of our programs.

During and after the comment period, you may inspect all public comments about the proposed definition by accessing *Regulations.gov*. You may also inspect the comments in person. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT** to make arrangements to inspect the comments in person.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed definition. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Program Authority: Section 2242 of the ESEA (20 U.S.C. 6672).

Proposed Definition:

Background: Section 2242 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), provides that eligible entities for awards under the SEED program include national nonprofit entities with a demonstrated record of raising student academic achievement, graduation rates, and rates of higher education attendance, matriculation, or completion, or of effectiveness in providing preparation and professional development activities and programs for teachers, principals, or other school leaders. We propose to define ''national nonprofit entity,'' for purposes of this eligibility requirement, to allow potential applicants to determine their eligibility for a grant under this program more readily, have a clear understanding of the information they must provide to establish eligibility, and allow the Department to make decisions on applicant eligibility more effectively and efficiently. Our experience with administering the fiscal year (FY) 2018 and FY 2020 SEED competitions, including feedback from applicants and funded grantees, demonstrates the need to define the term ''national nonprofit entity'' and provide more transparency regarding applicant eligibility requirements. The proposed definition incorporates the definition of ''nonprofit'' under 34 CFR 77.1(c) but also clarifies how an entity would demonstrate that its work is ''national'' in scope. The proposed definition

specifies that the nonprofit organization must provide services in three or more States. We believe that, if an entity is providing services in three or more States, its work is of sufficient breadth to be considered ''national'' in scope.

Proposed Definition: The Department proposes the following definition for use in any SEED competition in which the term ''national nonprofit entity'' is used in connection with the eligibility requirement in section 2242 of the ESEA:

National nonprofit entity means an entity—

(a) That meets the definition of ''nonprofit'' under 34 CFR 77.1(c); and

(b) Is of national scope, which requires that the entity—

(1) Provides services in three or more States; and

(2) Demonstrates a proven record of serving or benefitting teachers, principals, and school leaders across these States.

Final Definition: We will announce the final definition in a document in the **Federal Register**. We will determine the final definition after considering responses to the proposed definition and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use the proposed definition, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (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.

This proposed 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 proposed regulatory 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 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing the proposed definition 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 an analysis of anticipated costs and benefits, we believe that the proposed definition is consistent with the principles in Executive Order 13563.

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

Potential Costs and Benefits

The Department believes that this proposed regulatory action would not impose significant costs on eligible entities, whose participation in our programs is voluntary, and costs can generally be covered with grant funds. As a result, the proposed definition would not impose any burden except when an entity voluntarily elects to apply for a grant. The benefits of the proposed definition would outweigh any associated costs because they would help clarify applicant eligibility.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed definition easier to understand, including answers to questions such as the following:

- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?
- Are the requirements in the proposed regulations clearly stated?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?

To send any comments that concern how the Department could make the proposed definition easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated,

are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the proposed definition would significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Paperwork Reduction Act of 1995

The proposed definition does not contain any information collection requirements.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

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.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Elementary and Secondary Education.

[FR Doc. 2021–27108 Filed 12–14–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2021–0007]

RIN 0651–AD54

Electronic Patent Issuance

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The United States Patent and Trademark Office (USPTO) is proposing to implement electronic patent issuance. Under the proposed change, the USPTO would issue patents electronically through its patent document viewing systems (*i.e.,* Patent Center and Patent Application Image Retrieval (PAIR)). Patents would no longer be issued on paper, and as a result, they would no longer be mailed to the correspondence address of record as part of the patent issuance process. The elimination of these steps would allow issued patents to be available weeks sooner in electronic form, and the patentee would be able to view and print the complete issued patent via the USPTO's patent document viewing systems immediately upon issue. Patentees would continue to have the option of ordering an unlimited number of paper presentation copies and certified copies of patents.

DATES: Comments must be received by February 14, 2022 to ensure consideration.

ADDRESSES: For reasons of Government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, enter docket number PTO–P–2021–0007 on the homepage and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this document and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in ADOBE® portable document format or MICROSOFT WORD® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal (*www.regulations.gov*) for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Mark Polutta, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patents, at 571–272–7709. For technical questions, contact the Patent Electronic Business Center (EBC) at 1–866–217–9197 (toll-free), 571–272–4100 (local), or *ebc@uspto.gov.* The EBC is open from 6 a.m. to midnight ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The USPTO is proposing to issue and publish patent grants electronically via the USPTO's document viewing systems. By doing so, the USPTO is continuing with its efforts to move to fully electronic processing of its patent applications. The electronic patent issuance process would enable the USPTO to issue patents approximately two weeks faster than the current process.

One of the specific powers granted to the USPTO by 35 U.S.C. 2(b)(1) is to ''adopt and use a seal of the Office, which shall be judicially noticed and with which letters patent . . . issued by the Office shall be authenticated.'' Currently, the USPTO issues ''letters patent'' (hereafter, patents) as paper patents under the seal of the USPTO, by virtue of being bound with a cover sheet that has both an embossed seal and the signature of the USPTO Director. As proposed, the USPTO would instead issue patents electronically under a new digital USPTO seal and with a digital signature from the USPTO Director, and the patents would be made available via the USPTO's patent document viewing systems upon patent issuance. In the USPTO's patent document viewing systems, a patentee would be able to view and print the patent in its entirety, including the cover sheet, front page, drawings, specification, and claims.

In order to implement electronic patent issuance, the USPTO is proposing to remove and reserve 37 CFR 1.315, which states that ''[t]he patent will be delivered or mailed upon issuance to the correspondence address of record.'' Under the proposed changes, because patents would be issued electronically rather than on paper, the USPTO would no longer physically deliver the patent by mailing it to the correspondence address. Instead, the USPTO would issue the patent electronically via the USPTO's patent document viewing systems.

Background

The USPTO has undertaken numerous efforts to establish beginning-to-end electronic processing for patent applications. In 2001, the agency implemented the electronic filing system to provide applicants the capability of filing their patent applications electronically. *See* Electronic Filing System Available to Public, 1240 Off. Gaz. Pat. Office 45 (Nov. 14, 2000). In 2003, the USPTO launched the Image File Wrapper system, which uses image technology to replace the paper processing of patent applications by utilizing the electronic data processing system for the storage and maintenance of all the records associated with patent applications. *See* Changes to Implement Electronic Maintenance of Official Patent Application Records, 68 FR 38611 (June 30, 2003); 1272 Off. Gaz. Pat. Office 197 (July 29, 2003). In 2007, the USPTO initiated the e-Office Action Program, which provides electronic notifications of some outgoing correspondence. *See* Electronic Notification of Outgoing Correspondence (e-Office Action) Update, 1319 Off. Gaz. Pat. Office 146 (June 26, 2007).

Further, the USPTO uses its patent document viewing systems to provide electronic access to the patent application file. These systems have a private side and a public side. The public side provides any member of the public with access to a display of the information contained in applications that have been patented, published, or otherwise made available pursuant to 37 CFR 1.14. The public side of the patent document viewing systems does not provide public access to information concerning applications that are maintained in confidence under 35 U.S.C. 122(a). The private side of these systems may be used by an applicant to access a display of the information contained in their pending application, regardless of whether it is being maintained in confidence under 35 U.S.C. 122(a) or has been published under 35 U.S.C. 122(b). To access the private side of the USPTO's patent document viewing systems, a customer number must be associated with the correspondence address for the application, and the user of the system must have a verified *USPTO.gov* account with two-step authentication. For further information, contact the Customer Support Center of the EBC via the methods described above.

In an effort to continue streamlining its service delivery processes, the USPTO is now proposing to implement electronic patent issuance and to store the granted patent in the USPTO's patent document viewing systems.

I. Current Paper Patent Issuance Process: Under the current patent issuance process, electronic capture of the information in a patent to be issued and printed (the Initial Data Capture) begins shortly after the notice of allowance has been mailed. Most of the information for printing a patent is electronically captured during the Initial Data Capture. When the Initial Data Capture is completed, and if the issue fee has been paid and all other requirements are timely met (*e.g.,* corrected drawings have been timely filed), the Final Data Capture process begins. After the Final Data Capture and final issue preparation are completed, the patent number and issue date are assigned. An Issue Notification is mailed generally three weeks prior to the issue date to inform the applicant of the patent number and issue date. The Issue Notification is also available electronically in the USPTO's patent document viewing systems. The paper patent (including its cover sheet) is then prepared and mailed to the patentee, generally on the issue date. On that date, the USPTO also publishes in the Official Gazette the patent number, title of the patent, names and residences of the inventors, the applicant, the assignee (if applicable), the filing and priority dates, the text of the first claim of the patent, the total number of claims in the patent, and the representative figure (if applicable). Once a paper patent is issued, a copy of the patent (without its cover sheet) is available for viewing and printing by the public on the USPTO's website at *www.uspto.gov/patents/search,* via the Patent Full-Text and Full-Page Image Databases.

II. Proposed Electronic Patent Issuance Process: Electronic patent publication would result in electronic patent issuance under the USPTO seal and with the Director's signature within one week, instead of three weeks, after the patent number and issue date are assigned. Thus, by discontinuing the printing, assembling, and mailing of a paper patent upon issuance, the USPTO would be able to reduce the pendency of every issued patent application by approximately two weeks. Applicants and the public would benefit from the time saved. In addition, patentees would be able to view and print their electronically issued patents (including their cover sheets) through the USPTO's patent document viewing systems, rather than waiting for their paper patent to arrive by mail. The USPTO proposes to make electronic patent grants available on both the public and private sides of the USPTO's patent document viewing systems such that the public would also be able to view the official electronic patent grant (including its cover sheet). Additionally, the USPTO is considering electronically issuing reexamination certificates, statutory invention registrations, patent term extension certificates, and certificates of correction rather than mailing them.

Patentees may exercise the legal rights granted by the patent without physical possession of it because the patent right exists independently of the physical possession of the patent. *See* Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 69 FR 56481, 56521 (Sept. 21, 2004); 1287 Off. Gaz. Pat. Office 67, 98 (Oct. 12, 2004). Furthermore, under the proposed rule change, patentees who want a copy of the electronically issued patent would be able to access it themselves through the USPTO's patent document viewing systems and print it at no charge.

Under the proposed electronic patent issuance process, the USPTO would issue the patent shortly after the payment of the issue fee. As a result, applicants would have less time, after the payment of the issue fee, to file continuing applications, Quick Path Information Disclosure Statements, or petitions under 37 CFR 1.313(c) to withdraw an application from issue. Therefore, the best practice would be for applicants to file these submissions as early as possible. Preferably, continuing applications should be filed before the payment of the issue fee. *See* Filing of Continuing Applications, Amendments, or Petitions after Payment of Issue Fee, 1221 Off. Gaz. Pat. Office 14 (Apr. 6, 1999).

Under the proposed electronic patent issuance process, patents would be issued about one week after the patent number is assigned. Issue Notifications would be available electronically via the USPTO's patent document viewing systems approximately three to four weeks after the payment of the issue fee, usually on the Thursday before the

patent issues. For those applicants who participate in the e-Office action program, the USPTO emails notification of the Issue Notification to the applicant's designated email address. For more information regarding the e-Office action program, *see* Electronic Office Action, 1342 Off. Gaz. Pat. Office 45 (June 2, 2009). For those who do not participate in the e-Office action program, the USPTO foresees the possibility that a patent may issue electronically before the applicant receives a mailed Issue Notification. The USPTO encourages applicants to use the e-Office action program to avoid this possibility.

III. Proposed Electronic Patent Grant May Be Viewed and Printed Via the USPTO's Patent Document Viewing Systems: As proposed, the USPTO would upload the patent (including its cover sheet) electronically, thereby making the patent available to the patentee through the USPTO's patent document viewing systems. Patentees would be able to print an unlimited number of copies of the electronically issued patent (including its cover sheet in color) through the USPTO's patent document viewing systems upon the issuance of the patent at no charge. Additionally, the electronically issued patent would provide the patentee greater control and flexibility in printing their issued patent. Since copies of the patent could be printed on the date of issuance, the USPTO would discontinue offering advance patent copies that can currently be ordered on the PTOL–85 Fee Transmittal (Part B) form.

Although the USPTO would no longer deliver a paper patent to the patentee upon issuance, offer advanced patent copies, or provide duplicate copies of the paper patent, the patentee would still be able to order certified and non-certified copies of the patent for a fee, in accordance with 37 CFR 1.13. In addition, the patentee would still be able to order presentation copies of the patent for a fee. A presentation copy is a signed, ribbon-sealed copy of the first page of the issued patent, suitable for framing. Presentation copies are often preferred for displaying the grant of a U.S. patent, because not only do they add a ribbon to the same gold seal displayed on paper patent grants, but they also identify the inventors, display complete bibliographic data, and contain a brief abstract of the technical disclosure of the invention. In contrast, the cover sheet of a paper patent grant looks the same for every issued paper patent. For further information, visit the USPTO Certified Copy Center web page at *https://certifiedcopycenter.uspto.gov/.*

IV. Cover Sheet of Proposed Electronic Patent Grant: The patent cover sheet in the USPTO's patent document viewing systems, as proposed, would likely be nearly identical in appearance to the cover sheets currently used for paper patents, except that the seal and Director's signature would be in digital form. Importantly, the digital seal and electronic signature of the Director on the proposed electronic patent grant cover sheet would be in conformance with 35 U.S.C. 153, which requires that patents be issued ''under the seal of the Patent and Trademark Office, and shall be signed by the Director or have his signature placed thereon and shall be recorded in the Patent and Trademark Office.'' The new seal would not simply be an electronic image, but rather an official USPTO seal in digital form that serves to authenticate the patent, in conformance with 35 U.S.C. 2(b)(1).

Request for Public Comments

The USPTO invites interested persons and entities to participate in this rulemaking by submitting written comments, data, or views on the proposed regulations addressing the electronic issuance of patent grants, via the methods described earlier in this document.

Rulemaking Requirements

A. Administrative Procedure Act: The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortg. Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (Interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers.'' (citation and internal quotation marks omitted)); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies that the interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (Rules governing an application process are procedural under the Administrative Procedure Act.); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (Rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims.).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (Notice-and-comment procedures are required neither when an agency ''issue[s] an initial interpretive rule'' nor ''when it amends or repeals that interpretive rule.''); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))). However, the USPTO has chosen to seek public comment before implementing the rule to benefit from the public's input.

B. Regulatory Flexibility Act: Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish a notice of proposed rulemaking, the agency must prepare and make available for public comment an Initial Regulatory Flexibility Analysis, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605. For the reasons set forth herein, the Senior Counsel for Regulatory and Legislative Affairs of the USPTO has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

The USPTO is proposing to amend the rules of practice to implement electronic publication, that is, issuing patents electronically through the USPTO's patent document viewing systems rather than mailing a copy of the patent to the correspondence address on record. Patentees would then be able to print a copy of the issued patent in its entirety, including the cover sheet that matches the color and design currently used for patent grants on paper, directly from the USPTO's patent document viewing systems.

This change is procedural and is not expected to have a direct economic impact on small entities. The discontinuation of the paper patent grant is not expected to impact the ability of a patent owner to exercise their patent rights as a paper patent grant is not necessary to enforce or license a patent. Once issued, the paper patent grant is merely commemorative. Under the proposed electronic patent issuance, patent owners will be able to access their granted patent at any time. This includes the ability to print their own hard copy. Only when a patent owner would like the Office to print them a hard copy would any additional fee need to be paid (*i.e.,* for a presentation copy or certified copy for

submission to a legal proceeding). The additional fees for presentation and certified copies already exist today and would remain unchanged under this proposed rule. Therefore, for the reasons above, the changes in this proposed rule are not expected to negatively impact small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This proposed rule has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the proposed rule; (2) tailored the proposed rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across Government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant the preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this proposed rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this proposed rule are not expected to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this proposed rule is not a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The proposed changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

O. Paperwork Reduction Act of 1995: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires that the USPTO consider the impact of paperwork and other information collection burdens imposed on the public. This proposed rule does not involve an information collection requirement that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

P. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects for 37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Office proposes to amend 37 CFR part 1 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

§ 1.315 [Removed and Reserved]

■ 2. Section 1.315 is removed and reserved.

Andrew Hirshfeld,

Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2021–27117 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0482; FRL–9223–02–R3]

Air Plan Approval; Pennsylvania; Revision of the Maximum Allowable Sulfur Content Limit for Number 2 and Lighter Commercial Fuel Oil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the reduction of the maximum allowable sulfur content limit for Number 2 (No. 2) and lighter commercial fuel oil, generally sold and used for residential and commercial furnaces and oil heat burners for home or space heating, water heating or both, from the current limit of 500 parts per million (ppm) to 15 ppm. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 14, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0482 at *https://www.regulations.gov,* or via email to *gordon.mike@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://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mallory Moser, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is 215–814–2030. Ms. Moser can also be reached via electronic mail at *moser.mallory@epa.gov.*

SUPPLEMENTARY INFORMATION: On September 4, 2020, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP to reduce the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil, generally sold for and used in residential and commercial furnaces and oil heat burners for home or space heating, water heating, or both, in the Pennsylvania from a limit of 500 ppm of sulfur to 15 ppm. The proposed SIP revision continues to allow for the limited sale of higher sulfur fuel under certain specified circumstances, as provided for under the current SIP.

I. Background

The revision consists of an amendment to the Pennsylvania SIP to incorporate a reduction in the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil in the Commonwealth from a limit of 500 ppm of sulfur to 15 ppm.[1]

Combustion of sulfur-containing commercial fuel oil releases sulfur dioxide (SO_2) emissions, which contribute to the formation of regional haze and fine particulate matter ($PM_{2.5}$), both of which impact the environment and human health. Regional haze is pollution produced by sources and activities that emit fine particles and their precursors which impairs visibility through scattering and absorption of light. Fine particles may be emitted directly or formed from emissions of precursors, the most important of which includes SO_2. $PM_{2.5}$ particle pollution exposure has been linked to a variety of health problems. In addition to improving public health and the environment, decreased emissions of SO_2, and therefore subsequently $PM_{2.5}$, will contribute to the attainment or maintenance, or both, of their respective national ambient air quality standards (NAAQS).

Pennsylvania is a member of the Mid-Atlantic/Northeast Visibility Union (MANE–VU) Regional Planning Office (RPO), established in 2001, to assist the Mid-Atlantic and Northeast states in planning and developing their regional haze SIP revisions. The other MANE–VU states are Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The District of Columbia, certain Native American tribes in the Region, the EPA, the United States Fish and Wildlife Service, and the United States Forest Service are also members of MANE–VU. PADEP revised 25 Pennsylvania. Code 123.22 and is submitting it to EPA as a SIP revision in response to a 2017 ''MANE–VU Ask'' to pursue adoption of a maximum allowable sulfur content limit of 15 ppm for No. 2 and lighter commercial fuel oil statewide for purposes of reducing regional haze and visibility impairment in Pennsylvania and affected Federal Class I areas.[2]

II. Summary of SIP Revision and EPA Analysis

Through the September 2020 SIP revision submittal, Pennsylvania seeks to revise its SIP by including amendments to 25 Pa. Code Chapter 123 § 22 which set the maximum allowable sulfur content limit for various fuel types. The amendments to 25 Pa. Code Chapter 123.22, reduce the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil, generally sold for and used in residential and commercial furnaces and oil heat burners for home or space heating, water heating, or both, from a limit of 500 ppm of sulfur to 15 ppm. These amendments to 25 Pa. 123.22, became effective on September 1, 2020.

In addition to establishing a lower maximum allowable sulfur content limit for No. 2 fuel oil, the PADEP regulation provides for the continued use of fuel at the previous, higher level of 500 ppm sulfur under limited conditions. In order for fuel at the older, higher levels to be used it must be commercial fuel that was stored in Pennsylvania by the ultimate consumer prior to September 1, 2020, which met the applicable maximum allowable sulfur content through August 31, 2020 at the time it

[1] On July 10, 2014, EPA approved a SIP revision incorporating the maximum allowable sulfur content of No. 2 and lighter fuel oil at 500 ppm (79 FR 39330).

[2] Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

was stored. Additionally, the amendments remove the phrase ''Beginning July 1, 2016'' from 25 Pa. Code 123.22(a)(2)(iii), which is the section that allows for the temporary suspension of the sulfur limit in fuel oil under specific circumstances. This regulation will therefore allow for the continued temporary sale of fuel with higher sulfur levels in accordance with the provisions approved by EPA in the current Pennsylvania SIP. Because the substance of the current approved SIP will not be changed with respect to these temporary suspension provisions, EPA is only taking comment on PADEP's revision that deletes the phrase ''Beginning July 1, 2016'' with respect to these provisions.

This proposed SIP revision to implement low sulfur fuel oil provisions is expected to reduce regional haze and visibility impairment in Pennsylvania. Additionally, decreased emissions of SO_2 will contribute to the attainment, maintenance, or both, of the SO_2 and $PM_{2.5}$ NAAQS in Pennsylvania and the MANE–VU region.

III. Proposed Action

EPA has determined that Pennsylvania's proposed SIP revisions to 40 CFR 52.2020(c)(1), which incorporate amendments made to 25 Pa. Code Chapter 123.22 will lower the maximum allowable sulfur content limit in No. 2 fuel oil and lighter combusted or sold in Pennsylvania and aid in reducing SO_2 emissions. These emissions are a cause of regional haze and reducing them will help to attain the SO_2 and $PM_{2.5}$ NAAQS. EPA is proposing to approve the September 4, 2020 Pennsylvania SIP revision which amends commercial No. 2 fuel oil and lighter sulfur limits for combustion and sale in Pennsylvania. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Pennsylvania's maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil regulation described in 25 PA. Code Chapter 123. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the 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 proposed action:

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Regional Haze, Sulfur oxides.

Dated: December 8, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2021–27101 Filed 12–14–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0606; FRL–9176–01–R3]

Air Plan Approval; Virginia; Revision to the Classification and Implementation of the 2015 Ozone National Ambient Air Quality Standard for the Northern Virginia Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Virginia. This revision consists of an amendment to an existing regulation which adds a new section listing the localities that comprise the Northern Virginia ozone nonattainment area, which is classified as marginal for the 2015 8-hour ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 14, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0606 at *https://www.regulations.gov,* or via email to *Gordon.Mike@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://www.epa.gov/dockets/commenting-epa-dockets*.

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

SUPPLEMENTARY INFORMATION: On August 28, 2020, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its SIP amending an existing regulation by adding a new section listing the localities that comprise the Northern Virginia ozone nonattainment area, which is classified as marginal for the 2015 8-hour ozone NAAQS. This revision is needed for the Commonwealth to implement the 2015 8-hour ozone NAAQS in the Northern Virginia ozone nonattainment area.

I. Background

Under the CAA, EPA establishes NAAQS for criteria pollutants in order to protect human health and the environment. In response to scientific evidence linking ozone exposure to adverse health effects, EPA promulgated the first ozone NAAQS, the 0.12 part per million (ppm) 1-hour ozone NAAQS, in 1979. See 44 FR 8202 (February 8, 1979). The CAA requires EPA to review and reevaluate the NAAQS every five years in order to consider updated information regarding the effects of the criteria pollutants on human health and the environment. On July 18, 1997, EPA promulgated a revised ozone NAAQS, referred to as the 1997 ozone NAAQS, of 0.08 ppm averaged over eight hours. 62 FR 38855. This 8-hour ozone NAAQS was determined to be more protective of public health than the previous 1979 1-hour ozone NAAQS. In 2008, EPA strengthened the 8-hour ozone NAAQS from 0.08 to 0.075 ppm. See 73 FR 16436 (March 27, 2008). In 2015, EPA further refined the 8-hour ozone NAAQS from 0.075 ppm to 0.070 ppm. The 0.070 ppm standard is referred to as the 2015 8-hour ozone NAAQS. See 80 FR 65452 (October 26, 2015).

On June 4, 2018 and July 25, 2018, EPA designated nonattainment areas for the 2015 8-hour ozone NAAQS. 83 FR 25776 and 83 FR 35136. Effective August 3, 2018, the Washington, DC-MD-VA area was designated as marginal nonattainment for the 2015 8-hour ozone NAAQS. The Virginia portion of the Washington, DC-MD-VA nonattainment area comprises Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City, Virginia. See 40 CFR 81.347. Virginia defines their portion of the Washington, DC-MD-VA nonattainment area as the ''Northern Virginia ozone nonattainment area.''

II. Summary of SIP Revision and EPA Analysis

Virginia's August 28, 2020 SIP revision consists of an amendment to an existing regulation which adds a new section listing the localities that comprise the Northern Virginia ozone nonattainment area, which is classified as marginal for the 2015 ozone NAAQS. The amendments revise the Virginia Administrative Code (VAC), specifically 9VAC5–20–204 (Nonattainment areas) Subsection A, which geographically defines the nonattainment areas by locality for the criteria pollutants indicated. The amendments are necessary for implementation of the 2015 ozone NAAQS. The added subdivision, 9VAC5–20–204 A 4, defines the Northern Virginia marginal ozone nonattainment area for the 2015 8-hour ozone standard as including the following areas: Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City. A reference is also added to subsection a of 40 CFR 51.1303, which pertains to the application of classification and attainment date provisions for areas designated nonattainment for the 2015 8-hour ozone NAAQS.

III. Proposed Action

EPA is proposing to approve the Virginia SIP revision amending the subsection listing the localities that comprise the Northern Virginia ozone nonattainment area for the 2015 8-hour ozone NAAQS, which was submitted on August 28, 2020. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by

Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

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 proposed action:

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

The SIP, amending the section listing the localities that comprise the Northern Virginia ozone nonattainment area, is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 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 revising the section listing the localities that comprise the Northern Virginia ozone nonattainment area, does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: December 8, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2021–27100 Filed 12–14–21; 8:45 am]

BILLING CODE 6560–50–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Parts 727, 742, and 752

RIN 0412–AA90

USAID Acquisition Regulation: United States Agency for International Development (USAID) Acquisition Regulation (AIDAR): Planning, Collection, and Submission of Digital Information as Well as Submission of Activity Monitoring, Evaluation, and Learning Plans to USAID

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The United States Agency for International Development (USAID) seeks public comment on a proposed rule that implements USAID requirements for managing digital information data as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. This proposed rule incorporates a new policy on Digital Information Planning, Collection, and Submission Requirements and the corresponding clause, as well as a new clause entitled ''Activity Monitoring, Evaluation, and Learning Plan Requirements'' into the (AIDAR). This proposed rule is intended to reduce the burden on contractors, increase efficiency, and improve the use of data and other forms of digital information across the Agency's programs and operations.

DATES: Comments must be received no later than February 14, 2022.

ADDRESSES: Submit comments, identified by the title of the action and Regulatory Information Number (RIN) through the Federal eRulemaking Portal at *https://www.regulations.gov* by following the instructions for submitting comments. Please include your name, company name (if any), and ''0412–AA90'' on any attachments. If your comment cannot be submitted using *https://www.regulations.gov,* please email the point of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Marcelle Wijesinghe, USAID M/OAA/P, at 202–916–2606 or *policymailbox@usaid.gov.*

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through the method specified in the **ADDRESSES** section above. All

submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

All comments will be made available at *https://www.regulations.gov* for public review without change, including any personal information provided. We recommend that you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID will only address substantive comments on the rule. USAID may not consider comments that are insubstantial or outside the scope of the proposed rule.

B. Request for Comments

USAID requests public comment on all aspects of this proposal, including specific questions outlined elsewhere in this notice.

C. Background

I. Planning, Collection, and Submission of Digital Information to USAID

USAID is proposing to amend its Acquisition Regulation (AIDAR) to implement policy and procedures to clarify and streamline contractor reporting requirements related to digital information planning, collection, and submission to USAID. Under current protocols, USAID contractors are required to submit information to USAID under multiple award requirements using several different information management portals. For example, contractors have historically submitted monitoring and indicator data to locally-maintained information systems in overseas missions; provided periodic reports in PDF format to the Development Experience Clearinghouse (see AIDAR 752.7005); and submitted baseline, survey, and research-related datasets to the Development Data Library (see USAID internal policy at Automated Directives System (ADS) chapter 302 available at *https://www.usaid.gov/ads/policy/300/302*). The maintenance of these separate portals has made it challenging for USAID to integrate this information strategically to render a more holistic and detailed view of its global portfolio. In addition, navigating a variety of submission formats, websites, and business processes generates workload that can be streamlined via modernized technologies and techniques. With the centralization and standardization of digital information that USAID contractors provide to the Agency, USAID anticipates that gathering key evidence to support evaluations and other performance management efforts will be greatly facilitated.

Existing contractual requirements are also silent on or insufficiently address important and emerging issues related to digital information management, such as data management planning and digital information collection standards. USAID contractors may be aware, for example, that the Agency is piloting the use of a new technology called the Development Information Solution (DIS) across multiple missions. Award changes related to this pilot address only a part of the digital information lifecycle (*e.g.,* indicator submission), are limited in scope, and apply exclusively to DIS. This rule is broader in scope, intended to apply not only to DIS but to encapsulate the Agency's enterprise-wide approach to the digital information lifecycle in the years to come. Therefore, this rule provides agency policy on the entire lifecycle of digital information management, which encompasses digital information Governance, Planning, Collection, Processing, Analysis, Curation, Sharing, and Publication. This also includes addressing crosscutting issues such as data standards, information quality, licensing, and consent to ensure future re-use of USAID-funded digital information. It is intended to help USAID systematically strengthen the evidence base required to implement efficient and effective foreign assistance programs and to comply with mandates such as:

(i) OMB Circular A–130
(ii) Foundations for Evidence-Based Policymaking Act (''Evidence Act'') of 2018
(iii) 21st Century Integrated Digital Experience Act (21st Century IDEA Act)
(iv) Foreign Aid Transparency and Accountability (FATAA) Act of 2016
(v) Digital Accountability and Transparency (DATA) Act of 2014
(vi) Geospatial Data Act of 2018

USAID expects that this rule will reduce the total number of web-based portals through which contractors submit digital deliverables under the terms of their awards to USAID, with the preponderance of those submissions directed through a single portal called the USAID Digital Front Door (DFD). Rather than citing a multiplicity of systems within USAID awards, USAID intends to consistently reference the DFD as a centralized location which seamlessly guides contractors through a standardized process to provide their information to USAID. By implementing these changes, USAID intends to reduce administrative burden on contractors and USG staff. As contractors collect and submit digital information in adherence to standards as defined in this rule, USAID also anticipates improvements to data quality, data interoperability, and the Agency's ability to integrate data across various disciplines and geographies in a way that will greatly increase insight into programmatic performance and future scenario planning. USAID appreciates the comments and questions it has received during the DIS pilot. USAID plans to address these at the same time it responds to the comments and questions received during this broader rulemaking effort.

II. Specific CFR Changes Related to Digital Information Planning, Collection, and Submission Requirements

Per USAID internal agency guidance located in Automated Directives Chapter (ADS) 579—USAID Development Data, available at *https://www.usaid.gov/ads/policy/500/579,* it is the policy of USAID to manage data as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. To achieve this, it is also USAID's policy to manage data and digital information across a full lifecycle. This life cycle includes the following stages: Governance, Planning, Collection, Processing, Analysis, Curation, Sharing, and Publication. Given that USAID contractors play an important role in implementing this lifecycle, USAID is adding a new AIDAR subpart 727.70 titled Digital Information Planning, Collection, and Submission Requirements to implement these policies. In furtherance of these policies, the new AIDAR clause 752.227–7x entitled Planning, Collection, and Submission of Digital Information to USAID requires that contractors:

(1) Engage in digital information planning including creating a Data Management Plan (DMP) (*ADS 579*) to identify data assets that will be created and used in a USAID-funded activity.

(2) To the extent practicable, use only digital methods to produce, furnish, acquire, or collect information necessary to implement the contract requirements.

(3) Submit digital information produced, furnished, acquired, or collected in performance of a USAID contract at the finest level of granularity.

The creation of DMPs is a practice long observed by academic and research

communities. Experience at USAID has also shown that without structured data management planning, USAID staff, contractors, and third parties can face major impediments to data usage that may surface at any point after the conclusion of an award.

To foster computer-based analysis, interoperability, and information reuse by a variety of stakeholders, the rule requires contractors to use only digital methods and USAID-approved standards, to the extent practicable, to produce, furnish, acquire, or collect information necessary to implement the contract requirements.

In addition, the rule requires contractors to submit to USAID digital information produced, furnished, acquired, or collected in performance of a USAID contract at the finest level of granularity employed during contract implementation. While the level of granularity (or detail) of digital information gathered during a USAID-funded activity may vary, it is essential that USAID have access to the greatest level of detail available to maximize future analytical potential at the global level.

Finally, the rule is intended to prioritize the responsible use of digital information, balancing its potential with the privacy and security of individuals. As such, the rule requires contractors to remove personally identifying information (PII), to flag security concerns for USAID staff, and to provide documentation of informed consent the contractor receives when obtaining information on individuals.

III. Activity Monitoring, Evaluation, and Learning Plan (AMELP) Requirements

USAID is proposing to amend the AIDAR to include a requirement for contractors to develop Activity Monitoring, Evaluation, and Learning Plans (AMELPs) as more fully described below. Managing U.S. Foreign Assistance effectively requires planning in advance to implement reliable and useful program monitoring, evaluation, and learning efforts. USAID's Program Cycle Operational Policy (See ADS Chapter 201 available at *https://www.usaid.gov/ads/policy/200/201*) provides agency policy on how to plan for monitoring, evaluation, and learning when developing Country Development Cooperation Strategies, projects, and activities. At the award level, the foundation for monitoring, evaluation, and learning is a well-documented plan describing how program progress and results will be measured and assessed and how the contractor will work with USAID and others to support learning and adaptive management.

Per Sec.3(c)(2)(B) of the Foreign Aid Transparency and Accountability Act of 2016 and OMB M–18–04, monitoring and evaluation plans should be developed for programs, projects, and activities. In recent years, Congress has also appended requirements to Appropriations Acts that seek to ensure that contractors that receive development assistance funds regularly and systematically collect and respond to feedback obtained directly from beneficiaries to enhance the relevance and quality of such assistance.

In support of these laws and regulations, USAID's Program Cycle Operational Policy (ADS 201) requires development activities to have an approved AMELP. A development ''activity'' generally refers to an implementing mechanism that carries out an intervention or set of interventions to advance identified development result(s). Activities range from contracts or cooperative agreements with international or local organizations to direct agreements with partner governments, among other options. For this rule, USAID is referring to activities carried out under contracts to achieve a development result.

This rule is proposing to update the AIDAR to meet the legislative and USAID policy requirements listed above by requiring that each contractor of a development activity produce an AMELP that describes the contractor's monitoring, evaluation, and learning activities, including the collection of beneficiary feedback information. Activity monitoring, evaluation, and learning focuses on whether an activity is achieving programmatic results and generating data to inform learning and the adaptation of activities based on evidence. The USAID Operating Unit's (OU) Program Office, Activity Planners, and/or contracting officer's representative work with contracting officers to ensure that the AMELP clause is included in an award, as applicable, and provide the contractor with any OU-specific requirements related to monitoring, evaluation, collaborating, learning, adapting, and/or collecting or managing data to meet OU information needs, external reporting requirements, and allow for the management and oversight of contracts by USAID.

The development of an AMELP should be a collaborative process between the contractor and the USAID staff involved in management of development assistance activities. Contractors will be expected to propose an appropriate AMELP that meets contractor and USAID needs for information to assess and understand progress toward the expected activity results, to appropriately manage and oversee the activity, and to ensure data needed for any planned evaluation is collected and shared with USAID. Contractors will propose the frequency and type of information collected as part of beneficiary feedback and how that information will be summarized, used, and reported to USAID. The plan must ensure that contractors collect such feedback regularly and use it to maximize the cost-effectiveness and utility of the assistance provided to beneficiaries.

If the contractor determines that collection of feedback from beneficiaries is not appropriate, the contractor must provide justification for not collecting beneficiary feedback as part of the approval process. For example, a contractor might argue that collection of feedback from the ultimate beneficiaries of a contract is not appropriate due to a non-permissive environment or because the intended beneficiaries will not realize the benefits of the contract until after the contract has ended. If the contractor and the contracting officer's representative agree that collecting beneficiary feedback is not appropriate or feasible for the activity, the AMELP must include an explanation of why collecting beneficiary feedback is not appropriate.

The completed AMELP is provided by the contractor to the contracting officer's representative for review and approval within 90 days of contract award or as otherwise specified in the schedule of the contract. The contracting officer's representative will review and provide comments or approve the proposed AMELP within 30 days. If the plan is not approved, the contractor must revise and resubmit the plan no later than 15 days after receiving comments from the contracting officer's representative. Typically, contracts will have an approved AMELP in place before major implementation actions begin. The AMELP should be updated as needed by the contractor and approved by the contracting officer's representative.

Typically, when the AMELP clause is required, the clause 752.242–70 Periodic Progress is also included in a contract. When this occurs, contractors must include in the periodic progress reports updated information based on the AMELP, such as performance indicator data, summaries of beneficiary feedback and actions taken by the contractor in response, completed evaluation reports, summaries of learning events or activities, and other updates, as required by the contract terms.

IV. Specific CFR Changes Related to Activity Monitoring, Evaluation, and Learning Plan Requirements

USAID is proposing to revise AIDAR section 742–1170 to add the requirement for contractors to plan for and collect digital information to inform whether an activity funded by a contract is achieving programmatic results and generating data to inform the learning and adaptation of activities based on evidence. The new clause 752.242–71 entitled Activity Monitoring, Evaluation, and Learning Plan will require contractors to develop and submit a proposed AMELP within 90 days of contract award.

The AMELP is required for awards that generate development results, which typically are contracts for professional or technical services that implement USAID developmental assistance programs. The following types of contracts are generally exempt from the requirements for the AMELP:

(1) Contracts below the simplified acquisition threshold;

(2) Purchase of supplies and services that USAID acquires for its own direct use or benefit. Examples below illustrate how USAID will apply this exception and are not meant to be all-inclusive:

(i) Purchase of supplies and services necessary to support and maintain USAID's offices and Missions worldwide;

(ii) Monitoring, evaluation, or collaboration, learning and adaptive management;

(iii) Country Development Cooperation Strategy (CDCS) Facilitation;

(iv) Data collection and analysis services for a specific program or portfolio;

(v) Financial audit and professional support services provided directly to USAID;

(vi) Gender analysis and assessment for CDCS design and support;

(vii) Third-party monitoring for humanitarian programming in a specific country or region.

(3) Emergency food assistance under the Food for Peace Act or section 491 of the Foreign Assistance Act of 1961, including for the procurement, transportation, storage, handling, and/or distribution of such assistance;

(4) International disaster assistance under section 491 of the Foreign Assistance Act of 1961 or other authorities administered by the Bureau for Humanitarian Assistance; or

(5) Activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives or funded with the Complex Crises Fund.

V. Removal of the 752.7005 Entitled Submission Requirements for Development Experience Documents

Following the agency's efforts to reduce the total number of information portals through which contractors are required to submit information, USAID is proposing to remove the clause 752.7005 entitled Submission Requirements for Development Experience Documents from the AIDAR. The clause currently requires contractors to submit to USAID's Development Experience Clearinghouse (DEC) one copy each of reports and information products which describe, communicate, or organize program/project development assistance activities, methods, technologies, management, research, results, and experience. Such reports include: Assessments, evaluations, studies, technical and periodic reports, and other contract deliverables. With the removal of this requirement, contractors will be submitting all data to one centralized portal, the USAID Digital Front Door (DFD).

VI. Other Considerations

This rule is intended to supplement the requirements in the Federal Acquisition Regulation. With regard to post-award implementation, the contracting officer remains responsible for contract administration as a matter of law, and in partnership with designated contracting officer representatives as a matter of operating policy. Contractor performance reported in the Contractor Performance Assessment Reporting System (CPARS), as described in FAR Part 42, corresponds to and must be consistent with performance reported by contractors for purposes of monitoring and learning or pursuant to an AMELP. References to Agency operating policy in ADS are for informational purposes only and are not to be construed as incorporating by reference or establishing the indicated operating policy as regulation.

VII. Regulatory Considerations and Determinations

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 a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Expected Cost Impact on the Public

USAID remains committed to reducing the burden on its contractors while maximizing taxpayer value. By launching the USAID Digital Front Door (DFD) as outlined in this clause, USAID intends to reduce the total number of portals through which its contractors must submit information to USAID, thereby reducing time and effort and improving operational efficiency.

The following is a summary of the impact on contractors awarded contracts that include the new AIDAR clause. The cost estimates were developed by subject matter experts based on USAID's experience collecting reports and information products through the Development Experience Clearinghouse (DEC) (see AIDAR 752.7005) and piloting digital data collection through the Development Data Library (DDL) and the Development Information Solution (DIS).

This rule results in a total annualized (7% discount) public net cost of $6.5 million. This annual burden takes into account the current baseline that contractors already prepare, maintain, and submit AMELPs, already remove PII from data prior to submission, already collect standard indicator data, and already request embargoes and data submission exemptions from Contracting officer's Representative on a case-by-case basis. Further, since contractors already submit documents and data to the DEC and DDL, these costs were removed from the overall estimated cost. The following is a summary of the annual public costs over a 20-year time horizon.

Year	Public	Total
1	$5,504,189	$5,504,189

Year	Public	Total
2	6,548,487	6,548,487
3	6,601,533	6,601,533
. . .	6,654,581	6,654,581
20	6,654,581	6,654,581
Total undiscounted costs		131,731,340
Present Value (PV) of Costs Discounted at 7%		69,274,510
Annualized Costs Discounted at 7%		6,539,024

This rule has extensive benefits for the public, contractors, the research community, the private sector, and the USG, though many of these benefits are challenging to quantify. Overarchingly, this rule will increase efficiency for contractors, minimize data errors, and improve the privacy and security of data. Further, this rule will help contractors to produce data assets that are trustworthy, high-quality, and usable by the general public and the research community for accountability, research, communication, and learning. For the public, there is an immense richness in the data collected by USAID and its partners around the world, and this data holds the potential to improve the lives of some of the world's most vulnerable people. When a development project ends, the data can yield new insights for years or decades into the future. It is the responsibility of the Agency and those representing the government to ensure that data is accessible, standardized, and secure.

In addition, under current protocols, USAID contractors are required to submit digital information to USAID under multiple award requirements using several different information management portals. The maintenance of these separate portals has made it challenging for USAID to integrate this information strategically to render a more holistic and detailed view of its global portfolio. By implementing these changes, USAID intends to reduce administrative burden on contractors and USG staff.

1. Regulatory Flexibility Act

USAID does 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, *et seq.* USAID has therefore not performed an Initial Regulatory Flexibility Analysis (IRFA).

2. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The proposed rule contains information collection requirements. Accordingly, USAID has submitted a request for approval of a new information collection requirement concerning this rule to the Office of Management and Budget.

The outlined information collection is an element of a proposed rule that implements USAID requirements for managing digital information data as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. The proposed rule will incorporate a new subpart 727.70 Digital Information Planning, Collection, and Submission Requirements, and the corresponding clause, as well as a new clause entitled ''Activity Monitoring, Evaluation, and Learning Plan Requirements'' into the AIDAR. This rule is intended to reduce burden on contractors, increase efficiency, and improve the use of data and other forms of digital information across the Agency's programs and operations.

A. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than February 14, 2022 using the method specified in the ''Addresses'' section above.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the AIDAR, 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.

Requesters may obtain a copy of the supporting statement by contacting *policymailbox@usaid.gov.* Please cite RIN Number 0412–AA90 in all correspondence.

B. Abstract for Collection

The public reporting burden for this collection of information is estimated as follows:

Respondents: 679.
Responses per respondent: 51.
Total annual responses: 34,606.
Preparation hours per response: 2.
Total response burden hours: 67,995.

List of Subjects in 48 CFR Chapter 7 Parts 727, 742, and 752.

Government procurement.

For the reasons discussed in the preamble, USAID proposes to amend 48 CFR Chapter 7 as set forth below:

■ 1. The authority citation for 48 CFR parts 727, 742, and 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 727—PATENTS, DATA, AND COPYRIGHTS

■ 2. Add subpart 727.70 to read as follows:

Subpart 727.70—Digital Information Planning, Collection, and Submission Requirements

Sec.
727.700 Scope of subpart
727.701 Definitions
727.702 Policy
727.703 Contract clause.

727.700 Scope of subpart.

(a) This part prescribes the policies, procedures, and a contract clause pertaining to data and digital information management. It implements the following requirements:

(1) Digital Accountability and Transparency (DATA) Act of 2014;

(2) Foundations for Evidence-Based Policymaking Act (''Evidence Act'') of 2018;

(3) 21st Century Integrated Digital Experience Act (21st Century IDEA Act);

(4) Foreign Aid Transparency and Accountability (FATAA) Act of 2016;

(5) Geospatial Data Act of 2018;

(6) OMB Circular A–130.

(b) [Reserved]

727.701 Definitions.

As used in this subpart—

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Data asset is a collection of data elements or datasets that may be grouped together.

Data management plan (DMP) is a tool that guides the identification of anticipated data assets and outlines tasks needed to manage these assets across a full data lifecycle.

Dataset is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a dataset may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. A dataset does not include unstructured data, such as email or instant messages, PDF files, PowerPoint presentations, word processing documents, images, audio files, or collaboration software.

Digital data means quantitative and qualitative programmatic measurements that are entered directly into a computer. Examples include numeric targets established during activity design or implementation; baseline, mid-line, or final measurements created or obtained via field assessments; surveys or interviews; performance monitoring indicators as specified in the Contractor's approved Activity Monitoring, Evaluation, and Learning (AMELP) (see 752.242–7x, Activity Monitoring, Evaluation, and Learning Plan); evaluation results; or perception metrics collected from beneficiaries on the quality and relevance of International Disaster Assistance and Development Assistance.

Digital information is a subset of data and means (a) digital text; (b) digital data; (c) digital objects; and (d) metadata created or obtained with USAID funding supported by this award that are represented, stored, or transmitted in such a way that they are available to a computer program.

Digital object includes digital or computer files that are available to a computer program. Examples include digital word processing or PDF documents or forms related to activity design, assessment reports, periodic progress and performance reports, academic research documents, publication manuscripts, evaluations, technical documentation and reports, and other reports, articles and papers prepared by the contractor, whether published or not. Other examples include datasets, spreadsheets, presentations, publication-quality images, audio and video files, communication materials, information products, extensible mark-up language (XML) files, and software, scripts, source code, and algorithms that can be processed by a computer program.

Digital text includes text-based descriptions of programmatic efforts that are entered directly into a computer, rather than submitted as a digital object.

727.702 Policy.

(a) It is the policy of USAID to manage data as a strategic asset to inform the planning, design, implementation, monitoring, and evaluation of the Agency's foreign assistance programs. To achieve this, it is also USAID's policy to manage data and digital information across a full life cycle. This life cycle includes the following stages: Governance, Planning, Collection, Processing, Analysis, Curation, Sharing, and Publication. For more information about the USAID Development Data policy, including the life cycle stages of foreign assistance programs, see ADS Chapter 579 at *https://www.usaid.gov/ads/policy/500/579.*

(b) In furtherance of this policy, USAID requires that contractors:

(1) Engage in digital information planning, including creating a Data Management Plan (DMP) to identify and plan for the management of data assets that will be produced, furnished, acquired, or collected in a USAID-funded activity.

(2) Use only digital methods and USAID-approved standards, to the extent practicable, to produce, furnish, acquire, or collect information necessary to implement the contract requirements.

(3) Provide documentation of informed consent the contractor receives when obtaining information on individuals.

(4) Submit to USAID digital information produced, furnished, acquired, or collected in performance of a USAID contract at the finest level of granularity employed during contract implementation.

(c) As specified in ADS Chapter 579, USAID implements appropriate controls to restrict data access in a way that balances the potential benefits with any underlying risks to its beneficiaries and contractors.

727.703 Contract clause.

Insert the clause 752.227–7x. Planning, Collection, and Submission of Digital Information to USAID in Section H of solicitations and contracts fully or partially funded with program funds exceeding the micro-purchase threshold. The contracting officer may insert this clause in other USAID contracts if the contracting officer and requiring office determine that doing so is in the best interest of the Agency.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 742—CONTRACT ADMINISTRATION

Subpart 742.11—Production, Surveillance, and Reporting

■ 3. Amend 742.1170–3, by redesignating paragraph (b)(2) through (7) as (b)(3) through (8) and adding a new paragraph (b)(2) to read as follows:

742.1170–3 Policy.

* * * * *

(b) * * *

(2) The contract requirements for an activity monitoring, evaluation, and learning plan, as applicable;

* * * * *

■ 4. Add 742.1170–5 to read as follows:

742.1170–5 Activity Monitoring, Evaluation, and Learning Plan requirement and contract clause.

(a) When the requiring office needs information on how the contractor expects to monitor implementation performance and context, conduct or collaborate on an evaluation, and generate evidence to inform learning and adaptive management, the contracting officer may require the contractor to submit an Activity Monitoring, Evaluation, and Learning Plan (AMELP) tailored to specific contract requirements. For more information on monitoring, evaluation, and learning during the design and implementation of activities, see ADS Chapter 201 at *https://www.usaid.gov/ads/policy/200/201.*

(b) Unless instructed otherwise in writing by the requiring office, the contracting officer must insert the clause at 752.242–7x, Activity Monitoring, Evaluation, and Learning Plan, in Section F of solicitations and contracts exceeding the simplified acquisition threshold, except as specified in paragraph (c) of this section. The contracting officer may insert this clause in other USAID contracts if the contracting officer, in consultation with the requiring office, determines that an Activity Monitoring,

Evaluation, and Learning Plan is necessary, as provided in paragraph (a) of this section.

(c) The clause is not required to be included in contracts for:

(1) Supplies and services that USAID acquires for its own direct use or benefit. This includes contracts related to monitoring, evaluation, and/or collaboration, learning, and adaptive management (CLA);

(2) Emergency food assistance under the Food for Peace Act or section 491 of the Foreign Assistance Act of 1961, including for the procurement, transportation, storage, handling and/or distribution of such assistance;

(3) International disaster assistance under section 491 of the Foreign Assistance Act of 1961 or other authorities administered by the Bureau for Humanitarian Assistance; or

(4) Activities managed by the Bureau for Conflict Prevention and Stabilization's Office of Transition Initiatives, or fully or partially funded with the Complex Crises Fund.

SUBCHAPTER H—CLAUSES AND FORMS

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add 752.227–7x to read as follows:

752.227–7x Planning, Collection, and Submission of Digital Information to USAID.

As prescribed in 727–703, insert the following clause in Section H of solicitations and contracts fully or partially funded with program funds exceeding the micro-purchase threshold:

Planning, Collection, and Submission of Digital Information to USAID (TBD Date)

(a) Definitions.

As used in this clause—

Computer is a fixed or mobile device that accepts digital data and manipulates the information based on a program or sequence of instructions for how data is to be processed.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Data asset is a collection of data elements or datasets that may be grouped together.

Data management plan (DMP) is a tool that guides the identification of anticipated data assets and outlines tasks needed to manage these assets across a full data lifecycle.

Dataset is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a dataset may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. A dataset does not include unstructured data, such as email or instant messages, PDF files, PowerPoint presentations, word processing documents, images, audio files, or collaboration software.

Digital data means quantitative and qualitative programmatic measurements that are entered directly into a computer. Examples include numeric targets established during activity design or implementation; baseline, mid-line, or final measurements created or obtained via field assessments; surveys or interviews; performance monitoring indicators as specified in the Contractor's approved AMELP; evaluation results; or perception metrics collected from beneficiaries on the quality and relevance of International Disaster Assistance and Development Assistance.

Digital information is a subset of data and means:

(1) Digital text;

(2) Digital data;

(3) Digital objects; and

(4) Metadata created or obtained with USAID funding regarding international development or humanitarian assistance activities supported by this award that are represented, stored, or transmitted in such a way that they are available to a computer program.

Digital object includes digital or computer files that are available to a computer program. Examples include digital word processing or PDF documents or forms related to activity design, assessment reports, periodic progress and performance reports, academic research documents, publication manuscripts, evaluations, technical documentation and reports, and other reports, articles and papers prepared by the Contractor under this contract, whether published or not. Other examples include datasets, spreadsheets, presentations, publication-quality images, audio and video files, communication materials, information products, extensible mark-up language (XML) files, and software, scripts, source code, and algorithms that can be processed by a computer program.

Digital repository refers to information systems that ingest, store, manage, preserve, and provide access to digital content.

Digital text includes text-based descriptions of programmatic efforts that are entered directly into a computer, rather than submitted as a digital object.

Draft digital information refers to digital information that, in the professional opinion of the Contractor, does not adhere to the information quality standards such that it presents preliminary, unverified, incomplete, or deliberative findings, claims, analysis, or results that may lead the consumer of such material to draw erroneous conclusions.

Granularity refers to the extent to which digital content or objects provide access to detailed, distinct data points. Coarse granularity generally means that distinct data points reflect larger, representational units or have been joined together or aggregated, thus providing less detail. A fine level of granularity generally means that distinct data points reflect smaller, individualized units that have not been aggregated, thus providing a higher level of detail. For example, a dataset containing a list of every activity conducted by week would generally exhibit a finer level of granularity than a dataset listing the various categories of activities conducted by month. The degree of granularity can be relative to the contents of a specific dataset and can be geographic, temporal, or across other dimensions.

Information quality standards means the elements of utility, objectivity, and integrity collectively.

Integrity is an element of the information quality standards that means information has been protected from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

Machine readable means data in a format that can be easily processed by a computer without human intervention while ensuring that no semantic meaning is lost.

Metadata includes structural or descriptive information about digital data or digital objects such as content, format, source, rights, accuracy, provenance, frequency, periodicity, granularity, publisher or responsible party, contact information, method of collection, and other descriptions.

Objectivity is an element of the information quality standards that means whether information is accurate, reliable, and unbiased as a matter of presentation and substance.

Personally identifiable information (PII) means information that can be used

to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. [See Office of Management and Budget (OMB) Circular No. A–130, Managing Federal Information as a Strategic Resource.] PII can include both direct identifiers (such as name, health identification numbers, etc.), and indirect identifiers (geographic location, age) that when linked with other information can result in the identification of an individual.

Publication object is a digital object that has been accepted for publication prior to the end date of this contract and whose content is based on or includes any other digital information created or obtained in performance of this contract. In the research community, a publication object is often synonymous with a quality research manuscript that has been accepted by an academic journal for publication. However, publication objects can also consist of other digital objects (*e.g.,* photos, videos, etc.) published via news media, the internet, or other venues.

Quality digital information means digital information that, in the professional opinion of the Contractor, adheres to the information quality standards and presents reasonably sound and substantiated findings, claims, analysis, or results regarding activities.

Registered with the USAID Digital Front Door (DFD) means:

(1) The Contractor entered all mandatory information required to obtain access to the DFD and agreed to abide by the DFD terms and conditions of use.

(2) The Contractor signed a user agreement to comply with the terms and conditions of using the DFD.

(3) The Government has validated the Contractor's registration by providing access to the DFD.

USAID Digital Front Door (DFD), located at *dfd.usaid.gov* is a website where the Contractor transacts business with USAID, such as submitting digital information.

Utility is an element of the information quality standards that means whether information is useful to its intended users, including the general public, and for its intended purpose.

(b) *Digital information planning requirements.*

The Contractor must engage in digital information planning to ensure compliance with the collection and submission of all digital information, as required under this award.

(c) *Data Management Plan (DMP).* (1) *What is required.* The Contractor must prepare and maintain a Data Management Plan (DMP) that reflects the digital information planning requirements outlined in paragraph (b) of this clause.

(2) *What to submit.* The DMP must be appropriate to the programmatic scope and context of the contract, and to the nature and complexity of the data to be collected or acquired in the course of the contract. The DMP must address, at a minimum, the following:

(i) Data inventory.

(ii) Protocols for data collection, management and storage.

(iii) Protocols for maintaining adequate safeguards that may include the privacy and security of digital information collected under the award.

(iv) Documentation that ensures other users can understand and use the data.

(v) Protocols for preserving digital information and facilitating access by other stakeholders.

(vi) Terms of use on data usage, publication, curation, or other dissemination plans.

(3) *When to submit.* The Contractor must develop and submit, at a minimum, the data inventory component of the DMP to the contracting officer's representative (COR) within ninety (90) days after contract award, unless the contracting officer establishes a different time period. The Contractor must submit the remaining components of the DMP to the contracting officer's representative for approval, as soon as they become available. The contractor must not begin digital information collection prior to submission of the remaining components of the DMP unless authorized in writing by the contracting officer.

(4) *When to revise.* The Contractor must revise the DMP as necessary throughout the period of performance of this contract. Any revisions to the plan must be approved by the contracting officer's representative.

(d) Digital information production and collection requirements.*(1) The Contractor must:*

(i) Use only digital methods to the extent practicable to produce, furnish, acquire, or collect information in performance of this contract. If the Contractor is unable to consistently collect data using digital methods, the Contractor must obtain the contracting officer's representative's approval for any alternative collection.

(ii) Collect digital information at the finest level of granularity that enables the Contractor to comply with the terms of this contract.

(2) To the extent practicable, the Contractor must limit the collection of PII to only that which is necessary to comply with the requirements of the contract.

(e) *Registration requirements.* The Contractor must:

(1) Be registered with the USAID Digital Front Door (DFD) within ninety (90) days after award of this contract; and

(2) Maintain access to the DFD during the period of performance of this contract.

(f) *Submission requirements. (1) What to submit.* Unless an exemption in paragraph (f)(4) of this section applies, the Contractor must:

(i) Submit digital information created or obtained in performance of this contract to USAID at the finest level of granularity at which it was collected.

(ii) Submit digital information in machine readable, nonproprietary formats. The Contractor may also submit proprietary formats in addition to a nonproprietary format.

(iii) Submit a copy of any usage license agreement that the Contractor obtained from any third party who granted usage rights for the digital information.

(iv) Submit a copy of any photo or media release template that the Contractor used to obtain permission from any third party for the use of the photo or media.

(v) If applicable, provide a blank copy of the form, document, instructions, or other instruments used to obtain informed consent from persons whose individual information is contained in the original version of the digital object, as required in the AIDAR clause at 752.7012, Protection of the Individual as a Research Subject.

(vi) If applicable, provide additional details or metadata regarding:

(A) Where and how to access digital information that the Contractor submits to a USAID-approved digital repository or via alternate technology as approved by USAID's Chief Information Officer;

(B) The quality of submissions of draft digital information;

(C) Known sensitivities within digital information that may jeopardize the personal safety of any individual or group, whether the Contractor has submitted the information or has received a submission exemption.

(D) Digital information for which the Contractor was unable to obtain third party usage rights, a media release, or informed consent or which has other proprietary restrictions.

(2) *Where to submit.* The Contractor must submit digital information through the DFD, unless specifically authorized by the contracting officer's representative in writing to submit to a

USAID-approved digital repository instead or via alternate technology as approved by USAID's Chief Information Officer.

(3) *When to submit.* (i)The Contractor must submit digital information required under the schedule of this contract to USAID once it meets the requirements of quality digital information. Unless otherwise approved by the contracting officer, within thirty (30) calendar days after the contract completion date, the Contractor must submit all digital information not previously submitted, including both draft digital information and quality digital information required under this contract.

(ii) Upon written approval of the contracting officer's representative, the Contractor must submit draft digital information to USAID when the ''best available'' information is required in order to meet time constraints or other programmatic or operational exigencies.

(4) *Exemptions.* (i) The Contractor must not submit digital information through the DFD that contains:

(A) Classified information.

(B) Personally identifiable information. The Contractor must, to the maximum extent possible, remove the association between the set of identifying data and the individual to which it applies unless retaining such information is essential to comply with the terms of this contract and upon written approval from the contracting officer's representative to submit this information.

(ii) If the Contractor believes there is a compelling reason not to submit specific digital information that does not fall under an exemption in this section, including circumstances where submission may jeopardize the personal safety of any individual or group, the Contractor must obtain written approval not to submit the digital information from the contracting officer.

(5) *Approval requirements.* Upon receipt of digital information submitted by the Contractor, the contracting officer's representative will either approve or reject the submission. When a submission is rejected, the Contractor must make corrections and resubmit the required information. USAID does not consider the submission accepted until the contracting officer's representative provides written approval to the Contractor.

(g) *Publication Considerations.* (1) If the Contractor produces a publication object, the Contractor must submit via the DFD a copy of the publication object, the publication acceptance notification, along with a link at which the final published object may be accessed.

(2) For any digital object the Contractor submits in compliance with the terms of this contract, the Contractor may request from the contracting officer's representative an embargo on the public release of the digital object. The contracting officer's representative may approve an embargo that lasts no more than 12 months at a time after the contract's completion date.

(3) If the Contractor used a digital object previously submitted via the DFD to generate the publication object, and that digital object is governed by a pre-existing embargo, that embargo will expire on the day the publication object is scheduled for publication. USAID may elect to publish digital information on which the publication object is based as early as the date the publication object is scheduled for publication.

(h) *USAID Digital Information Technical Guidelines.* The Contractor must comply with the version of USAID's Digital Collection and Submission Guidelines in effect on the date of award as outlined at *data.usaid.gov/guidelines.*

(i) *Access to the digital information.* USAID will conduct a rigorous risk assessment of digital information that the Contractor submits to USAID to determine the appropriate permissions and restrictions on access to the digital information. USAID may release the data publicly in full, redact or otherwise protect aspects of the information prior to public release, or hold the information in a non-public status.

(j) *Obligations regarding subcontractors.* (1) The Contractor must furnish, acquire, or collect information and submit to USAID, in accordance with paragraph (f) of this clause, all digital information produced, furnished, acquired or collected in performance of this contract by its subcontractors at any tier.

(2) The Contractor must insert the terms of this clause, except paragraph (e) of this clause, in all subcontracts.

(End of clause)

■ 6. Add 752.242–7x to read as follows:

752.242–7x Activity Monitoring, Evaluation, and Learning Plan.

As prescribed in (48 CFR) AIDAR 742.1170–5, insert the following clause in Section F of solicitations and contracts.

Activity Monitoring, Evaluation, and Learning Plan (TBD Date)

(a) *Definitions.* As used in this clause—

Activity Monitoring, Evaluation, and Learning Plan (AMELP) means a plan for monitoring, evaluating, and collaborating, learning, and adapting during implementation of a USAID contract.

Contract will be interpreted as ''task order'' or ''delivery order'' when this clause is used in an indefinite-delivery contract.

Evaluation means the systematic collection and analysis of data and information about the characteristics and outcomes of a contract, conducted as a basis for judgements, to understand and improve effectiveness and efficiency, and timed to inform decisions about current and future programming.

Feedback from beneficiaries means perceptions or reactions voluntarily communicated by a beneficiary of USAID assistance about the USAID assistance received.

Indicator means a quantifiable measure of a characteristic or condition of people, institutions, systems, or processes that might change over time.

Learning activity means efforts for the purpose of generating, synthesizing, sharing, and applying evidence and knowledge.

Monitoring context means the systematic collection of information about conditions and external factors relevant to implementation and performance of the contract.

Output means the tangible, immediate, and intended products or consequences of contract implementation within the Contractor's control or influence.

Outcome means the conditions of people, systems, or institutions that indicate progress or lack of progress toward the achievement of the goals and objectives of the contract.

Performance indicator means an indicator that measures expected outputs and/or outcomes of the contract implementation.

Target means a specific, planned level of results to achieve within a specific timeframe with a given level of resources.

(b) *Requirements.* (1) Unless otherwise specified in the schedule of the contract, the Contractor must develop and submit a proposed AMELP to the contracting officer's representative within ninety (90) days of contract award. The contracting officer's representative will review and provide comments within thirty (30) days after receiving the proposed AMELP. The Contractor must submit a final AMELP for contracting officer's representative approval no later than 15 days after receiving comments from the contracting officer's representative.

(2) The Contractor must revise the AMELP as necessary during the period of performance of this contract. Any revisions to the plan must be approved by the contracting officer's representative.

(c) *Content.* (1) The Contractor's proposed AMELP must include, at a minimum, the following:

(i) The Contractor's plan for monitoring, including any existing systems or processes for monitoring progress, any Standard Foreign Assistance Indicators as agreed upon by the contracting officer's representative, any other USAID required indicators, and other relevant performance indicators of the contract's outputs and outcomes, their baseline (or plan for collecting baseline), and targets; and

(ii) The Contractor's plan for regular and systematic collection of feedback from beneficiaries, responding to feedback received, and reporting to USAID a summary of feedback and actions taken in response to the feedback received, or a rationale for why collecting feedback from beneficiaries is not applicable for this contract.

(2) The Contractor's proposed AMELP must be appropriate to the size and complexity of the contract and address the following, as applicable:

(i) Plans for monitoring context and emerging risks that could affect the achievement of the contract's results;

(ii) Plans for any evaluations to be conducted by the contractor, sub-contractor or third-party, including collaboration with an external evaluator;

(iii) Learning activities, including plans for capturing knowledge at the close-out of the contract;

(iv) Estimated resources for the AMELP tasks that are a part of the contract's budget; and

(v) Roles and responsibilities for all proposed AMELP tasks.

[End of clause]

752.7005 [Removed and Reserved]

■ 7. Remove and Reserve 752.7005.

Mark A. Walther,

Chief Acquisition Officer.

[FR Doc. 2021–23743 Filed 12–14–21; 8:45 am]

BILLING CODE P

Notices

Federal Register

Vol. 86, No. 238

Wednesday, December 15, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974; System of Records

AGENCY: Agency for International for Development (USAID).

ACTION: Notice of modified privacy act system of records.

SUMMARY: The United States Agency for International Development (USAID) proposes to modify a system of records titled, ''USAID–19, Travel and Transportation Records,'' last published on December 30, 2014. USAID is modifying its SORN category of records as Social Security Numbers are no longer collected. This system supports End-to-End Travel (E2E) Solutions, which is an end-to-end web-based travel and expense management tool for paperless travel authorization/voucher routing, calculation of per diem, obligation of funds, receipts imaging, and voucher disbursements in accordance with the Federal Travel Regulation (FTR) and Agency policies in the Automated Directive System (ADS). The E2E system is used to create and track travel authorizations, travel vouchers and reimbursements, book on-line travel reservations, obtain electronic approvals, and create and submit expense reports for senior-level Agency officials. The information collected from individuals facilitates official Agency travel, such as issuing travel tickets, approving hotels and per diem rates, and confirming that travel is official. The personally identifiable information (PII) data elements are collected and input into the E2E system, Integrated Logistics Management System (ILMS), and Phoenix Financial Management System in support of these USAID business functions relating to USAID personnel travel.

DATES: Submit comments on or before 13 January 2022. This modified system of records will be effective 13 January 2022 upon publication. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments:

Electronic

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the website for submitting comments.
- *Email: Privacy@usaid.gov.*

Paper

- *Fax:* 202–916–4946.
- *Mail:* Chief Privacy Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: Ms. Celida A. Malone, USAID Privacy Program at United States Agency for International Development, Bureau for Management, Office of the Chief Information Officer, Information Assurance Division: ATTN: USAID Privacy Program, 1300 Pennsylvania Avenue NW, Washington, DC 20523, or by phone number at 202–916–4605.

SUPPLEMENTARY INFORMATION: USAID is modifying its SORN as Social Security Numbers are no longer collected. This system supports End-to-End Travel (E2E) Solutions, which is an end-to-end web-based travel and expense management tool that allows for paperless travel authorization/voucher routing, calculation of per diem, obligation of funds, receipts imaging, and voucher disbursements in accordance with the Federal Travel Regulation (FTR) and Agency policies in the Automated Directive System (ADS). The E2E system is used to create and track travel authorizations, travel vouchers and reimbursements, book on-line travel reservations, obtain electronic approvals, and create and submit expense reports for senior-level Agency officials. The information collected from individuals facilitates official Agency travel, such as issuing travel tickets, approving hotels and per diem rates, and confirming that travel is official. The PII data elements are collected and input into the E2E system, Integrated Logistics Management System (ILMS), and Phoenix Financial Management System in support of these USAID business functions relating to USAID personnel travel.

Dated: July 9, 2021.

Mark Joseph Johnson.

Chief Privacy Officer, United States Agency for International Development.

SYSTEM NAME AND NUMBER:

Travel and Transportation Records, USAID–19.

SECURITY CLASSIFICATION:

Controlled Unclassified Information.

SYSTEM LOCATION:

United States Agency for International Development (USAID), 1300 Pennsylvania Avenue NW, USAID Annex, Room 10.6.4–F, Washington, DC 20523; CW Government Travel, Inc. (CWTSatoTravel), 4300 Wilson Blvd., Suite 500, Arlington, VA 22203–4167; U.S. Department of State COOP Beltsville (BIMC), 8101 Odell Road, Floor/Room 173, Beltsville, MD 20705; and other USAID offices in the United States and throughout the world.

SYSTEM MANAGER(S):

Chief, Travel and Transportation Division, Office of Management Services, Bureau for Management, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 10.6.4–F, Washington, DC 20523–2120. Email: *TravelandTransportation-helpdesk@usaid.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. Ch. 57, Travel, Transportation, and Subsistence; 22 U.S.C. Ch. 32, Foreign Assistance, Subchapter 1, International Development; 22 U.S.C. 4081, Travel and Related Expenses; and implementing Federal Travel Regulations (41 CFR Chapters 300–304).

PURPOSE(S) OF THE SYSTEM:

Records in this system may be used to: (1) Manage the centralized USAID relocation and travel of USAID employees and their dependents; (2) facilitate move requests of USAID employees and their dependents; (3) manage worldwide logistics services and integrated support for the transportation of the effects of USAID employees and their dependents; (4) ensure fiscal accountability in transporting the effects of USAID employees and their dependents; (5) facilitate passport issuance and compliance; and (6) assist in

substantiating a claim for missing or damaged household effects.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system encompasses all individuals (1) whose travel is paid for by USAID; (2) for whom the transportation of effects is paid by USAID; or (3) who are USAID personnel and dependents who travel on USAID business with United States diplomatic passports for the purposes of providing travel and the transportation of household goods for employees of USAID and its Missions around the world, as well as travel to interviews for certain applicants for employment with USAID.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, date of birth, place of birth, sex or gender, age, citizenship, home address, personal cell phone number, personal email address, work phone number, work email address, passport number or green card number (optional), credit card number, Phoenix vendor identification; correspondence, itineraries, government transportation requests, card files pertaining to passports, baggage declarations, passports and records of applications for visas, arrival and departure notices, medical requirements and vaccination status for employees traveling, and record of clearances prior to departure from the United States or posts abroad.

RECORD SOURCE CATEGORIES:

Sources of records are from the individual whose travel and transportation of effects are paid by USAID and its Missions, and USAID officials and employees involved in the travel and transportation of household goods.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records contained in this system of records may be disclosed outside USAID as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) To the U.S. Department of the Treasury for the purposes of payment of claims.

(2) To commercial travel, transportation and shipping companies and agents for the purposes of making travel and transportation arrangements.

(3) To U.S. Dispatch Agents for the purposes of arranging shipment and clearance of effects.

(4) To the General Services Administration and the Office of Management and Budget for the purposes of periodic reporting required by statutes, regulations, and/or Executive Order. Information provided is in the form of listings, reports, and records of all transportation and travel-related transactions, including refunds and adjustments, by the contractor, to enable audits of transportation and travel-related charges to the Government.

(5) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal proceedings, when USAID is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary.

(6) To the Department of Justice or other appropriate United States Government Agency when the records are arguably relevant to a proceeding in a court or other tribunal in which USAID or a USAID official in his or her official capacity is a party or has an interest, or when the litigation is likely to affect USAID.

(7) In the event of an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by statute or particular program pursuant thereto, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

(8) To the Department of State and its posts abroad for the purpose of transmission of information between organizational units of USAID, or for purposes related to the responsibilities of the Department of State in conducting United States foreign policy or protecting United States citizens, such as the assignment of employees to positions abroad, the reporting of accidents abroad, ensuring fiscal accountability in transporting the effects of personnel stationed at Embassies, evacuation of employees and dependents, and other purposes for which officers and employees of the Department of State have a need for the records in the performance of their duties.

(9) To a foreign government or international agency in response to its request for information to facilitate the conduct of U.S. relations with that government or agency through the issuance of such documents as visas, country clearances, identification cards, drivers' licenses, diplomatic lists, licenses to import or export personal effects, and other official documents and permits routinely required in connection with the official service or travel abroad of the individual and his or her dependents.

(10) To shipping contractors limited information is provided, such as delivery address and telephone number, for the purposes of providing shipping services.

(11) To federal agencies with which USAID has entered into an agreement to provide services to assist USAID in carrying out its functions under the Foreign Assistance Act of 1961, as amended. Such disclosures would be for the purpose of: Transmission of information between organizational units of USAID; providing to the original employing agency information concerning the services of its employee while under the supervision of USAID, including performance evaluations, reports of conduct, awards and commendations, and information normally obtained in the course of personnel administration and employee supervision; or providing other information directly related to the purposes of the inter-agency agreement as set forth therein, and necessary and relevant to its implementation.

(12) To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the: Hiring, appointment, or retention of an employee; assignment, detail or deployment of an employee; issuance, renewal, suspension, or revocation of a security clearance; execution of a security or suitability investigation; letting of a contract; or issuance of a grant or benefit.

(13) To the National Archives and Records Administration (NARA) for the purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(14) To a former employee of USAID for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Agency requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(15) To appropriate agencies, entities, and persons when: (a) USAID suspects or has confirmed that there has been a breach of the system of records; (b) USAID has determined that, as a result of the suspected or confirmed breach, there is a risk of harm to individuals, USAID (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USAID's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(16) To another federal department or agency or federal entity, when USAID determines information from this system of records is reasonably necessary to assist the recipient department or agency or entity in: (a) Responding to a suspected or confirmed breach; or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, that might result from a suspected or confirmed breach.

(17) To the Office of Management and Budget in connection with review of private relief legislation, as set forth in OMB Circular No. A–19, at any stage of the legislative coordination and clearance process as set forth in that Circular.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored on paper and/or electronic form, and are maintained in locked cabinets and/or user-authenticated, password-protected systems. Records that contain national security information and are classified are stored in accordance with applicable Executive Orders, statutes, and Agency implementing regulations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system are retrieved by the names of the individuals.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with disposition schedules approved by USAID and NARA General Records Schedule 9 for Travel and Transportation Records, and General Records Schedule 20 for Electronic Records shall apply. The data will be used, processed, and then stored. Data will be stored for six years and three months, which is specified by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

USAID safeguards records in this system according to applicable rules and policies, including all applicable USAID Automated Directive System operational policies. USAID has implemented controls to minimize the risk of compromising the information that is being stored. Access to the system and its records is limited to those individuals who have a need to know the information for performance of their official duties and who have the appropriate clearances and permissions. USAID ensures that the practices stated in the E2E, ILMS, and Phoenix Financial Management systems' Privacy Impact Assessment are followed by leveraging standard operating procedures (SOP), training, policies, rules of behavior, and auditing and accountability.

RECORD ACCESS PROCEDURES:

Under the Privacy Act, individuals may request access to records about themselves. These individuals must be limited to citizens of the United States or aliens lawfully admitted for permanent residence. If a federal department or agency, or a person who is not the individual who is the subject of the records, requests access to records about an individual, the written consent of the individual who is the subject of the records is required.

Individuals seeking access to information about themselves contained in this system of records should address inquiries to the Bureau for Management, Office of Management Services, Information and Records Division (M/MS/IRD), USAID Annex—Room 2.4.0C, 1300 Pennsylvania Avenue NW, Washington, DC 20523. The requester may complete and sign a USAID Form 507–1, Certification of Identity Form, or submit signed, written requests that should include the individual's full name, current address, telephone number, and this System of Records Notice number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The USAID rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 22 CFR 212 or may be obtained from the program manager or system owner.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system of records should address inquiries to the Bureau for Management, Office of Management Services, Information and Records Division (M/MS/IRD), USAID Annex—Room 2.4.0C, 1300 Pennsylvania Avenue NW, Washington, DC 20523. Individuals may complete and sign a USAID Form 507–1, Certification of Identity Form, or submit signed, written requests that should include the individual's full name, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature). ''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature). ''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

79 FR 78381, December 30, 2014.

Celida Ann Malone,

Government Privacy Task Lead.

[FR Doc. 2021–27096 Filed 12–14–21; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–DA–21–0095]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this

notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection for Export Health Certificate Request Forms.

DATES: Comments on this notice must be received by February 14, 2022 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to Matthew M. Siedschlaw, Grading and Standardization Division, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2756—South Building, 1400 Independence Avenue SW, Washington, DC 20250–0230: Tel: (202) 937–4901 or Email: *Matthew.Siedschlaw@usda.gov.* and the date and page number of this issue of the **Federal Register** and can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Matthew M. Siedschlaw, Grading and Standardization Division, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2756—South Building, 1400 Independence Avenue SW, Washington, DC 20250–0230: Tel: (202) 937–4901 or Email: *Matthew.Siedschlaw@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Export Certificate Request Forms.

OMB Number: 0581–0283.

Expiration date of Approval: March 31, 2022.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The dairy grading program is a voluntary fee program authorized under the Agricultural Marketing Act (AMA) of 1946 (U.S.C. 1621–1627). The regulations governing inspection and grading services of manufactured or processed dairy products are contained in 7 CFR part 58. Importing countries require certification methods and sources of raw ingredients for dairy products. USDA, AMS, Dairy Grading Branch is the designated unit for dairy products in the United States. Exporters must request export certificates from USDA.

Need and Use of the Information: To provide the required information on dairy export sanitary certificates AMS must collect the information from the exporter. The information required on the sanitary certificates varies from country to country requiring specific forms for each country. Such information includes: Identity of the importer and exporter, to describe consignments specifics, and identify border entry at the country of destination. The information gathered using these forms is only used to create the export sanitary certificate. There has been a change in the overall burden of this submission.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .20 hours per response.

Respondents: Dairy product manufacturers, distributors, exporters, and consultants.

Estimated Number of Respondents: 275.

Estimated Total Annual Responses: 54,345.

Estimated Number of Responses per Respondent: 10,854.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) way to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–27128 Filed 12–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2021–0014]

Information Collection Request; 2017 Wildfires and Hurricanes Indemnity Program (WHIP) and Quality Loss Adjustment (QLA) Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension of a currently approved information collection that supports the 2017 Wildfires and Hurricanes Indemnity Program (WHIP) and the Quality Loss Adjustment (QLA) Program. FSA provides payments to eligible producers who suffered eligible crop, tree, bush, and vine losses resulting from a qualifying disaster event. FSA also administers the QLA Program to provide financial assistance to eligible producers who experienced a crop quality loss due to a qualifying disaster event in calendar years 2018 or 2019. The qualifying disaster events are listed in the Background section below.

DATES: We will consider comments that we receive by February 14, 2022.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov* and search for Docket ID FSA–2021–0014. Follow the online instructions for submitting comments.
- *Mail, Hand-Delivery, or Courier:* Director, Safety Net Division, FSA, USDA, 1400 Independence Avenue SW, Stop 0510, Washington, DC 20250–0522.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Brittany Ramsburg.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activity, contact Brittany Ramsburg; (202) 260–9303; or email; *Brittany.ramsburg@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

FSA is announcing plans to extend the information collection approval of a currently approved information collection that supports the 2017 Wildfires and Hurricanes Indemnity Program (WHIP) and the Quality Loss Adjustment (QLA) Program. FSA provides payments to eligible producers who suffered eligible crop, tree, bush, and vine losses resulting from a qualifying disaster event that occurred in the 2017 calendar year under WHIP, which was authorized by Bipartisan Budget Act of 2018 (BBA) (Pub. L. 115–123). FSA also administers the QLA Program to provide financial assistance to eligible producers who experienced a crop quality loss due to a qualifying disaster event in calendar years 2018 or 2019, which was authorized by the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116–20), as amended by the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94).

Qualifying disaster event means:

- For 2017 WHIP, a hurricane, wildfire, or Tropical Storm Cindy or related condition that occurred in the 2017 calendar year; extreme cold in calendar year 2017 for losses of peach and blueberry crops in calendar year 2017; and extreme cold and hurricane damage in calendar year 2017 for blueberry productivity losses in calendar year 2018; and
- For QLA, a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or related condition that occurred in the 2018 or 2019 calendar year.

Extension

Title: 2017 WHIP and Block Grant to Florida and Quality Loss Adjustment (QLA) Program.

OMB Control Number: 0560–0291.

Type of Request: Extension.

OMB Expiration Date: 03/31/2022.

Abstract: This information collection is required to support both the regulation in 7 CFR part 760, subpart O, for 2017 WHIP requirements for eligible producers who suffered eligible crop, tree, bush, and vine losses resulting from a qualifying disaster event. The information collection is necessary to evaluate the application and other required paperwork for determining the producer's eligibility and the producer's payment calculations. FSA also granted funds to Florida to provide the payments to eligible citrus crop growers; the Florida grantee used the same FSA application for the growers. FSA also administers the QLA Program to provide financial assistance to crop producers who experienced a crop quality loss due to a qualifying disaster event in calendar years 2018 or 2019. The information collection is being extended to continue the OMB approval for any additional information that may be needed until the payment process is fully completed.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per response multiplied by the estimated total annual responses.

Estimate of Respondent Burden: Public reporting burden for this information collection is estimated to average 0.6983 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collections of information.

Type of Respondents: Producers or farmers.

Estimated Annual Number of Respondents: 236,100.

Estimated Number of Reponses per Respondent: 1.

Estimated Total Annual Responses: 236,100.

Estimated Average Time per Response: 0.78 hours.

Estimated Annual Burden on Respondents (WHIP applicants): 183,454.

Estimated Annual Burden on Respondents (Florida Grant): 1,097.

Estimated Total Annual Burden on Respondents: 184,551.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; or

(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.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Steven Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2021–27080 Filed 12–14–21; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Wisconsin Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Webex at 12:00 p.m. CT on Wednesday, January 12, 2022. The purpose of this meeting is to discuss civil rights concerns in the state.

DATES: The meeting will take place on Wednesday, January 12, 2022, at 12:00 p.m. CT.

Online Registration (Audio/Visual): https://bit.ly/3DDZ3En.

Telephone (Audio Only): Dial 800–360–9505 USA Toll Free; Access code: 2762 857 0249.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or (202) 656–8937.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *dbarreras@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the

regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Wisconsin Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above email or street address.

Agenda

I. Welcome & Roll Call
II. Civil Rights Discussion
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: Thursday, December 9, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–27091 Filed 12–14–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Connecticut Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the Connecticut Advisory Committee to the U.S. Commission on Civil Rights will hold briefings via web conference or phone call on Wednesday, January 12, 2022, at 1:00 p.m. and Thursday, January 27, 2022, at 11:00 a.m. The purpose of the web conferences is to hear from advocates and government officials on zoning in Connecticut.

DATES:

January 12, 2022, Wednesday, at 1:00 p.m. (ET):

- To join by web conference, use WebEx link: *https://bit.ly/3Dwiqz7;* password, if needed: USCCR–CT
- To join by phone only, dial 1–800–360–9505; Access Code: 2762 077 4837#

January 27, 2022, Thursday, at 11:00 a.m. (ET):

- To join by web conference, use WebEx link: *https://bit.ly/3y4qvKg;* password, if needed: USCCR–CT
- To join by phone only, dial 1–800–360–9505; Access Code: 2763 203 1135#

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez at *ero@usccr.gov* or by phone at 202–539–8246.

SUPPLEMENTARY INFORMATION: This meetings are available to the public through the WebEx links above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing. may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web links provided for these meetings.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meetings. Written comments may be emailed to Barbara de La Viez at *ero@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 539–8246. Records and documents discussed during the meetings will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda: Wednesday, January 12, 2022, at 1:00 p.m. (ET)

I. Welcome and Roll Call
II. Web Conference on Zoning
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: December 10, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–27148 Filed 12–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 2023 New York City Housing and Vacancy Survey

AGENCY: Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed revision to the currently approved collection of the 2023 New York City Housing and Vacancy Survey, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 14, 2022.

ADDRESSES: Interested persons are invited to submit written comments by email to *Tamara.A.Cole@census.gov.* Please reference 2023 New York City Housing and Vacancy Survey in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2021–0023, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Tamara Cole, Survey Director, phone 301–763–4665, email *Tamara.A.Cole@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The New York City Housing and Vacancy Survey (NYCHVS) is sponsored by the New York City Department of Housing Preservation and Development and is conducted approximately every three years. The Census Bureau has conducted the survey for the City since 1962. The primary purpose of the survey is to measure the net rental vacancy rate as it is used to determine the continuation of current rent regulation laws in New York City. NYCHVS survey data are also used by policymakers, advocates, and researchers to inform policy and analyze housing costs and conditions in the City.

Detailed data from the survey cover many characteristics of the City's housing market, including characteristics of the City's population, households, housing stock, and neighborhoods. Data collected about each person in the household include housing costs and burden, income and employment, and key demographics, including membership in protected classes. On the household level, the NYCHVS collects data including total housing costs and income, public assistance, and residential history. Data on the City's housing stock include building and unit quality and condition, rent regulatory and homeownership status, and unit size and accessibility.

II. Method of Collection

The NYCHVS is collected by personal visit or telephone interview. All interviews are conducted via a Computer-Assisted Personal Interview (CAPI) instrument.

III. Data

OMB Control Number: 0607–0757.

Form Number(s): H–100(L).

Type of Review: Regular submission, Request for a Revision to a Currently Approved Collection.

Affected Public: Households and rental offices/realtors (for vacant units).

Estimated Number of Respondents: 15,500.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 9,907.

Estimated Total Annual Cost to Public: $0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.).

Respondent's Obligation: Voluntary.

Legal Authority: 13 U.S.C. 8b, and the Local Emergency Housing Rent Control Act, Laws of New York (Chapters 8603 and 657).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–27082 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Visiting Committee on Advanced Technology (VCAT or Committee) will meet on Wednesday, February 9, 2022, from 10:00 a.m. to 6:00 p.m. Eastern Time.

DATES: The VCAT will meet on Wednesday, February 9, 2022, from 10:00 a.m. to 6:00 p.m. Eastern Time.

ADDRESSES: The meeting will be a virtual meeting via webinar. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Shaw, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, Maryland 20899–1060, telephone number 240–446–6000. Ms. Shaw's email address is *stephanie.shaw@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority:

15 U.S.C. 278, as amended, and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the VCAT will meet on Wednesday, February 9, 2022, from 10:00 a.m. to 6:00 p.m. Eastern Time. The meeting will be open to the public. The VCAT is composed of not fewer than 9 members appointed by the NIST Director, eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The primary purpose of this meeting is for the VCAT to review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include an update on major programs at NIST. The Committee also will present its initial observations, findings, and recommendations for the 2021 VCAT Annual Report. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST website at *http://www.nist.gov/director/vcat/agenda.cfm.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately one-half hour will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received but, is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the NIST website at *http://www.nist.gov/director/vcat/agenda.cfm.* Questions from the public will not be

considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend via webinar are invited to submit written statements to Stephanie Shaw at *stephanie.shaw@nist.gov.*

All participants will be attending via webinar and must contact Ms. Shaw at *stephanie.shaw@nist.gov* by 5:00 p.m. Eastern Time, Wednesday, February 2, 2022 for detailed instructions on how to join the webinar.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–27088 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 120912441–2441–01]

National Cybersecurity Center of Excellence

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The National Institute of Standards and Technology (NIST) Information Technology Laboratory (ITL) invites interested U.S. companies to submit letters of interest in collaborating with NIST/ITL on an ongoing basis in the National Cybersecurity Center of Excellence (NCCoE) through partnerships called ''National Cybersecurity Excellence Partnerships'' (NCEPs). NIST previously published a notice for this partnership on October 19, 2012. This notice repeats the same information contained in the previous notice but contains updated contact and mailing information.

DATES: Letters of interest will be accepted on an ongoing basis. However, if NIST determines that letters of interest will no longer be accepted, NIST will publish the last date when letters will be accepted in a **Federal Register** notice.

ADDRESSES: Interested U.S. companies should send letters via email to *nccoe-ncep-team@nist.gov;* or via hardcopy to NCCoE, National Institute of Standards and Technology; 9700 Great Seneca Highway, Rockville, MD 20850.

FOR FURTHER INFORMATION CONTACT: Natalia Martin via email at *nccoe-ncep-team@nist.gov;* or via telephone at 301–975–0225. For additional information on NCCoE governance, business processes, and operational structure, visit the NCCoE website, at *https://www.nccoe.nist.gov.*

SUPPLEMENTARY INFORMATION: The NCCoE, hosted by NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE's mission is to bring together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting Information Technology (IT)) and Operational Technology (OT) assets to help organizations improve their cybersecurity in the context of their missions and business objectives, the NCCoE strives to cultivate trust in U.S. IT communications, data, and storage systems, lower risk for companies and individuals in the use of IT systems, and encourage development of innovative, job-creating cybersecurity products and services.

As part of the NCCoE initiative, NIST/ITL intends to enter into partnerships, called ''National Cybersecurity Excellence Partnerships'' (NCEPs), with U.S. companies to collaborate on an ongoing basis in the NCCoE. Collaboration agreements will be based upon the statutory technology transfer authorities available to NIST, including the Federal Technology Transfer Act, 15 U.S.C. 3710a. NIST/ITL intends that NCEP collaborators will co-locate with ITL at the NCCoE at 9700 Great Seneca Highway Rockville, MD 20850 and will contribute to the development of the intellectual and physical infrastructure needed to support collaborative efforts among NIST and many sources of security capabilities, including users and vendors of products and services, on holistic approaches to resolve cybersecurity challenges.

Approaches to resolving cybersecurity challenges will be addressed at the NCCoE through individual projects; projects developed by NCCoE will incorporate the IT security needs of specific communities or sectors. Examples of candidate sectors include health care, finance and utilities. The cybersecurity challenges that will be the subject of the project will be selected by NIST through workshops with input from broad groups of stakeholders, as well as public feedback provided via collaborative internet participation. Collaborative participation may be accessed via links from *http://nccoe.nist.gov/.* Opportunities to participate in individual projects will be announced in the **Federal Register** and will be open to the public on a first-come, first-served basis. NIST/ITL envisions that the NCCoE will be capable of supporting multiple simultaneous applied cybersecurity projects in various stages. NCEP collaborators will neither be obligated to participate in a given project, nor will they be guaranteed participation in a given project, but they will be given priority for participation in each project only for their resources that are already onsite at the NCCoE and for components that are interoperable with those onsite resources, within the process defined for that project as announced in the **Federal Register**.

NCEP collaborators selected to participate in a given project may contribute, but will not be required to contribute, resources in addition to those contributed through their NCEP agreement. However, priority participation in a project will be granted only for resources relevant to the projects that are already onsite in the NCCoE and components that are interoperable with those onsite resources. Through their collaboration agreements with NIST/ITL, NCEP collaborators will agree that resources contributed to the NCCoE initiative will be available to all project participants, as determined by NIST. Through individual project consortium agreements, all participants, including NIST, NCEP collaborators and others, will agree that successful solutions to a NCCoE project challenge will be thoroughly documented and shared publicly, in order to encourage the rapid adoption of comprehensive cybersecurity templates and approaches that support automated and trustworthy e-government and e-commerce.

Each NCEP will be between NIST and a U.S. company. It is anticipated that NCEP agreements will be established for a three-year period, with renewal subject to the requirements and interests of the collaborator and NIST/ITL.

Interested U.S. companies are invited to submit a letter of interest that contains sufficient information for NIST/ITL to objectively determine whether the proposed collaboration is feasible, relevant to the NCCoE mission to foster the rapid adoption and broad deployment of integrated cybersecurity tools and techniques that enhance consumer confidence in U.S. information systems, and has potential to advance the state of cybersecurity practice. Companies whose proposed collaborations are determined by NIST/

ITL to meet all three criteria will be invited to enter into negotiations for a cooperative research and development agreement (CRADA) with NIST/ITL. Companies whose letters of interest contain insufficient information for NIST/ITL to make a determination as to whether the proposed collaboration meets all three criteria, and companies whose proposed collaboration is determined by NIST/ITL not to meet all three criteria, will be notified in writing by NIST/ITL.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–27089 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advisory Committee on Earthquake Hazards Reduction Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee) will hold a virtual meeting via web conference on Wednesday, March 2, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time and Thursday, March 3, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of this meeting is for the Committee to review the activities of the National Earthquake Hazards Reduction Program (NEHRP) and receive responses to the Committee's 2021 biennial report on the effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

DATES: The ACEHR will meet on Wednesday, March 2, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time and Thursday, March 3, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held virtually via web conference. For instructions on how to participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tina Faecke, Management and Program Analyst, NEHRP, Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (240) 477–9841.

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7704(a)(5) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Committee is currently composed of 14 members, appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey Scientific Earthquake Studies Advisory Committee serves as an ex-officio member of the Committee.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ACEHR will meet on Wednesday, March 2, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time and Thursday, March 3, 2022, from 1:00 p.m. to 4:00 p.m. Eastern Time. The meeting will be open to the public, and will be held via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purpose of this meeting is for the Committee to review the activities of NEHRP and receive responses to the Committee's 2021 biennial report on the effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately fifteen minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to Tina Faecke at *tina.faecke@nist.gov* by 5:00 p.m. Eastern Time, Wednesday, February 23, 2022. Speakers who wish to expand upon their oral statements, those who wish to speak but cannot be accommodated on the agenda, and those who are unable to attend remotely are invited to electronically submit written statements by email to *tina.faecke@nist.gov.*

Anyone wishing to attend this meeting via web conference must register by 5:00 p.m. Eastern Time, Wednesday, February 23, 2022. Please submit your full name, email address, and phone number to Tina Faecke at *tina.faecke@nist.gov.*

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–27087 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB620]

Pacific Island Fisheries; Experimental Fishing Permit Application

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

ACTION: Notice of application for experimental fishing permit; request for comments.

SUMMARY: NMFS announces that the Hawaii Longline Association (HLA) has applied for an experimental fishing permit (EFP) to test tori lines (bird scaring devices) in the Hawaii shallow-set longline fishery for swordfish. The intent of the EFP is to test new ways to discourage seabird interactions that also increase operational flexibility.

DATES: NMFS must receive comments by January 14, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0128, 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–2021–0128 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

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).

You may review the EFP application at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lynn Rassel, Sustainable Fisheries, NMFS Pacific Islands Regional Office, tel (808) 725–5184.

SUPPLEMENTARY INFORMATION: HLA applied for an EFP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR 665.17. If approved, the EFP would allow the HLA to conduct a pilot study using tori lines (bird scaring streamers) as a potential replacement for current regulations at 50 CFR 665.815 that require the deployment of gear at night (night-setting), thawed blue-dyed bait, and strategic offal discharge. Night-setting, or setting one hour after sunset, is an effective method for reducing seabird bycatch because seabirds do not typically forage at night.

Since 1994, the NMFS Pacific Islands Regional Office Observer Program has monitored seabird interactions in the Hawaii longline fisheries. Starting in 2001, in response to large numbers of seabird interactions, NMFS implemented a suite of seabird mitigation requirements. The current seabird requirements, including night-setting and using blue-dyed bait and strategic offal discharge, began in 2002 (67 FR 34408, May 14, 2002) and were revised in 2005 (70 FR 75057, December 19, 2005). These requirements resulted in reductions in seabird interactions by 70–90 percent. Seabird interactions in the Hawaii longline fisheries have gradually increased in subsequent years with significant increases in black-footed albatross interactions since 2015.

In 2017, the Western Pacific Fishery Management Council (Council) held a workshop to explore the cause of the increasing interactions with black-footed albatross. The workshop suggested that a positive (warm) Pacific Decadal Oscillation, with its cooler sea surface in the western Pacific and stronger westerly winds, may increase the overlap of fishing effort and black-footed albatross foraging grounds, leading to more seabird interactions in the fishery.

In 2018, the Council held a follow-up workshop to review seabird mitigation requirements and identify research needed to inform potential future requirements to reduce interactions with seabirds. That workshop identified certain mitigation measures, including tori lines, as a high priority for further research and development due to their potential to provide an effective alternative to blue-dyed bait.

Resulting tori line tests in the Hawaii deep-set longline fishery in 2019–2021 showed tori lines to be a more effective seabird mitigation measure than blue-dyed bait. In addition, the use of blue-dyed bait can be impractical due to the time and materials required to dye the bait, the need to fully thaw the bait which increases bait loss from hooks, and the administrative burden to monitor and enforce consistent application of blue-dye bait. However, data are lacking on the extent to which blue-dyed bait adds to the effectiveness of the already effective night-setting technique that is required in the shallow-set fishery. We also have little information about whether alternative measures may replace blue-dyed bait to produce similar or improved interaction mitigation effects during setting operations in the shallow-set fishery. The tests in the deep-set fishery also showed that strategic offal discharge (discharging fish, fish parts, and bait) during setting operations may increase interactions over time by attracting seabirds to fishing vessels.

At its March 2021 meeting, the Council called for additional research to develop appropriate seabird mitigation measures for the shallow-set fishery. The Council emphasized that it intends to identify mitigation measures that maintain the effectiveness of seabird deterrence during dusk compared to the existing night-setting measures to provide operational flexibility in the time period when gear is set. Swordfish depths are affected by diel vertical migrations and lunar illumination, and Hawaii shallow-set longline fishermen have historically adjusted their set time according to the lunar phase to increase efficiency and optimize catch. Providing greater flexibility for the start of setting time while also deterring seabird interactions may help to optimize swordfish catch rates according to the lunar cycle, promote more efficient fishing operations, maintain catch value, and enhance crew safety.

Under the EFP, the HLA would use one vessel to test setting up to one hour before sunset in the shallow-set fishery, while using two tori lines. The tori lines would have an aerial extent of about 65–75 meters each, and would be used instead of strategic offal discharge when seabirds are present and thawed blue-dyed bait, both of which are normally required while stern-setting in the fishery. Previous tori line testing in the deep-set fishery used a single tori line with a 50 meter aerial extent. That configuration meets tori line specifications applicable under international agreements for deep-set fishing in the North Pacific and is appropriate for the level of seabird interaction risk in the deep-set fishery. Seabird interaction risk in the shallow-set fishery is greater because fishing hooks are within the diving range of foraging seabirds during the set and the haul for a longer period of time than in the deep-set fishery. Tori line practices elsewhere suggest that increasing the tori line aerial extent, along with the number of tori lines deployed, increases effectiveness; therefore, the EFP proposes to use two longer tori lines (one on each side of the gear while it is being set). Using more than two tori lines would likely be difficult for the crew to manage and could create the potential for entanglement among the tori lines and fishing line.

Interaction rates for seabirds caught in the shallow-set fishery are higher in the first and second quarters (January through June) of the calendar year. Accordingly, the applicant would focus fishing effort during periods of higher seabird abundance, as practicable, to maximize the value of the test. The EFP would be effective for no longer than 18 months from the date of issuance, unless earlier revoked, suspended, or modified.

With the exception of setting one hour before and one hour after local sunset and using two tori lines instead of blue-dyed bait and strategic offal discharge during setting, the vessel operating under the EFP would carry out fishing operations consistent with typical shallow-set fishing. All other requirements would continue, including seabird mitigation measures such as strategic offal discharge during hauling and safe handling practices.

The HLA anticipates that fishing under the EFP would have similar environmental impacts on target fish species, non-target fish species, and non-seabird protected species as conventional shallow-set fishing. The earlier setting time on treatment sets could, however, potentially optimize swordfish catch rates. The HLA also hypothesize that the risk of seabird interactions for sets during sunset hours would be mitigated by the use of tori lines. The EFP application provides additional information about these anticipated impacts.

NMFS maintains 100 percent observer coverage on shallow-set trips. In addition, any vessel permitted under the EFP would carry an electronic monitoring system. A stern-mounted video camera would monitor the number of birds present and seabird

attacks and contacts during gear setting. After the vessel returns to port, the video recordings would be reviewed and seabird data would be verified using observer data.

This would be a limited scale, pilot study to assess the potential risk to seabirds using alternative mitigation methods in place of already effective methods. The study would provide guidance on whether to pursue a full-scale study of tori lines in the shallow-set fishery. At the completion of the test, findings would be presented to the Council and NMFS to inform whether additional research is warranted, and support future management decisions.

NMFS seeks comments on the proposed experimental activity. We will consider comments received when deciding whether to approve the EFP and, if so, whether to attach any additional terms and conditions.

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

Dated: December 9, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27083 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB613]

Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Proposed Issuance of Permit

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

ACTION: Notice; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) is proposing to issue a permit to authorize the incidental, but not intentional, take of specific Endangered Species Act (ESA)-listed marine mammal species or stocks under the Marine Mammal Protection Act (MMPA), in the Alaska (AK) Bering Sea, Aleutian Islands (BSAI) Pacific cod pot fishery.

DATES: Comments on this action and supporting documents must be received by December 30, 2021.

ADDRESSES: You may submit comments on the proposed permit and the preliminary determination supporting the permit, identified by NOAA–NMFS–2021–0123, through the Federal e-Rulemaking Portal:

1. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0123 in the Search box.
2. Click the ''Comment'' icon, and complete the required fields.
3. Enter or attach your comments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period. Due to delays in processing mail related to COVID–19 and health and safety concerns, no mail, courier, or hand deliveries will be accepted. 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

The preliminary determination supporting the permit is available on the internet at *https://www.regulations.gov/docket/NOAA-NMFS-2021-0123.* Other supporting information is available on the internet including: Recovery plans for the ESA-listed marine mammal species, *https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act;* 2021 MMPA List of Fisheries (LOF), *https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables;* the most recent Marine Mammal Stock Assessment Reports (SAR) by region, *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region,* and stock, *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock;* and Take Reduction Teams and Plans, *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams.*

FOR FURTHER INFORMATION CONTACT: Suzie Teerlink, NMFS Alaska Region, 907–586–7240, *Suzie.Teerlink@noaa.gov;* or Jaclyn Taylor, NMFS Office of Protected Resources, 301–427–8402, *Jaclyn.Taylor@noaa.gov.*

SUPPLEMENTARY INFORMATION: The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals in commercial fisheries provided it can make the following determinations: (1) The incidental mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed; and (3) where required under MMPA section 118, a take reduction plan has been developed or is being developed, a monitoring program is implemented, and vessels participating in the fishery are registered (16 U.S.C. 1371(a)(5)(E)). We have made a preliminary determination that the AK BSAI Pacific cod pot fishery meets these three requirements and propose to issue a permit to the fishery to authorize the incidental take of ESA-listed marine mammal species or stocks (Central North Pacific and Western North Pacific stocks of humpback whale) under the MMPA for a period of three years. We solicit public comments on the proposed issuance of the permit and the underlying preliminary determination.

Background

The MMPA List of Fisheries (LOF) classifies each commercial fishery as a Category I, II, or III fishery based on the level of mortality and injury of marine mammals occurring incidental to each fishery as defined in 50 CFR 229.2. Category I and II fisheries must register with NMFS and are subsequently authorized to incidentally take marine mammals during commercial fishing operations. However, that authorization is limited to those marine mammals that are not listed as threatened or endangered under the ESA. Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1371, states that NMFS, as delegated by the Secretary of Commerce, for a period of up to three years shall allow the incidental, but not intentional, taking of marine mammal stocks designated as depleted because of their listing as an endangered species or threatened species under the ESA, 16 U.S.C. 1531 *et seq.,* by persons using vessels of the United States and those vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1824(b), while engaging in commercial fishing operations, if NMFS makes certain determinations. NMFS must determine, after notice and opportunity for public comment, that: (1) Incidental M/SI from commercial fisheries will have a negligible impact on the affected species or stock; (2) a

recovery plan has been developed or is being developed for such species or stock under the ESA; and (3) where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan has been developed or is being developed for such species or stock.

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. We evaluated ESA-listed stocks or species included on the final 2021 MMPA LOF as killed or seriously injured following NMFS' Procedural Directive 02–238 ''Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals.'' Based on this evaluation, we propose to issue a permit under MMPA section 101(a)(5)(E) to vessels registered in the Category II AK BSAI Pacific cod pot fishery, to incidentally kill or seriously injure individuals from the Central North Pacific and Western North Pacific stocks of humpback whale.

NMFS will regularly evaluate other commercial fisheries for purposes of making a negligible impact determination (NID) and issuing section 101(a)(5)(E) authorizations with the annual LOF as new information becomes available. More information about the AK BSAI Pacific cod pot fishery is available in the 2021 MMPA LOF (86 FR 3028; January 14, 2021) and on the internet at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables.*

We reviewed the best available scientific information to determine if the fishery met the three requirements of MMPA section 101(a)(5)(E) for issuing a permit. This information is included in the 2021 MMPA LOF (86 FR 3028; January 14, 2021), the SARs for these species (available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*), recovery plans for these species (available at: *https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act*), and other relevant information, as detailed further in the document describing the preliminary determination supporting the permit (available at: *https://www.regulations.gov/docket/NOAA-NMFS-2021-0123*).

NMFS is in the process of revising humpback whale stock structure under the MMPA in light of the 14 Distinct Population Segments (DPSs) established under the ESA (81 FR 62259, September 8, 2016), based on the recently finalized ''Procedural Directive 02–204–03: Reviewing and Designating Stocks and Issuing Stock Assessment Reports under the Marine Mammal Protection Act'' (NMFS 2019). The humpback whale DPSs that occur in waters under the jurisdiction of the United States do not align with the existing MMPA stocks. Some of the listed DPSs partially coincide with the currently defined stocks. Because we cannot manage one portion of an MMPA stock as ESA-listed and another portion of a stock as not ESA-listed, until such time as the MMPA stock designations are revised in light of the ESA-listed DPSs, NMFS continues to use the existing MMPA stock structure for MMPA management purposes (*e.g.,* selection of a recovery factor, stock status) and treats such stocks as ESA-listed if a component of that stock is listed under the Act and overlaps with the analyzed commercial fishery. Therefore, for the purpose of this MMPA 101(a)(5)(E) authorization, we considered the Central North Pacific and Western North Pacific stocks of humpback whales to be ESA-listed as they overlap with the two ESA-listed DPSs: The threatened Mexico DPS and the endangered Western North Pacific DPS.

Basis for Determining Negligible Impact

Prior to issuing a MMPA 101(a)(5)(E) permit to take ESA-listed marine mammals incidental to commercial fishing, NMFS must determine if the M/SI incidental to commercial fisheries will have a negligible impact on the affected marine mammal species or stocks. NMFS satisfies this requirement by making a NID. Although the MMPA does not define ''negligible impact,'' NMFS has issued regulations providing a qualitative definition of ''negligible impact,'' defined 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.

Criteria for Determining Negligible Impact

NMFS relies on a quantitative approach for determining negligible impact detailed in NMFS Procedural Directive 02–204–02 (directive), ''Criteria for Determining Negligible Impact under MMPA section 101(a)(5)(E),'' which became effective on June 17, 2020 (NMFS 2020). The procedural directive is available online at: *https://www.fisheries.noaa.gov/national/laws-and-policies/protected-resources-policy-directives.* The directive describes NMFS' process for determining whether incidental M/SI from commercial fisheries will have a negligible impact on ESA-listed marine mammal species/stocks (the first requirement necessary for issuing a MMPA section 101(a)(5)(E) permit as noted above).

The directive first describes the derivation of two Negligible Impact Thresholds (NIT), which represent levels of removal from a marine mammal species or stock. The first, Total Negligible Impact Threshold (NIT_t), represents the total amount of human-caused M/SI that NMFS considers negligible for a given stock. The second, lower threshold, Single NIT (NIT_s) represents the level of M/SI from a single commercial fishery that NMFS considers negligible for a stock. NIT_s was developed in recognition that some stocks may experience non-negligible levels of total human-caused M/SI but one or more individual fisheries may contribute a very small portion of that M/SI, and the effect of an individual fishery may be considered negligible.

The directive describes a detailed process for using these NIT values to conduct a NID analysis for each fishery classified as a Category I or II fishery on the MMPA LOF. The NID process uses a two-tiered analysis. The Tier 1 analysis first compares the total human-caused M/SI for a particular stock to NIT_t. If NIT_t is not exceeded, then all commercial fisheries that kill or seriously injure the stock are determined to have a negligible impact on the particular stock. If NIT_t is exceeded, then the Tier 2 analysis compares each individual fishery's M/SI for a particular stock to NIT_s. If NIT_s is not exceeded, then the commercial fishery is determined to have a negligible impact on that particular stock. For transboundary, migratory stocks, because of the uncertainty regarding the M/SI that occurs outside of U.S. waters, we assume that total M/SI exceeds NIT_t and proceed directly to the Tier 2 NIT_s analysis. If a commercial fishery has a negligible impact across all ESA-listed stocks, then the first of 3 findings necessary for issuing a MMPA 101(a)(5)(E) permit to the commercial fishery has been met (*i.e.,* a negligible impact determination). If a commercial fishery has a non-negligible impact on any ESA-listed stock, then NMFS cannot issue a MMPA 101(a)(5)(E) permit for the fishery to incidentally take ESA-listed marine mammals.

These NID criteria rely on the best available scientific information, including estimates of a stock's

minimum population size and human-caused M/SI levels, as published in the most recent SARs and other supporting documents, as appropriate. Using these inputs, the quantitative negligible impact thresholds allow for straightforward calculations that lead to clear negligible or non-negligible impact determinations for each commercial fishery analyzed. In rare cases, robust data may be unavailable for a straightforward calculation, and the directive provides instructions for completing alternative calculations or assessments where appropriate.

Negligible Impact Determination

NMFS evaluated the impact of the AK BSAI Pacific cod pot fishery using the process outlined in the directive, and, based on the best available scientific information, made a draft NID.

The Central North Pacific and Western North Pacific stocks of humpback whales are transboundary stocks. As noted above, because of the uncertainty regarding M/SI that occurs outside of U.S. waters for transboundary stocks, we assumed that total M/SI exceeds NIT_t and proceeded directly to the Tier 2 NIT_s analysis The most recent (2020) final Central North Pacific and Western North Pacific humpback whale SARs documented M/SI of Central North Pacific and Western North Pacific stocks of humpback whale incidental to this fishery (Muto *et al.* 2021).

The estimated annual M/SI of Central North Pacific humpback whales in the AK BSAI Pacific cod pot fishery is 0.2, based on Alaska Marine Mammal Health and Stranding Response Program data. The estimated annual M/SI of 0.2 is based on an event that occurred in an area where the Central North Pacific and Western North Pacific stocks of humpback whales overlap. Therefore, the M/SI was assigned to both the Central North Pacific and Western North Pacific stocks (Muto *et al.* 2021). Since this M/SI (0.2) is less than NIT_s (3.59), NMFS determined that the AK BSAI Pacific cod pot fishery has a negligible impact on the Central North Pacific stock of humpback whales (see accompanying MMPA 101(a)(5)(E) determination document linked above for NIT calculations).

The estimated annual M/SI of Western North Pacific humpback whales in the AK BSAI Pacific cod pot fishery is 0.2, based on Alaska Marine Mammal Health and Stranding Response Program data. Since this M/SI (0.2) is less than NITs (0.39), NMFS determined that the AK BSAI Pacific cod pot fishery has a negligible impact on the Western North Pacific stock of humpback whales (see accompanying MMPA 101(a)(5)(E) determination document linked above for NIT calculations).

The 2020 SAR includes the mean annual total commercial fishery-related M/SI (9.8) for the Central North Pacific stock of humpback whale and (0.9) for the Western North Pacific stock of humpback whale. This comprises M/SI from all commercial fisheries, including the AK BSAI Pacific cod pot fishery, as well as fishery-related M/SI for the stock not assigned to a specific commercial fishery. The SARs for both stocks also include unattributed fishery-related M/SI (7.9 for Central North Pacific, 0.4 for Western North Pacific), which is not assigned to a specific commercial fishery. This unattributed fishery-related M/SI could be from any number of commercial or recreational fisheries, including the AK BSAI Pacific cod pot fishery. Because data are not currently available to assign the unattributed fishery-related M/SI to a specific commercial fishery, we did not include unattributed mortality in the calculations for the NID Tier 2 analysis. In addition, because the Central North Pacific and Western North Pacific stocks of humpback whales are considered to be transboundary stocks, NMFS assumed NIT_t is exceeded and conducted the more conservative Tier 2 analysis with the lower NIT_s criterion. NMFS is actively monitoring the AK BSAI Pacific cod pot fishery through the North Pacific Fisheries Observer Program. Further, most of the information on large whale entanglements in Alaska is reported to and documented by the Alaska Large Whale Entanglement Response Program. If additional fishery-related M/SI of the Central North Pacific or Western North Pacific stock of humpback whale is documented through the observer program or the Alaska Marine Mammal Health and Stranding Response Program that indicates additional M/SI of the Central North Pacific or Western North Pacific stock of humpback whale in the AK BSAI Pacific cod pot fishery, then NMFS will re-evaluate the NID and the proposed permit.

The NID analysis is presented in an accompanying MMPA section 101(a)(5)(E) determination document that provides summaries of the information used to evaluate each ESA-listed stocks documented on the 2021 MMPA LOF as killed or injured incidental to the fishery (available at: *https://www.fisheries.noaa.gov/action/mmpa-list-fisheries-2021*). The draft MMPA 101(a)(5)(E) determination document is available at: *https://www.regulations.gov/docket/NOAA-NMFS-2021-0123.* Based on the criteria outlined in the directive, the most recent SAR, and the best available scientific information, NMFS has determined that the M/SI incidental to the Category II AK BSAI Pacific cod pot fishery will have a negligible impact on the associated ESA-listed marine mammal stocks (Central North Pacific and Western North Pacific stocks of humpback whale). Accordingly, this MMPA 101(a)(5)(E) requirement is satisfied for the commercial fishery (see draft MMPA 101(a)(5)(E) determination document is available at: *https://www.regulations.gov/docket/NOAA-NMFS-2021-0123*).

Recovery Plan

The humpback whale recovery plan has been completed (see *https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act*). Accordingly, the requirement to have recovery plans in place or being developed is satisfied.

Take Reduction Plan

Subject to available funding, MMPA section 118 requires the development and implementation of a Take Reduction Plan (TRP) for each strategic stock that interacts with a Category I or II fishery. The stocks considered for this permit are designated as a strategic stock under the MMPA because the stocks, or a component of the stocks, are listed as threatened or endangered under the ESA (MMPA section 3(19)(C)).

The short- and long-term goals of a TRP are to reduce M/SI of marine mammals incidental to commercial fishing to levels below the Potential Biological Removal (PBR) level for stocks and to an insignificant threshold, defined by NMFS as 10 percent of PBR, respectively. The obligations to develop and implement a TRP are subject to the availability of funding. MMPA section 118(f)(3) (16 U.S.C. 1387(f)(3)) contains specific priorities for developing TRPs when funding is insufficient. NMFS has insufficient funding available to simultaneously develop and implement TRPs for all strategic stocks that interact with Category I or Category II fisheries. As provided in MMPA section 118(f)(6)(A) and (f)(7), NMFS uses the most recent SAR and LOF as the basis to determine its priorities for establishing Take Reduction Teams (TRT) and developing TRPs. Information about NMFS' marine mammal TRTs and TRPs may be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams.*

Based on NMFS' priorities, implementation of a TRP for the AK BSAI Pacific cod pot fishery is currently deferred under MMPA section 118 as other stocks/fisheries are a higher priority for any available funding. Accordingly, the requirement under MMPA section 118 to have TRPs in place or in development is satisfied (see determination supporting the permit available on the internet at *https://www.regulations.gov/docket/NOAA-NMFS-2021-0123*).

Monitoring Program

Under MMPA section 118(d), NMFS is to establish a program for monitoring incidental M/SI of marine mammals from commercial fishing operations. The AK BSAI Pacific cod pot is monitored under the partial coverage category through the North Pacific Fisheries Observer Program. Accordingly, the requirement under MMPA section 118 to have a monitoring program in place is satisfied.

Vessel Registration

MMPA section 118(c) requires that vessels participating in Category I and II fisheries register to obtain an authorization to take marine mammals incidental to fishing activities. NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program, with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Therefore, the requirement for vessel registration is satisfied.

Conclusions for Proposed Permit

Based on the above evaluation for the AK BSAI Pacific cod pot fishery as it relates to the three requirements of MMPA section 101(a)(5)(E), we propose to issue a MMPA 101(a)(5)(E) permit to the commercial fishery to authorize the incidental take of ESA-listed species or stocks during commercial fishing operations. If, during the 3-year authorization, there is a significant change in the information or conditions used to support any of these determinations, NMFS will re-evaluate whether to amend or modify the authorization, after notice and opportunity for public comment. NMFS solicits public comments on the proposed permit and the preliminary determination supporting the permit.

ESA Section 7 and National Environmental Policy Act Requirements

ESA section 7(a)(2) requires federal agencies to ensure that actions they authorize, fund, or carry out do not jeopardize the existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any ESA-listed species. The effects of the AK BSAI Pacific cod pot fishery on ESA-listed marine mammals, were analyzed in the ESA section 7 Biological Opinion for the BSAI Groundfish Fishery Management Plan.

Under section 7 of the ESA, Biological Opinions analyze the effects of the proposed action on ESA-listed species and their critical habitat and, where appropriate, exempt anticipated future take of ESA-listed species as specified in the incidental take statement. Under MMPA section 101(a)(5)(E), NMFS analyzes previously documented M/SI incidental to commercial fisheries through the negligible impact determination process, and when the necessary findings can be made, issues a MMPA section 101(a)(5)(E) permit that allows for an unspecified amount of incidental taking of specific ESA-listed marine mammal stocks while engaging in commercial fishing operations. Thus, the applicable standards and resulting analyses under the MMPA and ESA differ, and as such, may not always align.

The National Environmental Policy Act (NEPA) requires Federal agencies to evaluate the impacts of alternatives for their actions on the human environment. Because the proposed permit would not modify any fishery operation and the effects of the fishery operations have been evaluated in accordance with NEPA, no additional NEPA analysis beyond that conducted for the associated Fishery Management Plan is required for the permit. Issuing the proposed permit would have no additional impact on the human environment or effects on threatened or endangered species beyond those analyzed in these documents.

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Dated: December 9, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–27109 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB609]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Northeast Fisheries Science Center has requested a change to a previously issued exempted fishing permit which would result in new regulatory exemptions for participating vessels. The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has determined that this request is outside the scope of the initially approved exempted fishing permit. As a result, regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested

parties the opportunity to comment on the proposed changes to the exempted fishing permit previously issued to the Northeast Fisheries Science Center.

DATES: Comments must be received on or before December 30, 2021.

ADDRESSES: You may submit written comments by the following method:

• *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''Modification to Center Study Fleet EFP.''

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Policy Analyst, 978–281–9232.

SUPPLEMENTARY INFORMATION: On May 6, 2021, NMFS issued an exempted fishing permit (EFP) to the Northeast Fisheries Science Center (Center) in support of the 2021 Study Fleet Program. The Study Fleet Program was established in 2002 to more fully characterize commercial fishing operations and provide sampling opportunities to augment NMFS's data collection programs. As part of the program, the Center contracts commercial fishing vessels to collect biological data and fish specimens for the Center to use in research relevant to stock assessments and fish biology. The Center's Study Fleet Program trains participating captains and crew to conduct at-sea sampling consistent with Center sampling protocols for survey and observer programs. During EFP trips, crew sort, weigh, measure, and collect biological data from fish prior to discarding.

The EFP currently exempts 20 commerical fishing vessels from minimum fish sizes and possession limits for species of interest, as shown in Table 1.

TABLE 1—REGULATORY EXEMPTIONS ORIGINALLY ISSUED FOR THE 2021 STUDY FLEET EFP

Exempted regulations in 50 CFR part 648	*Minimum fish sizes*: § 648.83 Northeast multispecies minimum fish sizes for haddock, yellowtail flounder, winter flounder, and American plaice. *Possession restrictions*: § 648.86(a) Haddock, § 648.86(d) Small-mesh multispecies, § 648.86(g) Yellowtail flounder, § 648.86(o) Possession limits implemented by the Regional Administrator.

On November 4, 2021, the NESFC requested a modification to the EFP which would add an exemption to § 648.86(l), which prohibits the possession of ocean pout, windowpane flounder, and Atlantic wolffish. The modification would allow six of the participating vessels to retain and land Atlantic wolffish when directed by the Center. Ocean pout and windowpane flounder are not target species for this EFP, but their possession is prohibited by the same regulation which prohibits the possession of Atlantic wolffish. As a result, an exemption from the regulation which prohibits possession of Atlantic wolffish would also act as an exemption from the possession prohibition for ocean pout and windowpane flounder. To prevent vessels from harvesting ocean pout or windowpane flounder, the terms and conditions of the EFP would prohibit participating vessels from retaining and landing ocean pout and windowpane flounder.

Participating vessels would not be allowed to collect more than 10 fish total, or an amount over 70 lb (31.75 kg) total, whichever is reached first. In order to ensure that landed fish do not exceed the collection needs of the Study Fleet Program, the Center would issue a formal biological sampling request prior to landing. The captain or crew would deliver landed fish to Center staff or local NMFS Port Agents upon landing.

The Center requested this modification in order to support new research focusing on the osteology and ontogeny of wolffish species, which requires biological samples of Atlantic wolffish. The study would contribute fundamental data on the morphology of fish in the wolffish family, which would provide a necessary baseline for phylogenetic analysis and future morphological research.

This modification would not alter any other aspect of the EFP, including the remaining exemptions, remaining conditions and requirements, and study period. They do not change the impact of the EFP from what was previously issued.

The applicant may request further minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: December 9, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27102 Filed 12–14–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB544]

Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Observer Program Standard Ex-Vessel Prices

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

ACTION: Notification of standard ex-vessel prices.

SUMMARY: NMFS publishes standard ex-vessel prices for groundfish and halibut for the calculation of the observer fee under the North Pacific Observer Program (Observer Program). This notice is intended to provide information to vessel owners, processors, registered buyers, and other Observer Program participants about the standard ex-vessel prices that will be used to calculate the observer fee for landings of groundfish and halibut made in 2022. NMFS will send invoices to processors and registered buyers subject to the fee by January 15, 2023. Fees are due to NMFS on or before February 15, 2023.

DATES: The standard prices are valid on January 1, 2022.

FOR FURTHER INFORMATION CONTACT: For general questions about the observer fee and standard ex-vessel prices, contact Abby Jahn at (907) 586–7445. For questions about the fee billing process,

contact Charmaine Weeks at (907) 586–7231. Additional information about the Observer Program is available on NMFS Alaska Region's website at *https://www.fisheries.noaa.gov/alaska/fisheries-observers/north-pacific-observer-program.*

SUPPLEMENTARY INFORMATION:

Background

Regulations at 50 CFR part 679, subpart E, governing the Observer Program, require the deployment of NMFS-certified observers (observers) and electronic monitoring (EM) systems to collect information necessary for the conservation and management of the Bering Sea and Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish and halibut fisheries. Fishery managers use information collected by observers and EM systems to monitor quotas, manage groundfish and prohibited species catch, and document and reduce fishery interactions with protected resources. Scientists use observer-collected information for stock assessments and marine ecosystem research.

The Observer Program includes two observer coverage categories: The partial coverage category and the full coverage category. All groundfish and halibut vessels and processors subject to observer coverage are included in one of these two categories. Defined at 50 CFR 679.51, the partial coverage category includes vessels and processors that are not required to have an observer at all times, and the full coverage category includes vessels and processors required to have all of their fishing and processing activity observed. Vessels and processors in the full coverage category arrange and pay for observer services from a permitted observer provider. Observer coverage and EM for the partial coverage category is funded through a system of fees based on the ex-vessel value of groundfish and halibut. Throughout this notice, the term ''processor'' refers to shoreside processors, stationary floating processors, and catcher/processors in the partial coverage category.

Landings Subject to Observer Coverage Fee

Pursuant to section 313 of the Magnuson-Stevens Act, NMFS is authorized to assess a fee on all landings accruing against a Federal total allowable catch (TAC) for groundfish or commercial halibut quota landings made by vessels that are subject to Federal regulations and not included in the full coverage category. A fee is assessed only on landings of groundfish from vessels designated on a Federal Fisheries Permit or from vessels landing individual fishing quota (IFQ) or community development quota (CDQ) halibut or IFQ sablefish. Within the subset of vessels subject to the observer fee, only landings accruing against an IFQ allocation or a Federal TAC for groundfish are included in the fee assessment. A table with additional information about which landings are subject to the observer fee is at § 679.55(c) and on page 2 of an informational bulletin titled ''Observer Fee Collection'' that can be downloaded from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/resource/document/observer-fee-collection-north-pacific-groundfish-and-halibut-fisheries-observer.*

Fee Determination

A fee equal to 1.65 percent of the ex-vessel value is assessed on the landings of groundfish and halibut subject to the fee. Ex-vessel value is determined by multiplying the standard price for groundfish by the round weight equivalent for each species, gear, and port combination, and the standard price for halibut by the headed and gutted weight equivalent. Standard prices are determined by aggregating prices by species, gear, and area grouping to arrive at an average price per pound for each grouping. NMFS reviews each vessel landing report and determines whether the reported landing is subject to the observer fee and, if so, which groundfish species in the landing are subject to the observer fee. All IFQ or CDQ halibut in a landing subject to the observer fee will be included in the observer fee calculation. For any landed groundfish or halibut subject to the observer fee, NMFS will apply the appropriate standard ex-vessel prices for the species, gear type, and port, and calculate the observer fee associated with the landing.

Processors and registered buyers can access the landing-specific, observer fee information through NMFS Web Application (*https://alaskafisheries.noaa.gov/webapps/efish/login*) or eLandings (*https://elandings.alaska.gov/*). Observer fee information is either available immediately or within 24 hours after a landing report is submitted electronically. A time lag occurs for some landings because NMFS must process each landing report through the catch accounting system to determine which groundfish in a landing accrues against a Federal TAC and are subject to the observer fee.

Under the fee system, catcher vessel owners split the fee with the registered buyers or owners of shoreside or stationary floating processors. While the owners of catcher vessels and processors in the partial coverage category are each responsible for paying their portion of the fee, the owners of shoreside or stationary floating processors and registered buyers are responsible for collecting the fees from catcher vessels, and remitting the full fee to NMFS. Owners of catcher/processors in the partial coverage category are responsible for remitting the full fee to NMFS.

NMFS sends invoices to processors and registered buyers by January 15 of each calendar year. The total fee amount is determined by the sum of the fees reported for each landing at that processor or registered buyer in the prior calendar year. Processors and registered buyers must pay the fees to NMFS using eFISH. Payments are due by February 15 of each year. Processors and registered buyers have access to this system through a User ID and password issued by NMFS. Instructions for electronic payment are provided on the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/alaska/commercial-fishing/observer-fee-collection-and-payment-north-pacific-groundfish-and-halibut* and on the observer fee invoice to be mailed to each processor and registered buyer.

Standard Prices

This notice provides the standard ex-vessel prices for groundfish and halibut species subject to the observer fee in 2022. Data sources for ex-vessel prices are:

- For groundfish other than sablefish IFQ and sablefish accruing against the fixed gear sablefish CDQ reserve, the State of Alaska's Commercial Fishery Entry Commission's (CFEC) gross revenue data, which are based on the Commercial Operator Annual Report (COAR) and Alaska Department of Fish and Game (ADF&G) fish tickets; and
- For halibut IFQ, halibut CDQ, sablefish IFQ, and sablefish accruing against the fixed gear sablefish CDQ reserve, the IFQ Buyer Report that is submitted to NMFS annually by each registered buyer that operates as a shoreside processor and receives and purchases IFQ landings of sablefish and halibut or CDQ landings of halibut under § 679.5(l)(7)(i).

The standard prices in this notice were calculated using the following procedures for protecting confidentiality of data submitted to or collected by NMFS. NMFS does not publish any price information that would permit the identification of an individual or business. For NMFS to publish a standard price for a particular species-

gear-port combination, the price data used to calculate the standard price must represent landings from at least four different vessels to at least three different processors in a port or port group. Price data that are confidential because fewer than four vessels or three processors contributed data to a particular species-gear-port combination have been aggregated.

Groundfish Standard Ex-Vessel Prices

Table 1 shows the groundfish species standard ex-vessel prices that will be used to calculate the fee for 2022. These prices are based on the CFEC gross revenue data, which are based on landings data from ADF&G fish tickets and information from the COAR. The COAR contains statewide buying and production information, and is considered the most complete routinely collected information to determine the ex-vessel value of groundfish harvested from waters off Alaska.

The standard ex-vessel prices for groundfish were calculated by adding ex-vessel value from the CFEC gross revenue files for 2018, 2019, and 2020 by species, port, and gear category, and adding the volume (round weight equivalent) from the CFEC gross revenue files for 2018, 2019, and 2020 by species, port, and gear category, and then dividing total ex-vessel value over the three-year period in each category by total volume over the three-year period in each category. This calculation results in an average ex-vessel price per pound by species, port, and gear category for the three-year period. Three gear categories were used for the standard ex-vessel prices: (1) Non-trawl gear, including hook-and-line, pot, jig, troll, and others (Non-Trawl); (2) non-pelagic trawl gear (NPT); and (3) pelagic trawl gear (PTR).

CFEC ex-vessel value and volume data are available in the fall of the year following the year the fishing occurred. Thus, it is not possible to base ex-vessel fee liabilities on standard prices that are less than two years old. For the 2022 groundfish standard ex-vessel prices, the most recent ex-vessel value and volume data available are from 2020.

If a particular groundfish species is not listed in Table 1, the standard ex-vessel price for a species group (if it exists in the management area) will be used. If price data for a particular species remained confidential once aggregated to the outside of Alaska (ALL) level, data are aggregated by species group (Flathead Sole; GOA Deep-water Flatfish; GOA Shallow-water Flatfish; GOA Skate, Other; and Other Rockfish). Standard prices for the groundfish species groups are shown in Table 2.

If a port-level price does not meet the confidentiality requirements, the data are aggregated by port group. Port-group data for Southeast Alaska (SEAK) and the Eastern GOA excluding Southeast Alaska (EGOAxSE) also are presented separately when price data are available. Port-group data are aggregated by regulatory area in the GOA (Eastern GOA, Central GOA, and Western GOA) and by subarea in the BSAI (BS subarea and AI subarea). If confidentiality requirements are still not met by aggregating prices across ports at these levels, the prices are aggregated at the level of BSAI or GOA, then statewide (AK) and ports outside of Alaska (OTAK), and finally all ports, including those outside of Alaska (ALL).

Standard prices are presented separately for non-pelagic trawl and pelagic trawl when non-confidential data are available. NMFS also calculated prices for a ''Pelagic Trawl/Non-pelagic Trawl Combined'' (PTR/NPT) category that can be used when combining trawl price data for landings of a species in a particular port or port group will not violate confidentiality requirements. Creating this standard price category allows NMFS to assess a fee on 2022 landings of some of the species with pelagic trawl gear based on a combined trawl gear price for the port or port group.

If no standard ex-vessel price is listed for a species or species group and gear category combination in Table 1, Table 2, or Table 3, no fee will be assessed on that landing. Volume and value data for that species will be added to the standard ex-vessel prices in future years, if the data become available and display of a standard ex-vessel price meets confidentiality requirements.

TABLE 1—STANDARD EX-VESSEL PRICES FOR GROUNDFISH SPECIES FOR 2022 OBSERVER COVERAGE FEE

[Based on volume and value from 2018, 2019, and 2020]

Species (species code) [1]	Port/area [3 4]	Non-trawl	NPT	PTR	PTR/NPT
Alaska Plaice Flounder (133)	Kodiak	----	$0.13	----	$0.13
	CGOA	----	0.13	----	0.13
	GOA	----	0.12	----	0.12
	AK	----	0.12	----	0.12
	ALL	----	0.12	----	0.12
Arrowtooth Flounder (121)	Kodiak	----	0.07	$0.06	----
	CGOA	----	0.07	0.06	----
	GOA	----	0.07	0.08	----
	AK	----	0.07	0.08	----
	ALL	----	0.07	0.08	----
Atka Mackerel (193)	Kodiak	----	0.17	0.11	----
	CGOA	----	0.17	0.11	----
	GOA	----	0.17	0.11	----
	AK	----	0.17	0.09	----
	ALL	----	0.17	0.09	----
Black Rockfish (142)	AK	$0.62	0.15	----	0.15
Bocaccio Rockfish (137)	Sitka	0.46	----	----	----
	SEAK	0.46	----	----	----
	EGOA	0.39	----	----	----
	GOA	0.39	----	----	----
	AK	0.39	----	----	----
	ALL	0.43	----	----	----
Butter Sole (126)	Kodiak	----	0.13	----	0.13
	CGOA	----	0.13	----	0.13
	GOA	----	0.13	----	0.13
	AK	----	0.13	----	0.13
	ALL	----	0.13	----	0.13
Canary Rockfish (146)	Craig	0.35	----	----	----
	Juneau	0.41	----	----	----
	Sitka	0.49	----	----	----

TABLE 1—STANDARD EX-VESSEL PRICES FOR GROUNDFISH SPECIES FOR 2022 OBSERVER COVERAGE FEE—Continued

[Based on volume and value from 2018, 2019, and 2020]

Species (species code) [1]	Port/area [3 4]	Non-trawl	NPT	PTR	PTR/NPT
	SEAK	0.49	----	----	----
	EGOAxSE	0.44	----	----	----
	Homer	0.38	----	----	----
	Seward	0.58	----	----	----
	CGOA	0.56	----	----	----
	GOA	0.49	----	----	----
	AK	0.49	----	----	----
	ALL	0.49	----	----	----
China Rockfish (149)	Juneau	0.53	----	----	----
	Sitka	0.48	----	----	----
	SEAK	0.63	----	----	----
	Cordova	0.39	----	----	----
	EGOAxSE	0.37	----	----	----
	Homer	0.46	----	----	----
	Seward	0.34	----	----	----
	CGOA	0.43	----	----	----
	GOA	0.47	----	----	----
	AK	0.47	----	----	----
	ALL	0.47	----	----	----
Copper Rockfish (138)	Sitka	0.45	----	----	----
	SEAK	0.47	----	----	----
	Cordova	0.56	----	----	----
	EGOAxSE	0.55	----	----	----
	Homer	0.52	----	----	----
	Seward	0.59	----	----	----
	CGOA	0.54	----	----	----
	GOA	0.52	----	----	----
	AK	0.52	----	----	----
	ALL	0.52	----	----	----
Darkblotched Rockfish (159)	ALL	0.50	----	----	----
Dover Sole (124)	Kodiak	----	0.07	----	0.07
	CGOA	----	0.07	----	0.07
	GOA	----	0.08	----	0.08
	AK	----	0.08	----	0.08
	ALL	----	0.08	----	0.08
Dusky Rockfish (172)	Juneau	0.39	----	----	----
	Sitka	0.51	----	----	----
	SEAK	0.50	----	----	----
	EGOAxSE	0.27	----	----	----
	Homer	0.53	----	----	----
	Kodiak	0.46	0.17	0.15	----
	Seward	0.64	----	----	----
	CGOA	0.48	0.17	0.15	----
	GOA	0.48	0.17	0.15	----
	AK	0.48	0.17	0.15	----
	ALL	0.48	0.17	0.15	----
English Sole (128)	Kodiak	----	0.13	----	0.13
	CGOA	----	0.13	----	0.13
	GOA	----	0.13	----	0.13
	AK	----	0.13	----	0.13
	ALL	----	0.13	----	0.13
Flathead Sole (122)	Kodiak	----	0.14	0.14	----
	CGOA	----	0.14	0.14	----
	GOA	----	0.14	0.14	----
	AK	----	0.14	0.14	----
	ALL	----	0.14	0.14	----
Northern Rockfish (136)	Kodiak	----	0.16	0.15	----
	CGOA	----	0.16	0.15	----
	GOA	----	0.16	0.15	----
	AK	0.93	0.16	0.15	----
	ALL	0.93	0.16	0.15	----
Octopus (870)	Homer	0.80	----	----	----
	Kodiak	0.53	0.55	----	0.55
	CGOA	0.56	0.55	----	0.55
	GOA	0.58	0.55	----	0.55
	Dutch Harbor	0.46	----	----	----
	BS	0.63	----	----	----
	BSAI	0.50	----	----	----
	AK	0.52	0.55	----	0.55
	ALL	0.52	0.55	----	0.55
Pacific Cod (110)	Craig	0.26	----	----	----
	Juneau	0.69	----	----	----
	Ketchikan	0.25	----	----	----
	Petersburg	0.53	----	----	----
	Sitka	0.52	----	----	----
	SEAK	0.65	----	----	----
	Cordova	0.60	----	----	----
	Whittier	0.52	----	----	----
	EGOAxSE	0.55	----	----	----

TABLE 1—STANDARD EX-VESSEL PRICES FOR GROUNDFISH SPECIES FOR 2022 OBSERVER COVERAGE FEE—Continued

[Based on volume and value from 2018, 2019, and 2020]

Species (species code) [1]	Port/area [3 4]	Non-trawl	NPT	PTR	PTR/NPT
	Homer	0.56	----	----	----
	Kodiak	0.51	0.43	0.41	----
	Seward	0.55	----	----	----
	CGOA	0.52	0.43	0.41	----
	WGOA	0.43	0.39	----	0.39
	GOA	----	0.41	0.36	----
	Dillingham	0.35	----	----	----
	Dutch Harbor	0.42	0.41	0.05	----
	BS	0.42	0.40	0.08	----
	BSAI	0.41	0.39	0.08	----
	Stationary Floating Processor	0.42	----	----	0.39
	AK	0.43	0.39	0.33	----
	ALL	0.43	0.39	0.33	----
Pacific Ocean Perch (141)	EGOA	1.17	----	----	----
	Kodiak	----	0.17	0.17	----
	Seward	0.12	----	----	----
	CGOA	0.12	0.17	0.17	----
	GOA	0.81	0.17	0.17	----
	BS	----	----	0.05	0.05
	BSAI	----	----	0.10	0.10
	AK	0.81	0.17	0.17	----
	ALL	0.79	0.17	0.17	----
Pollock (270)	Kodiak	0.04	0.14	0.13	----
	Seward	0.05	----	----	----
	CGOA	0.05	0.14	0.13	----
	WGOA	----	----	0.12	0.12
	GOA	0.04	0.14	0.13	----
	Dutch Harbor	----	----	0.16	0.16
	BS	----	----	0.15	0.15
	BSAI	----	0.10	0.15	----
	Stationary Floating Processor	----	----	----	0.11
	AK	0.04	0.14	0.13	----
	ALL	0.04	0.14	0.13	----
Quillback Rockfish (147)	Craig	0.58	----	----	----
	Juneau	0.42	----	----	----
	Ketchikan	0.64	----	----	----
	Petersburg	0.23	----	----	----
	Sitka	0.62	----	----	----
	SEAK	0.54	----	----	----
	Cordova	0.41	----	----	----
	EGOAxSE	0.40	----	----	----
	Homer	0.41	----	----	----
	Kodiak	0.72	----	----	----
	Seward	0.52	----	----	----
	CGOA	0.50	----	----	----
	GOA	0.51	----	----	----
	AK	0.51	----	----	----
	ALL	0.51	----	----	----
Redbanded Rockfish (153)	Juneau	0.31	----	----	----
	Ketchikan	0.35	----	----	----
	Petersburg	0.23	----	----	----
	Sitka	0.44	----	----	----
	SEAK	0.35	----	----	----
	Cordova	0.27	----	----	----
	EGOAxSE	0.28	----	----	----
	Homer	0.29	----	----	----
	Kodiak	0.20	0.14	----	0.14
	Seward	0.34	----	----	----
	CGOA	0.28	0.14	----	0.14
	GOA	0.33	0.15	----	0.15
	AK	0.33	0.15	----	0.15
	ALL	0.34	0.15	----	0.15
Redstripe Rockfish (158)	SEAK	0.49	----	----	----
	EGOA	0.50	----	----	----
	CGOA	0.57	----	----	----
	GOA	0.50	----	----	----
	AK	0.50	----	----	----
	ALL	0.50	----	----	----
Rex Sole (125)	Kodiak	----	0.33	0.26	----
	CGOA	----	0.33	0.26	----
	GOA	----	0.34	0.45	----
	AK	----	0.34	0.42	----
	ALL	----	0.34	0.42	----
Rock Sole (123)	Kodiak	----	0.18	0.17	----
	CGOA	----	0.18	0.17	----
	GOA	----	0.18	0.17	----
	AK	----	0.18	0.17	----
	ALL	----	0.18	0.17	----
Rosethorn Rockfish (150)	SEAK	0.43	----	----	----

TABLE 1—STANDARD EX-VESSEL PRICES FOR GROUNDFISH SPECIES FOR 2022 OBSERVER COVERAGE FEE—Continued
[Based on volume and value from 2018, 2019, and 2020]

Species (species code) [1]	Port/area [3 4]	Non-trawl	NPT	PTR	PTR/NPT
	EGOA	0.43	----	----	----
	Seward	0.35	----	----	----
	CGOA	0.35	----	----	----
	GOA	0.43	----	----	----
	AK	0.43	----	----	----
	ALL	0.43	----	----	----
Rougheye Rockfish (151)	Juneau	0.33	----	----	----
	Ketchikan	0.34	----	----	----
	Petersburg	0.28	----	----	----
	Sitka	0.46	----	----	----
	SEAK	0.40	----	----	----
	Cordova	0.27	----	----	----
	Whittier	0.45	----	----	----
	EGOAxSE	0.27	----	----	----
	Homer	0.37	----	----	----
	Kodiak	0.28	0.25	0.19	----
	Seward	0.39	----	----	----
	CGOA	0.33	0.25	0.19	----
	GOA	0.35	0.25	0.19	----
	BSAI	0.26	----	----	----
	AK	0.35	0.25	0.19	----
	Bellingham	0.36	----	----	----
	OTAK	0.36	----	----	----
	ALL	0.35	0.25	0.19	----
Sablefish (blackcod) (710)	Kodiak	[5] n/a	1.31	----	1.31
	CGOA	[5] n/a	1.31	----	1.31
	GOA	[5] n/a	1.27	----	1.26
	AK	[5] n/a	1.27	0.51	----
	ALL	[5] n/a	1.27	0.51	----
Shortraker Rockfish (152)	Juneau	0.33	----	----	----
	Ketchikan	0.34	----	----	----
	Petersburg	0.28	----	----	----
	Sitka	0.42	----	----	----
	SEAK	0.38	----	----	----
	Cordova	0.45	----	----	----
	Whittier	0.47	----	----	----
	EGOAxSE	0.47	----	----	----
	Homer	0.37	----	----	----
	Kodiak	0.21	0.18	0.20	----
	Seward	0.37	----	----	----
	CGOA	0.33	0.18	0.20	----
	GOA	0.37	0.28	0.20	----
	AK	0.37	0.28	0.20	----
	ALL	0.37	0.28	0.20	----
Silvergray Rockfish (157)	Craig	0.34	----	----	----
	Juneau	0.41	----	----	----
	Petersburg	0.26	----	----	----
	Sitka	0.47	----	----	----
	SEAK	0.42	----	----	----
	Cordova	0.40	----	----	----
	EGOAxSE	0.31	----	----	----
	Homer	0.34	----	----	----
	Kodiak	0.23	0.13	----	0.13
	Seward	0.42	----	----	----
	CGOA	0.38	0.13	----	0.13
	GOA	0.40	0.13	----	0.13
	AK	0.40	0.13	----	0.13
	ALL	0.40	0.13	----	0.13
Skate, Big (702)	EGOA	0.40	----	----	----
	Kodiak	0.45	0.45	0.45	----
	Seward	0.45	----	----	----
	CGOA	0.45	0.45	0.45	----
	GOA	0.44	0.45	0.43	----
	AK	0.44	0.45	0.43	----
	ALL	0.44	0.45	0.43	----
Skate, Longnose (701)	SEAK	0.40	----	----	----
	EGOAxSE	0.18	----	----	----
	Homer	0.31	----	----	----
	Kodiak	0.45	0.45	0.45	----
	Seward	0.43	----	----	----
	CGOA	0.43	0.45	0.45	----
	GOA	0.38	0.45	0.39	----
	AK	0.38	0.45	0.39	----
	ALL	0.38	0.45	0.39	----
Skate, Other (700)	GOA	0.42	----	----	0.39
	AK	0.42	0.09	----	0.09
	ALL	0.42	0.09	----	0.09
Starry Flounder (129)	Kodiak	----	0.07	----	0.08
	CGOA	----	0.07	----	0.08

TABLE 1—STANDARD EX-VESSEL PRICES FOR GROUNDFISH SPECIES FOR 2022 OBSERVER COVERAGE FEE—Continued

[Based on volume and value from 2018, 2019, and 2020]

Species (species code) [1]	Port/area [3 4]	Non-trawl	NPT	PTR	PTR/NPT
	GOA	----	0.07	----	0.08
	AK	----	0.07	----	0.08
	ALL	----	0.07	----	0.08
Thornyhead Rockfish (Idiots) (143)	Juneau	0.94	----	----	----
	Ketchikan	1.07	----	----	----
	Petersburg	0.99	----	----	----
	Sitka	0.96	----	----	----
	SEAK	0.97	----	----	----
	Cordova	0.59	----	----	----
	Whittier	0.44	----	----	----
	EGOAxSE	0.67	----	----	----
	Homer	0.66	----	----	----
	Kodiak	0.68	0.43	----	0.43
	Seward	0.71	----	----	----
	CGOA	0.70	0.43	----	0.43
	GOA	0.82	0.45	----	0.44
	BS	0.72	----	----	----
	BSAI	0.70	----	----	----
	AK	0.81	0.45	----	0.44
	ALL	0.81	0.45	----	0.44
Tiger Rockfish (148)	Juneau	0.51	----	----	----
	Sitka	0.48	----	----	----
	SEAK	0.49	----	----	----
	Cordova	0.32	----	----	----
	EGOAxSE	0.32	----	----	----
	Homer	0.41	----	----	----
	Seward	0.46	----	----	----
	CGOA	0.42	----	----	----
	GOA	0.43	----	----	----
	AK	0.43	----	----	----
	ALL	0.43	----	----	----
Vermilion Rockfish (184)	SEAK	0.61	----	----	----
	EGOA	0.61	----	----	----
	GOA	0.61	----	----	----
	AK	0.61	----	----	----
	ALL	0.61	----	----	----
Widow Rockfish (156)	GOA	0.71	----	----	----
	AK	0.71	----	----	----
	ALL	0.71	----	----	----
Yelloweye Rockfish (145)	Craig	1.86	----	----	----
	Juneau	0.94	----	----	----
	Ketchikan	1.70	----	----	----
	Petersburg	1.12	----	----	----
	Sitka	1.90	----	----	----
	SEAK	1.68	----	----	----
	Cordova	0.81	----	----	----
	Whittier	0.82	----	----	----
	EGOAxSE	0.82	----	----	----
	Homer	0.72	----	----	----
	Kodiak	0.34	0.25	----	0.25
	Seward	0.60	----	----	----
	CGOA	0.59	0.25	----	0.25
	WGOA	0.46	----	----	----
	GOA	----	0.25	----	0.25
	BSAI	0.21	----	----	----
	AK	1.42	0.25	----	0.25
	ALL	1.42	0.25	----	0.25
Yellowtail Rockfish (155)	Sitka	0.57	----	----	----
	SEAK	0.57	----	----	----
	EGOA	0.57	----	----	----
	Homer	0.50	----	----	----
	CGOA	0.66	----	----	----
	GOA	0.61	----	----	----
	AK	0.61	----	----	----
	ALL	0.61	----	----	----

---- = no landings in last 3 years or the data is confidential.

[1] If species is not listed, use price for the species group in Table 2 if it exists in the management area. If no price is available for the species or species group in Table 1, Table 2, or Table 3, no fee will be assessed on that landing. That species will come into standard ex-vessel prices in future years.

[2] For species codes, see Table 2a to 50 CFR part 679.

[3] Regulatory areas are defined at § 679.2. (AK = Alaska; ALL = all ports including those outside Alaska; BS = Bering Sea subarea; BSAI = Bering Sea/Aleutian Islands; CGOA = Central Gulf of Alaska; EGOA = Eastern Gulf of Alaska; EGOAxSE = Eastern Gulf of Alaska except Southeast Alaska; GOA = Gulf of Alaska; SEAK = Southeast Alaska; WGOA = Western Gulf of Alaska).

[4] If a price is listed for the species, port, and gear type combination, that price will be applied to the round weight equivalent for groundfish landings. If no price is listed for the port and gear type combination, use port group and gear type combination, or see Table 2 or Table 3.

[5] n/a = ex-vessel prices for sablefish landed with hook-and-line, pot, or jig gear are listed in Table 3 with the prices for IFQ and CDQ landings.

TABLE 2—STANDARD EX-VESSEL PRICES FOR GROUNDFISH SPECIES GROUPS FOR 2022 OBSERVER COVERAGE FEE

[Based on volume and value from 2018, 2019, and 2020]

Species group [1]	Port/area [2 3]	Non-Trawl	NPT	PTR	PTR/NPT
	BSAI Skate and GOA Skate, Other [4] (USKT).	GOA	$0.41	----	$0.39
	AK	----	0.08	----	0.08
Flathead Sole [5] (FSOL)	Kodiak	----	0.14	$0.14	----
	CGOA	----	0.14	0.14	----
	GOA	----	0.14	0.14	----
	AK	----	0.14	0.14	----
GOA Deep Water Flatfish [6] (DFL4)	Kodiak	----	0.07	----	0.07
	CGOA	----	0.07	----	0.07
	GOA	----	0.08	----	0.08
GOA Shallow Water Flatfish [7] (SFL1)	Kodiak	----	0.16	0.15	----
	CGOA	----	0.16	0.15	----
	GOA	----	0.16	0.15	----
Other Rockfish [8 9] (ROCK)	Craig	$0.33	----	----	----
	Juneau	0.46	----	----	----
	Ketchikan	0.37	----	----	----
	Petersburg	0.39	----	----	----
	Sitka	0.46	----	----	----
	SEAK	0.43	----	----	----
	Cordova	0.70	----	----	----
	Whittier	0.69	----	----	----
	EGOAxSE	0.66	----	----	----
	Homer	0.68	----	----	----
	Kodiak	0.31	0.18	----	0.18
	Seward	0.56	----	----	----
	CGOA	0.55	0.18	----	0.18
	WGOA	0.57	----	----	----
	GOA	----	0.18	----	0.18
	BS	0.71	----	----	----
BSAI	0.68	----	----	----	
AK	----	0.21	----	0.21	

---- = no landings in last 3 years or the data is confidential.

[1] If groundfish species is not listed in Table 1, use price for the species group if it exists in the management area. If no price is available for the species or species group in Table 1, Table 2, or Table 3, no fee will be assessed on that landing. That species will come into standard ex-vessel prices in future years.

[2] Regulatory areas are defined at § 679.2. (AK = Alaska; ALL = all ports including those outside Alaska; BS = Bering Sea subarea; BSAI = Bering Sea/Aleutian Islands; CGOA = Central Gulf of Alaska; EGOA = Eastern Gulf of Alaska; EGOAxSE = Eastern Gulf of Alaska except Southeast Alaska; GOA = Gulf of Alaska; SEAK = Southeast Alaska; WGOA = Western Gulf of Alaska).

[3] If a price is listed for the species, port, and gear type combination, that price will be applied to the round weight equivalent for groundfish landings. If no price is listed for the port and gear type combination, use port group and gear type combination.

[4] ''BSAI Skate and GOA Skate, Other'' means all skates in the BSAI and all skates with the exception of Raja binoculata (Big) and R. rhina (Longnose) in the GOA.

[5] ''Flathead sole'' includes Hippoglossoides elassodon (flathead sole) and H. robustus (Bering flounder).

[6] ''Deep-water flatfish'' in the GOA means Dover sole, Greenland turbot, Kamchatka flounder, and deepsea sole.

[7] ''Shallow-water flatfish'' in the GOA means flatfish not including ''deep-water flatfish'', flathead sole, rex sole, or arrowtooth flounder.

[8] In the GOA:

''Other rockfish means Sebastes aurora (aurora), S. melanostomus (blackgill), S. paucispinis (bocaccio), S. goodei (chilipepper), S. crameri (darkblotch), S. elongatus (greenstriped), S. variegatus (harlequin), S. wilsoni (pygmy), S. babcocki (redbanded), S. proriger (redstripe), S. zacentrus (sharpchin), S. jordani (shortbelly), S. brevispinis (silvergray), S. diploproa (splitnose), S. saxicola (stripetail), S. miniatus (vermilion), S. reedi (yellowmouth), S. entomelas (widow), and S. flavidus (yellowtail). In the Eastern GOA only, ''other rockfish'' also includes northern rockfish (S. polyspinous).

''Other rockfish'' in the Western and Central Regulatory Areas and in the West Yakutat District of the Eastern Regulatory Area means all rockfish species included in the ''other rockfish'' and demersal shelf rockfish categories. The ''other rockfish'' species group in the SEO District only includes other rockfish.

''Demersal shelf rockfish'' means Sebastes pinniger (canary), S. nebulosus (china), S. caurinus (copper), S. maliger (quillback), S. helvomaculatus (rosethorn), S. nigrocinctus (tiger), and S. ruberrimus (yelloweye).

[9] ''Other rockfish'' in the BSAI includes all Sebastes and Sebastolobus species except for Pacific ocean perch, dark rockfish, northern rockfish, shortraker rockfish, and blackspotted/rougheye rockfish.

Halibut and Sablefish IFQ and CDQ Standard Ex-Vessel Prices

Table 3 shows the observer fee standard ex-vessel prices for halibut and sablefish. These standard prices are calculated as a single annual average price, by species and port or port group. Volume and ex-vessel value data collected on the 2021 IFQ Buyer Report for landings made from October 15, 2020, through September 30, 2021, were used to calculate the standard ex-vessel prices for the 2022 observer fee for halibut IFQ, halibut CDQ, sablefish IFQ, and sablefish landings that accrue against the fixed gear sablefish CDQ reserve.

TABLE 3—STANDARD EX-VESSEL PRICES FOR HALIBUT IFQ, HALIBUT CDQ, SABLEFISH IFQ, AND SABLEFISH ACCRUING AGAINST THE FIXED GEAR SABLEFISH CDQ RESERVE FOR THE 2022 OBSERVER FEE

[Based on 2021 IFQ Buyer Reports]

Species	Port/area [1]	Price [2]
Halibut (200)	Craig	$6.03
	Ketchikan	5.94
	Petersburg	6.15
	Sitka	5.81
	SEAK	5.97
	EGOAxSE	6.15
	Homer	6.65
	Kodiak	5.44
	Seward	6.76
	CGOA	6.36
	GOA	6.17
	BS	5.39
	BSAI	5.39
	AK	6.04
	ALL	6.05
Sablefish (710)	Craig	1.90
	Sitka	2.12
	SEAK	2.07
	EGOAxSE	1.79
	Homer	2.23
	Kodiak	1.66
	Seward	1.79
	CGOA	1.74
	GOA	1.85
	BS	1.60
	BSAI	1.60
	AK	1.82
	ALL	1.82

[1] Regulatory areas are defined at § 679.2. (AK = Alaska; ALL = all ports including those outside Alaska; BS = Bering Sea subarea; CGOA = Central Gulf of Alaska; EGOAxSE = Eastern Gulf of Alaska except Southeast Alaska; SEAK = Southeast Alaska; WGOA = Western Gulf of Alaska).

[2] If a price is listed for the species and port combination, that price will be applied to the round weight equivalent for sablefish landings and the headed and gutted weight equivalent for halibut landings. If no price is listed for the port, use port group.

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

Dated: December 9, 2021.

Ngagne Jafnar Gueye,

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

[FR Doc. 2021–27103 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Technical Information Service

Request for Nominations for Members To Serve on the National Technical Information Service (NTIS) Advisory Board

AGENCY: National Technical Information Service, Department of Commerce.

ACTION: Notice.

SUMMARY: NTIS invites nomination of individuals for appointment to the National Technical Information Service Advisory Board (Board or Committee). NTIS will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: NTIS will accept nominations on a rolling basis. Members to fill the existing vacancies will be selected from nominations submitted by 5:00 p.m. on March 25th, 2022. Any nominations received after that date will be kept on file and may be used to fill vacancies on the Board should they occur.

ADDRESSES: Please submit nominations to Designated Federal Officer (DFO), NTIS at *FACA@ntis.gov,* Subject: NTIS Advisory Board Membership.

FOR FURTHER INFORMATION CONTACT: Elizabeth Shaw at *eshaw@ntis.gov* or Steven Holland at *sholland@ntis.gov*.

SUPPLEMENTARY INFORMATION:

Committee Information

The Secretary of Commerce, pursuant to Section 212(c) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(c)), established the Advisory Board, in accordance with the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. App.

Objectives and Duties

1. The NTIS Advisory Board shall review and make recommendations to improve NTIS programs, operations, and general policies in support of NTIS's mission to advance Federal data priorities, promote economic growth, and enable operational excellence by providing innovative data services to Federal agencies through joint venture partnerships with the private sector.

2. The Board shall report to the Secretary of Commerce and to the Under Secretary of Commerce for Standards and Technology through the Director of NTIS.

3. The Board shall act in the public interest to:

a. Provide advice on the optimal data services business and operating model to best implement NTIS's joint venture authority.

b. Provide advice on the means, including infrastructure and process improvements, to make Federal data easier to find, access, use, analyze, and combine.

c. Assess progress in evolving NTIS programs toward a focus on Federal data priorities.

d. Assess the use of merit-based criteria and processes to plan, conduct, and oversee programs and projects, including the selection of joint venture partners.

e. Assess policies in connection with fees and charges for NTIS services in order for the agency to operate on a substantially self-sustaining basis, as required by law.

f. Assess organizational capabilities required to carry out NTIS's mission, including capabilities in data science and for operational management of its project portfolio.

Membership

1. The NTIS Advisory Board shall be composed of a Chairperson appointed by the Secretary and four other members appointed by the Secretary. In the event of a vacancy in the Chairperson position, the NTIS Director may designate a member to serve as acting Chairperson until a Chairperson is appointed by the Secretary.

2. Members shall be selected solely on the basis of established records of distinguished service and objectivity; shall have recognized expertise in data collection, compilation, analysis, use, and dissemination, as well as data science, information technology, cybersecurity, and privacy. Members will be selected from the business, academic, non-profit, and state and local government communities. Reasonable efforts will be made to ensure members represent the entire spectrum of Federal data interests including demographic, economic, trade, health, scientific, patent, environmental, geospatial, cybersecurity, and transactional data. No Federal Government employee shall serve as a member of the Board.

3. The term of office of each member of the Board shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy. All appointments shall automatically terminate if the charter is terminated or not renewed. All members serve at the pleasure of the Secretary.

4. Any person who has completed two consecutive full terms of service on the Board shall be ineligible for appointment for a third term during the one-year period following the expiration of the second term.

5. Members shall serve as Special Government Employees (SGEs) and will be subject to all ethical standards and rules applicable to SGEs.

Miscellaneous

1. Members of the Committee will not be paid for their services, but will, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. The Board shall meet at the call of the Secretary or the Secretary's designee, but not less often than once every six months.

3. NTIS may establish such subcommittees of its members as may be necessary, pursuant to the provisions of FACA, the FACA implementing regulations, and applicable Department of Commerce guidance. Subcommittees will report to the NTIS Advisory Board and may not provide advice or work products directly to the Department of Commerce or NTIS.

4. Recordkeeping. Records of the NTIS Advisory Board, any formally and informally established subcommittees, or other subgroups of the Board, shall be handled in accordance with General Records Schedule 6.2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act (5 U.S.C. 552).

Nomination Information

1. NTIS seeks nominations of practitioners with recognized expertise in data collection, compilation, analysis, use, and dissemination, as well as data science, information technology, cybersecurity, and privacy.

2. Members will be selected from the business, academic, non-profit, and state and local government communities.

3. Reasonable efforts will be made to ensure members represent the entire spectrum of Federal data interests including demographic, economic, trade, health, scientific, patent, environmental, geospatial, cybersecurity, and transactional data. Collectively, their knowledge will include all types of data the Federal Government collects, compiles, analyzes, uses, and disseminates.

4. Nominees should have established records of distinguished service. The field of expertise in which the candidate is qualified should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the board, and will actively participate in good faith in the tasks of the NTIS Advisory Board.

5. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse NTIS Advisory Board membership.

Greg Capella,

Acting Director, National Technical Information Service.

[FR Doc. 2021–27094 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–04–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–T–2021–0051]

USPTO To Begin Issuing Electronic Trademark Registration Certificates

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is seeking comments on its plan to begin issuing electronic trademark registration certificates in the spring of 2022. Upon issuance, the electronic registration certificate will be the official registration certificate. After the USPTO begins issuing electronic registration certificates, trademark owners will have the option to order paper ''presentation'' copies for a fee. They will also continue to be able to order certified copies of their trademark registrations. This notice outlines the USPTO's plan and requests comments from U.S. trademark owners, practitioners, and other interested parties regarding their views about this plan.

DATES: Written comments must be received on or before December 15, 2021.

ADDRESSES: Comments regarding this notice should be sent to *TMFRNotices@uspto.gov,* with the subject line ''Electronic Registration Certificates.'' If a submission by email is not feasible due to, *e.g.,* a lack of access to a computer and/or the internet, please contact the USPTO for special instructions using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, USPTO, at 571–272–8946 or *TMFRNotices@uspto.gov.*

SUPPLEMENTARY INFORMATION: The USPTO will begin issuing trademark registration certificates electronically via the USPTO's Trademark Status and

Document Retrieval (TSDR) system in the spring of 2022. By doing so, the USPTO is continuing with its efforts to move to full electronic processing of trademark applications and registrations. This change also updates USPTO practice to conform to customer requests and public comments the USPTO has received that indicated a strong preference to receive trademark registration certificates in a digital format rather than as a paper certificate. The change will make the certificates more accessible for trademark owners and decrease the time it takes for trademark owners to receive them.

After implementation, trademark registration certificates will no longer be issued by printing the registration certificate on paper and mailing it to the correspondence address of record. Instead, the USPTO will issue the registration electronically under the electronic signature of the Director and with a digital seal, which will serve to authenticate the registration. The USPTO will upload the official registration certificate to the TSDR database, and an electronic notice will be emailed to the trademark owner with a link to provide access to the certificate upon issue. Posted with the electronic registration certificate will be information regarding registration maintenance requirements pursuant to sections 8(d) and 71(c) of the Trademark Act of 1946. Trademark owners will be able to use the emailed link to view, download, and print a complete copy of the registration certificate at no charge at any time.

While the USPTO will no longer send a paper registration certificate upon issue, trademark owners will be able to obtain a printed copy of the first page of the issued registration that is suitable for framing. This document, known as a ''presentation'' copy, will be printed on heavy paper; feature a gold foil seal; identify the owner(s); and display bibliographic data, the trademark, and the classes of goods and/or services. Trademark owners who file an initial application on or after the implementation date will be able to order presentation copies for $25 per copy through the Trademark Electronic Application System (TEAS). Trademark owners who filed an initial application before the implementation date will be able to order presentation copies for free using a TEAS form. Trademark owners will continue to be able to order certified copies of the trademark registration for a fee. The certified copy certifies the status and title of the registration and includes the signature of an authorized certifying officer.

Background

The USPTO has made significant efforts to implement end-to-end electronic processing of trademark applications and related submissions. End-to-end electronic processing means that an application and all application- and registration-related submissions are filed and processed electronically, and any related correspondence between the USPTO and the relevant party is conducted electronically. TEAS was established to provide applicants the capability of filing their trademark applications electronically, and TSDR provides real-time access to the electronic file wrappers of U.S. trademark applications and registrations, and displays information contained in USPTO records regarding documents filed under the Madrid system through the United States.

In December 2019, the USPTO added a quick-response code to the paper registration certificate that opens a digital version of the registration certificate in TSDR. This was a step toward providing an official digital registration certificate to replace the printed version. In February 2020, the USPTO began requiring, with limited exceptions, all filers to submit trademark application- and registration-related documents using TEAS. *See* Changes to the Trademark Rules of Practice To Mandate Electronic Filing (84 FR 69330, December 18, 2019). By mandating electronic filing of trademark applications and submissions concerning applications or registrations through TEAS, the final rule reduced paper processing to an absolute minimum. As part of the rule, and to prepare for the transition to electronic registration certificates, 37 CFR 2.151 was amended to delete the wording regarding sending the certificate of registration.

In an effort to further streamline the trademark application process, the USPTO is now planning to issue trademark registration certificates electronically. The USPTO currently issues approximately 6,000 to 9,000 printed trademark registration certificates per week. The printing process is costly and time-consuming. Each registration certificate must be reviewed by a team of in-house contractors, printed on special paper, and then mailed to customers. Once a paper trademark registration certificate is issued, a copy of the registration certificate is available for viewing and printing by the public in TSDR.

The electronic trademark issuance process would permit the USPTO to issue trademark registrations approximately one to two weeks faster than the current paper process by discontinuing the printing, assembling, and mailing of a paper trademark registration certificate upon issuance. The trademark owner and the public would benefit from this time saved. For example, owners would be able to view and print their electronically issued trademark registrations through TSDR sooner, rather than waiting for their paper trademark registration certificate to be sent by mail.

The USPTO will review any comments received and will publish a notice reminding the public of the transition to electronic registration certificates approximately 30 days before the implementation date, once it is determined.

Andrew Hirshfeld,

Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2021–27116 Filed 12–14–21; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant a Partially-Exclusive Patent License in the Field of Wearables

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of intent.

SUMMARY: Pursuant to the Bayh-Dole Act and implementing regulations, the Department of the Air Force hereby gives notice of its intent to grant a Partially-Exclusive Patent License in the field of wearables to FlexEnergy LLC, a small business, limited liability corporation having a place of business at 6969 Worthington Galena Blvd., Suite D, Worthington, Ohio 43085.

DATES: Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

ADDRESSES: Submit written objections to Jeremy Gratsch, AFRL/RXOP, 2977 Hobson Way, WPAFB, OH 45433; Telephone: 937–255–0010; or email: *jeremy.gratsch@us.af.mil.* Include Docket No. ARX–211019B–PLA in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Jeremy Gratsch, AFRL/RXOP, 2977 Hobson Way, WPAFB, OH 45433; Telephone: 937–255–0010; or email: *jeremy.gratsch@us.af.mil.*

SUPPLEMENTARY INFORMATION: The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

Abstract of Patent Application(s)

—A composite electrode. The composite electrode including an active material, a conductive additive, a binder, and a solvent. The composite electrode may be cast or printed.

—A method of applying a separator ink onto a dried electrode of a lithium ion battery. The method includes preparing a separator ink suspension, applying the separator ink suspension onto the dried electrode, and drying the applied separator ink suspension. The separator ink suspension includes a binder comprising 20 wt % to 50 wt % of a total weight of the separator ink suspension, the binder being selected from the group consisting of PVDF, PVDF–HFP, PTFE, PEO, PMMA, PAN, CNC, SBR, and combinations thereof; a solvent selected from the group consisting of NMP, DMF, acetone, DMAc, DMSO, trimethyl urea, triethyl phosphate, and combinations thereof; a non-solvent selected from the group consisting of glycerol, water, ethanol, methanol, ethylene glycol, diethylene glycol, triethylene glycol, hexane, heptane, and combinations thereof; and a ceramic filler comprising 50 wt % to 80 wt % of the total weight of the composite electrolyte the ceramic filler being selected from the group consisting of Al_2O_3, SiO_2, TiO_2, MgO, Li_2O, $LiAlO_2$, $BaTiO_3$, LAGP, LATP, LLTO, and combinations thereof.

Intellectual Property

—U.S. Application Publication No. 2020/0313182 and entitled ''Bendable, Creasable, and Printable Batteries with Enhanced Safety and High Temperature Stability—Methods of Fabrication, and Methods of Using the Same,'' published on 1 October 2020.

—U.S. Application Publication No. 2020/0313184 and entitled ''Bendable, Creasable, and Printable Batteries with Enhanced Safety and High Temperature Stability—Methods of Fabrication, and Methods of Using the Same,'' published on 1 October 2020.

Tommy Lee,

Air Force Federal Register Liaison Officer.

[FR Doc. 2021–27049 Filed 12–14–21; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

Accrediting Agencies Currently Undergoing Review for the Purposes of Recognition by the U.S. Secretary of Education

AGENCY: U.S. Department of Education, Accreditation Group, Office of Postsecondary Education.

ACTION: Call for written third-party comments.

SUMMARY: This notice provides information to members of the public on submitting written comments for accrediting agencies currently undergoing review for purposes of recognition by the U.S. Secretary of Education.

FOR FURTHER INFORMATION CONTACT: Herman Bounds, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 270–01, Washington, DC 20202, telephone: (202) 453–7615, or email: *herman.bounds@ed.gov*.

SUPPLEMENTARY INFORMATION: This request for written third-party comments concerning the performance of accrediting agencies under review by the Secretary of Education is required by § 496(n)(1)(A) of the Higher Education Act (HEA) of 1965, as amended, and pertains to the winter 2023 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). The meeting date and location have not been determined but will be announced in a later **Federal Register** notice. In addition, a later **Federal Register** notice will describe how to register to provide oral comments at the meeting.

Agencies Under Review and Evaluation: The Department requests written comments from the public on the following accrediting agencies, which are currently undergoing review and evaluation by the Accreditation Group, and which will be reviewed at the winter 2023 NACIQI meeting.

The agencies are listed by the type of application each agency has submitted. Please note, each agency's current scope of recognition is indicated below. If any agency requests a change to its scope of recognition, identified are both the current scope of recognition and the requested scope of recognition.

Applications for Renewal of Recognition:

1. Accreditation Commission for Education in Nursing, Inc. Scope of recognition: Accreditation of nursing education programs and schools, both postsecondary and higher degree, which offer a certificate, diploma, or a recognized professional degree, including clinical doctorate, masters, baccalaureate, associate, diploma, and practical nursing programs in the United States and its territories, including those offered via distance education.

2. Accreditation Commission for Midwifery Education. Scope of recognition: The accreditation and preaccreditation of basic certificate, basic graduate nurse-midwifery, direct entry midwifery, and pre-certification nurse-midwifery education programs, including those programs that offer distance education.

3. American Physical Therapy Association, Commission on Accreditation in Physical Therapy Education. Scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') in the United States of physical therapist education programs leading to the first professional degree at the master's or doctoral level and physical therapist assistant education programs at the associate degree level and for its accreditation of such programs offered via distance education.

4. Higher Learning Commission. Scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of degree-granting institutions of higher education in the United States, including the tribal institutions, and the accreditation of programs offered via distance education and correspondence education within these institutions. This recognition extends to the Institutional Actions Council jointly with the Board of Trustees of the Commission for decisions on cases for continued accreditation or reaffirmation, and continued candidacy, and to the Appeals Body jointly with the Board of Trustees of the Commission for decisions related to initial candidacy or accreditation or reaffirmation of accreditation.

5. Middle States Commission on Higher Education. Scope of recognition: The accreditation and preaccreditation (''Candidacy status'') of institutions of higher education in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands, and

any other geographic areas in which the Commission elects to conduct accrediting activities within the United States including distance and correspondence education programs offered at those institutions.

6. New England Commission of Higher Education. Scope of recognition: The accreditation and preaccreditation (''Candidacy status'') of institutions of higher education in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont that award bachelor's master's and/or doctoral degrees and associate degree-granting institutions in those states that include degrees in liberal arts or general studies among their offerings, including the accreditation of programs offered via distance education within these institutions. Jointly with the Commission, this recognition extends to its Executive Committee and also to the Appeals Body for decisions related to the appeal of denial or withdrawal of candidacy; probation; and denial or withdrawal of accreditation.

7. Western Association of Schools and Colleges, Senior College and University Commission. Scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of institutions of higher education in the United States that offer the baccalaureate degree or above, including distance education programs offered at those institutions.

Compliance Reports:

1. New York State Board of Regents, State Education Department, Office of the Professions (Nursing Education). The compliance report relates to findings of noncompliance with the Department's criteria for recognition of state agencies for approval of nurse education, set forth in a **Federal Register** notice published on January 16, 1969. 34 FR 587, 644–645 (January 16, 1969). The senior Department official's (SDO) decision letter, dated October 28, 2020, is available under NACIQI meeting date 07/29/2020 at *https://surveys.ope.ed.gov/erecognition/PublicDocuments*.

2. Maryland Board of Nursing. The compliance report relates to findings of noncompliance with the Department's criteria for recognition of state agencies for approval of nurse education, set forth in a **Federal Register** notice published on January 16, 1969. 34 FR 587, 644–645 (January 16, 1969). The Acting Secretary's Order, dated January 19, 2021, is available under NACIQI meeting date 02/27/2020 at *https://surveys.ope.ed.gov/erecognition/PublicDocuments*.

Submission of Written Comments Regarding a Specific Accrediting Agency Under Review: Written comments about the recognition of any of the accrediting agencies listed above must be received by January 20, 2022, in the *ThirdPartyComments@ed.gov* mailbox. Please include in the subject line ''Written Comments: (agency name).'' The electronic mail (email) must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an email or provided in the body of an email message.

Comments about an agency that has submitted a compliance report scheduled for review by the Department must relate to the criteria for recognition cited in the senior Department official's letter that requested the report, or in the Secretary's appeal decision, if any. Comments about an agency that has submitted a petition for initial recognition, renewal of recognition, or an expansion of scope must relate to the agency's compliance with the Criteria for Recognition of Accrediting Agencies, which are available at *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602?toc=1*.

Only written materials submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site, you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1099b

Annmarie Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2021–27095 Filed 12–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2020/22 Beginning Postsecondary Students (BPS:20/22) Field Test

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before January 14, 2022.

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 Carrie Clarady, (202) 245–6347.

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: 2020/22 Beginning Postsecondary Students (BPS:20/22) Field Test.

OMB Control Number: 1850–0631.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individual or Households.

Total Estimated Number of Annual Responses: 25,610.

Total Estimated Number of Annual Burden Hours: 12,544.

Abstract: The 2020/22 Beginning Postsecondary Students Full-Scale (BPS:20/22) is conducted by the National Center for Education Statistics, part of the Institute of Education Sciences, within the Department of Education, and is part of the Beginning Postsecondary Students Longitudinal Study data collection program at *https://nces.ed.gov/surveys/bps/*. The BPS:20/22 Full-scale Data Collection will begin 03/01/22 and end 11/11/22. BPS is designed to follow a cohort of students who enroll in postsecondary education for the first time during the same academic year, irrespective of the date of high school completion. The study collects data on students' persistence in and completion of postsecondary education programs; their transition to employment; demographic characteristics; and changes over time in their goals, marital status, income, and debt, among other indicators. Data from BPS are used to help researchers and policymakers better understand how financial aid influences persistence and completion, what percentages of students complete various degree programs, what are the early employment and wage outcomes for certificate and degree attainers, and why students leave school. BPS:20/22 will be a nationally-representative sample of approximately 37,000 students who were first-time beginning students during the 2019–20 academic year. The BPS:20/22 field test included approximately 3,700 students who first began in the 2018–19 academic year. These students will be asked to complete a survey and administrative data will also be collected for them. Administrative data matching will be conducted with sources including the National Student Loan Data System (NSLDS), containing federal loan and grant files; the Central Processing System (CPS), which houses and processes data contained in the Free Application for Federal Student Aid (FAFSA) forms; the National Student Clearinghouse (NSC) which provides enrollment and degree verification; vendors of national undergraduate, graduate, and professional student admission tests; and possible other administrative data sources such as the Veterans Benefits Administration (VBA). These data will be obtained through file matching/downloading. In addition, this request includes conducting panel maintenance activities for the BPS:20/25 field test sample. BPS:20/25 is anticipated but has not yet been authorized. This submission covers BPS:20/22 full-scale materials and procedures required for conducting the student survey and for matching data to administrative records. Along with this full-scale package NCES will provide the Office of Management and Budget (OMB) with a memorandum summarizing changes from the field test for the full-scale data collection. The materials for the BPS:20/22 full-scale study are based upon the field test materials. This submission is designed to adequately justify the need for and overall practical utility of the full study, presenting the overarching plan for all of the phases of the data collection and providing as much detail about the measures to be used as is available at the time of this submission. As part of the completed field test, NCES published a notice in the **Federal Register** allowing first a 60- and then a 30-day public comment period. Field test materials, procedures, and results have informed this request for clearance for the full-scale study. For this full-scale study NCES will publish a notice in the **Federal Register** allowing an additional 30-day public comment period on the final details of the BPS:20/22 full-scale study.

Dated: December 9, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–27084 Filed 12–14–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

TIME AND DATE: December 16, 2021, 10:00 a.m.

PLACE: Open to the public via audio Webcast only. Join FERC online to listen live at *http://ferc.capitolconnection.org/*.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at *https://elibrary.ferc.gov/eLibrary/search* using the eLibrary link.

1085TH MEETING—OPEN MEETING

[December 16, 2021, 10:00 a.m.]

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD22–1–000	Agency Administrative Matters.
A–2	AD22–2–000	Customer Matters, Reliability, Security and Market Operations.
	ELECTRIC	
E–1	RM20–16–000	Managing Transmission Line Ratings.

1085TH MEETING—OPEN MEETING—Continued

[December 16, 2021, 10:00 a.m.]

Item No.	Docket No.	Company
E–2	RM22–5–000	Rate Recovery, Reporting, and Accounting Treatment of Industry Association Dues and Certain Civic, Political, and Related Expenses.
E–3	EL21–77–000	*Tenaska Clear Creek Wind, LLC* v. *Southwest Power Pool, Inc.*
E–4	ER21–1225–003	Long Ridge Energy Generation LLC.
E–5	Omitted.	
E–6	ER21–2965–000, ER21–2965–001	PJM Interconnection, L.L.C., Atlantic City Electric Company, Delmarva Power & Light Company, and PECO Energy Company.
E–7	ER21–1635–002	PJM Interconnection, L.L.C.
E–8	QF21–1213–000	Gallatin Power Partners, LLC.
E–9	ER21–142–000	System Energy Resources, Inc.
E–10	ER22–187–000	Smoky Mountain Transmission LLC.
E–11	ER10–2564–011	Tucson Electric Power Company.
	ER10–2600–011	UNS Electric, Inc.
	ER10–2289–011	UniSource Energy Development Company.
	EL22–5–000	Tucson Electric Power Company.
E–12	Omitted.	
E–13	ER21–1772–001	PacifiCorp.
	ER21–1774–001	Sierra Pacific Power Company.
	ER21–1775–001	Nevada Power Company.
E–14	ER21–2676–000	Southwest Power Pool, Inc.
	ER21–2677–000 (not consolidated)	Midcontinent Independent System Operator, Inc.
	EL17–89–000	*American Electric Power Service Corporation* v. *Midcontinent Independent System Operator, Inc. and Southwest Power Pool, Inc.*
	EL19–60–000 (consolidated)	*City of Prescott, Arkansas* v. *Southwestern Electric Power Company and Midcontinent Independent System Operator, Inc.*
E–15	ER20–2471–003	NedPower Mount Storm, LLC.
E–16	EL21–100–000	*Nebraska Public Power District* v. *Tri-State Generation and Transmission Association, Inc., and Southwest Power Pool, Inc.*
E–17	EL21–60–000	Arcadia Solar, LLC and WGL Georgia Project Group, LLC.
	QF21–480–001	Arcadia Solar, LLC.
	QF21–481–001, QF21–482–001, QF21–483–001.	WGL Georgia Project Group, LLC.
GAS		
G–1	IN17–4–000	Rover Pipeline LLC and Energy Transfer Partners, L.P.
HYDRO		
H–1	RM20–9–000	Safety of Water Power Projects and Project Works.
H–2	P–2042–191	Public Utility District No. 1 of Pend Oreille County, Washington.
H–3	P–2411–029	City of Danville, STS Hydropower, LLC, and Eagle Creek Schoolfield, LLC.
H–4	P–2570–033	AEP Generation Resources Inc. and Eagle Creek Racine Hydro, LLC.
H–5	P–2088–083	South Feather Water and Power Agency.
H–6	P–943–134	Public Utility District No. 1 of Chelan County, Washington.
Certificates		
C–1	CP17–458–010	Midship Pipeline Company, LLC.
C–2	CP17–458–011	Midship Pipeline Company, LLC.
C–3	CP17–458–012	Midship Pipeline Company, LLC.
C–4	CP15–558–000, CP19–78–000, CP20–47–000.	PennEast Pipeline Company, LLC.
C–5	CP17–494–004	Pacific Connector Gas Pipeline, LP.
	CP17–495–004	Jordan Cove Energy Project L.P.

The public is invited to listen to the meeting live at *http://ferc.capitolconnection.org/.* Anyone with internet access who desires to hear this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its audio webcast. The Capitol Connection provides technical support for this free audio webcast. It will also offer access to this event via phone bridge for a fee. If you have any questions, visit *http://ferc.capitolconnection.org/* or contact Shirley Al-Jarani at 703–993–3104.

Issued: December 9, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–27156 Filed 12–13–21; 4:15 pm]

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: ER21–1115–004.

Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: Compliance filing: Duke Energy Carolinas, LLC submits tariff filing per 35: DEP–DEC—Compliance Filing—SEEMS to be effective 12/31/9998.
Filed Date: 12/8/21.
Accession Number: 20211208–5177.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER21–1128–004.
Applicants: Dominion Energy South Carolina, Inc.
Description: Compliance filing: Attachment P Compliance Filing to be effective 12/31/9998.
Filed Date: 12/8/21.
Accession Number: 20211208–5054.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER21–1650–001.
Applicants: ISO New England Inc., NSTAR Electric Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: NSTAR, Docket No. ER21–1650 Amended Order No. 864 Compliance Filing to be effective 1/1/2020.
Filed Date: 12/8/21.
Accession Number: 20211208–5142.
Comment Date: 5 p.m. ET 12/20/21.

Docket Numbers: ER21–1654–001.
Applicants: ISO New England Inc., The Connecticut Light and Power Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: CL&P; Docket No. ER21–1654 Amended Order No. 864 Compliance Filing to be effective 1/1/2020.
Filed Date: 12/8/21.
Accession Number: 20211208–5155.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–565–000.
Applicants: Allegheny Electric Cooperative, Inc.
Description: Request of Allegheny Electric Cooperative, Inc. for Waiver.
Filed Date: 12/2/21.
Accession Number: 20211202–5277.
Comment Date: 5 p.m. ET 12/13/21.

Docket Numbers: ER22–576–000.
Applicants: NextEra Energy Transmission Southwest, LLC.
Description: Application for Authorization for Abandoned Plant Incentive Rate Treatment of NextEra Energy Transmission Southwest, LLC.
Filed Date: 12/6/21.
Accession Number: 20211206–5258.
Comment Date: 5 p.m. ET 12/27/21.

Docket Numbers: ER22–577–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3856, 3857, 3858 East River Power Coop Sponsored Upgrade Agreements to be effective 11/23/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5059.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–578–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA/CSA Nos. 4810 & 4811; Queue No. AA2–103 to be effective 9/27/2017.
Filed Date: 12/8/21.
Accession Number: 20211208–5064.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–579–000.
Applicants: Verso Luke LLC.
Description: Tariff Amendment: Verso Luke LLC Cancellation of MBR Tariff Filing to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5067.
Comment Date: 5 p.m. ET 12/22/21.

Docket Numbers: ER22–580–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Rate Schedule No. 69 to be effective 2/7/2022.
Filed Date: 12/8/21.
Accession Number: 20211208–5075.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–581–000.
Applicants: Midcontinent Independent System Operator, Inc., Great River Energy.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2021–12–08_SA 3756 GRE–OTP Detroit Lakes to Frazee T–T to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5077.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–582–000.
Applicants: Basin Creek Equity Partners, L.L.C.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5132.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–583–000.
Applicants: Bayswater Peaking Facility, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5133.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–584–000.
Applicants: Forked River Power LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5136.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–585–000.
Applicants: Jamaica Bay Peaking Facility, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5143.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–586–000.
Applicants: MPH Rockaway Peakers, LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5145.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–587–000.
Applicants: Pittsfield Generating Company, L.P.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5146.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–588–000.
Applicants: Waterbury Generation LLC.
Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5150.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–589–000.
Applicants: PacifiCorp.
Description: Tariff Amendment: Termination of BPA Agmt to Replace BPA CB 1L1 at Malin to be effective 2/28/2022.
Filed Date: 12/8/21.
Accession Number: 20211208–5159.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–590–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2021–12–08_SA 3758 Ameren Illinois-Moraine Sands Wind Power E&P (J1453) to be effective 11/24/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5183.
Comment Date: 5 p.m. ET 12/29/21.

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: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27064 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–508–000]

Indra Power Business IL LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request or Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Indra Power Business IL 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 December 28, 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: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27062 Filed 12–14–21; 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: ER10–1355–011.
Applicants: Southern California Edison Company.
Description: Triennial Market Power Analysis for Southwest Region of Southern California Edison Company.
Filed Date: 12/6/21.
Accession Number: 20211206–5259.
Comment Date: 5 p.m. ET 2/4/22.

Docket Numbers: ER18–2497–010.
Applicants: Lawrenceburg Power, LLC.
Description: Refund Report: Lawrenceburg Power, LLC Refund Report Informational Filing to be effective N/A.
Filed Date: 12/9/21.
Accession Number: 20211209–5133.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER20–1214–001.
Applicants: CHPE, LLC.
Description: CHPE LLC Open Solicitation Compliance Filing as required by FERC's May 29, 2020 order.
Filed Date: 12/9/21.
Accession Number: 20211209–5128.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER21–673–003.
Applicants: PA Solar Park II, LLC.
Description: ALJ Settlement: Errata to Interim Rate Filing to be effective 9/1/2021.
Filed Date: 11/4/21.
Accession Number: 20211104–5116.
Comment Date: 5 p.m. ET 12/15/21.

Docket Numbers: ER22–529–001.
Applicants: 299F2M WHAM8 SOLAR, LLC.
Description: Tariff Amendment: Corrected Tariff Record to be effective 12/3/2021.
Filed Date: 12/9/21.
Accession Number: 20211209–5161.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–539–000.
Applicants: EF Kenilworth LLC.
Description: Request to Approve Letter Agreement of EF Kenilworth LLC.
Filed Date: 11/26/21.
Accession Number: 20211126–5116.
Comment Date: 5 p.m. ET 12/17/21.

Docket Numbers: ER22–591–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2021–12–08 PSC–USSC-Info Study-676–0.0.0 to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5197.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–592–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2021–12–08 PSC–USSC-Info Study-677–0.0.0 to be effective 12/9/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5198.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–593–000.
Applicants: Assembly Solar I, LLC.
Description: § 205(d) Rate Filing: Service Agreement normal filing to be effective 12/8/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5199.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–594–000.
Applicants: Assembly Solar II, LLC.
Description: § 205(d) Rate Filing: Service Agreement normal filing to be effective 12/8/2021.

Filed Date: 12/8/21.
Accession Number: 20211208–5201.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–595–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6254; Queue No. AD2–135 to be effective 11/23/2021.
Filed Date: 12/8/21.
Accession Number: 20211208–5202.
Comment Date: 5 p.m. ET 12/29/21.

Docket Numbers: ER22–596–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2855R7 KMEA and Evergy Metro Meter Agent Agreement to be effective 12/1/2021.
Filed Date: 12/9/21.
Accession Number: 20211209–5030.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–597–000.
Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2021–12–09_SA 3126/3127 Termination of ATC–WEPCo PCAs_Juneautown to be effective 2/8/2022.
Filed Date: 12/9/21.
Accession Number: 20211209–5056.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–598–000.
Applicants: Arizona Public Service Company.
Description: Tariff Amendment: Service Agreement No. 380—Notice of Cancellation to be effective 2/8/2022.
Filed Date: 12/9/21.
Accession Number: 20211209–5064.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–599–000.
Applicants: The Connecticut Light and Power Company.
Description: Tariff Amendment: Cancellation of NRG Preliminary Design and Engineering Agreement to be effective 12/31/2021.
Filed Date: 12/9/21.
Accession Number: 20211209–5074.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–600–000.
Applicants: American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, PJM Interconnection, L.L.C.
Description: Compliance filing: American Electric Power Service Corporation submits tariff filing per 35: AEP submits PBOP informational filing per OATT Att. H–14B Pt II, Worksheet O to be effective N/A.
Filed Date: 12/9/21.
Accession Number: 20211209–5076.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–601–000.
Applicants: Midcontinent Independent System Operator, Inc., Great River Energy.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2021–12–09_SA 3759 GRE–OTP T–T (Schuster Lake to Frazee) to be effective 12/10/2021.
Filed Date: 12/9/21.
Accession Number: 20211209–5124.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–602–000.
Applicants: Northern Indiana Public Service Company LLC.
Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 1/3/2022.
Filed Date: 12/9/21.
Accession Number: 20211209–5146.
Comment Date: 5 p.m. ET 12/30/21.

Docket Numbers: ER22–603–000.
Applicants: Northern Indiana Public Service Company LLC.
Description: § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 1/3/2022.
Filed Date: 12/9/21.
Accession Number: 20211209–5157.
Comment Date: 5 p.m. ET 12/30/21.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27159 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–397–000.
Applicants: Bear Creek Storage Company, L.L.C.
Description: Compliance filing: Annual Fuel Summary 2021 to be effective N/A.
Filed Date: 12/9/21.
Accession Number: 20211209–5027.
Comment Date: 5 p.m. ET 12/21/21.

Docket Numbers: RP22–398–000.
Applicants: SG Resources Mississippi, L.L.C.
Description: § 4(d) Rate Filing: SG Resources Mississippi, L.L.C. Housekeeping Tariff Modifications to be effective 1/10/2022.
Filed Date: 12/9/21.
Accession Number: 20211209–5109.
Comment Date: 5 p.m. ET 12/21/21.

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.

Filings in Existing Proceedings

Docket Numbers: RP20–1241–002.
Applicants: Dominion Energy Cove Point LNG, LP.
Description: Compliance filing: Cove Point LNG, LP submits tariff filing per 154.203: Cove Point—PVIC Compliance Filing to be effective 12/3/2020.
Filed Date: 12/9/21.
Accession Number: 20211209–5029.
Comment Date: 5 p.m. ET 12/16/21.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27154 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2570–034]

AEP Generation Resources Inc.; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2570–034.

c. *Date Filed:* November 30, 2021.

d. *Applicant:* AEP Generation Resources Inc. (AEP Generation Resources).

e. *Name of Project:* Racine Hydroelectric Project (Racine Project).

f. *Location:* The Racine Project is located at the U.S. Army Corps of Engineers' (Corps) Racine Locks and Dam on the Ohio River near the Town of Racine in Meigs County, Ohio. The project occupies 23 acres of federal land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Jonathan Magalski, Environmental Supervisor (Renewables), c/o American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215; (614) 716–2240, *jmmagalski@aep.com* or Elizabeth Parcell, Process Supervisor, American Electric Power Service Corporation, c/o AEP Generation Resources, Inc., 40 Franklin Road SW, Roanoke, VA 24011, (540) 985–2441.

i. *FERC Contact:* Jay Summers at (202) 502–8764 or email at *jay.summers@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. *The Racine Project would use the Corps' existing Racine Locks and Dam and consist of the following existing facilities:* (1) Four 21.75-foot-wide by 60-foot-high intake openings equipped with steel trashracks having a clear bar spacing of 5.5 inches; (2) a reinforced concrete powerhouse located on the east end of the dam containing two horizontal bulb generating units, with a combined capacity of 47.5 megawatts; (3) a 155-foot-long, non-overflow section of sheet pile cells located between the powerhouse and the right abutment; (4) a stand-alone functional replacement dam located upstream of the sheet pile cells that consists of a drilled shaft supported concrete dam with a drilled secant pile seepage control; (5) a 475-foot-long transmission line; and (6) appurtenant facilities.

The Racine Project is currently operated in a run-of-release mode using surplus water from the Corps' Racine Locks and Dam, as directed by the Corps, and has an estimated average annual energy production of 90,364 megawatt-hours. AEP Generation Resources does not propose any new construction and proposes to continue operating the project in a run-of-release mode.

l. *Locations of the Application:* In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested individuals an opportunity to view and/or print the contents of this document and the full license application via the internet through the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access these documents. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary)	December 2021.
Request Additional Information	January 2022.
Notice of Acceptance/Notice of Ready for Environmental Analysis	May 2022.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27060 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2368–000]

Algonquin Northern Maine Generating Company; Notice of Authorization for Continued Project Operation

On December 3, 2019, Algonquin Northern Maine Generating Company, licensee for the Scopan Hydroelectric Project No. 2368, filed an application for a Subsequent License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Scopan Hydroelectric Project is located on Scopan Stream in Aroostook County, Maine.

The license for Project No.2368 was issued for a period ending December 3, 2021. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C.

558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2368 is issued to Algonquin Northern Maine Generating Company for a period effective December 4, 2021 through December 3, 2022, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before December 3, 2022, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Algonquin Northern Maine Generating Company, is authorized to continue operation of the Scopan Hydroelectric Project, until such time as the Commission takes final action on the application for a subsequent license.

Dated: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27152 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1988–097]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for Temporary Variance of Minimum Flow Requirement.

b. *Project No:* 1988–097.

c. *Date Filed:* December 2, 2021.

d. *Applicant:* Pacific Gas and Electric Company (licensee).

e. *Name of Project:* Haas-Kings River Project.

f. *Location:* The project is located on the North Fork Kings River in Fresno County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Erin Wick, License Coordinator, Pacific Gas and Electric Company, (559) 203–4310.

i. *FERC Contact:* John Aedo, (415) 369–3335, *john.aedo@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* January 10, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–1988–097. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests a temporary variance of its supplemental flow requirement in Dinkey Creek below the Dinkey Creek siphon. Specifically, the licensee proposes to forego releasing the required 15 cubic feet per second (cfs) supplemental flow through January 24, 2022. The licensee explains that the variance is necessary as a result of planned powerhouse outages, which limit its ability to move water through the Kings penstock into Dinkey Creek. The licensee also explains that the proposed variance is unlikely to result in adverse effects to biological resources due to the approximate 15 cfs natural flows in Dinkey Creek and 25 cfs natural flows further downstream in the North Fork Kings River and cooler water temperatures during the winter months.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments,

motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27153 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2639–028]

Northern States Power Company—Wisconsin; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2639–028.

c. *Date filed:* November 30, 2021.

d. *Applicant:* Northern States Power Company—Wisconsin.

e. *Name of Project:* Cornell Hydroelectric Project.

f. *Location:* On the Lower Chippewa River, in the township of Cornell, Chippewa County, Wisconsin. The project does not include any federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Matthew Miller, Hydro License Compliance Consultant, Xcel Energy, 1414 W Hamilton Ave., P.O. Box 8, Eau Claire, WI 54702; phone: 715–737–1353; email: *Matthew.j.miller@xcelenergy.com* or James Zyduck, Director Hydro Plants, Xcel Energy, 1414 W Hamilton Ave., P.O. Box 8, Eau Claire, WI 54702.

i. *FERC Contact:* Michael Davis (202) 502–8339, *Michael.Davis@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* January 29, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* 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, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2639–028.

m. The application is not ready for environmental analysis at this time.

n. The Cornell Hydroelectric Project consists of the following existing facilities: (1) A non-overflow concrete bulkhead with intake; (2) a powerhouse with an integral intake, four turbine-generator units; (3) two gated spillways; (4) a concrete non-overflow dam section; (5) an overflow spillway with flashboards; (5) an earthen embankment; (6) a step-up transformer; and (7) a transmission line. The project has a storage capacity of 7,005 acre-feet at reservoir elevation of 1000.6 feet National Geodetic Vertical Datum with a surface area of about 897 acres. The project has a combined total rated capacity of 30.75 megawatts.

o. A copy of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. 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 Online Support.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary) January 2022

Request Additional Information (if necessary) January 2022

Issue Scoping Document 1 for comments June 2022

Issue Scoping Document 2 (if necessary) October 2022

Issue Notice of Ready for Environmental Analysis October 2022

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27063 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD20–11–000]

Extension of Non-Statutory Deadlines; Supplemental Notice Waiving Regulations

On May 8, 2020, in response to emergency conditions caused by Novel Coronavirus Disease (COVID–19), the Secretary first waived the Commission's regulations that require that filings with the Commission be notarized or supported by sworn declarations.[1] On July 26, 2021, the Secretary extended this waiver through January 1, 2022.[2]

Although the National Emergency continues,[3] many companies and

[1] *See, e.g.,* 18 CFR 45.7 (2020) (requiring application for authority to hold interlocking positions to be verified under oath).

[2] Supplemental Notice Waiving Regulations, *Extension of Non-Statutory Deadlines,* Docket No. AD20–11–000 (July 26, 2021) (July 2021 Notice).

[3] A Letter on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic (Feb. 24, 2021), *https://*

individuals have continued to return to their workplaces since issuance of the July 2021 Notice, and we anticipate more will do so in the coming months. At this time, there is thus good cause to extend through and including March 31, 2022, waiver of the Commission's regulations that require that filings with the Commission be notarized or supported by sworn declarations as provided in the July 2021 Notice. However, given the above factors, the Commission does not anticipate issuing any further blanket extensions discussed herein after March 31, 2022, but is closely monitoring developments and will make that decision in light of conditions near the end of this extension.[4] The Secretary provides this notice so that entities may plan accordingly.

The Commission recognizes that there could be certain circumstances that may warrant entity-specific waivers of these obligations after March 31, 2022. This notice reminds entities that if they believe that specific circumstances warrant continued relief from the requirements addressed herein after March 31, 2022, they may request a case-specific waiver. Such requests will be addressed at that time.

Dated: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27066 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

www.whitehouse.gov/briefing-room/statements-releases/2021/02/24/a-letter-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/.

[4] The Commission concurrently is issuing an order in Docket No. EL20–37–000 granting blanket waiver of requirements to hold meetings in person and/or to provide or obtain notarized documents in open access transmission tariffs and other Commission-jurisdictional agreements through and including March 31, 2022. *Temporary Action to Facilitate Social Distancing,* 177 FERC ¶ 61,174 (2021).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12766–000]

Green Mountain Power Corporation; Notice of Authorization for Continued Project Operation

On November 22, 2019, Green Mountain Power Corporation, licensee for the Clay Hill Road Line 66 Transmission Project No.12766, filed an Application for a New License for the project pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Clay Hill Road Line 66 Transmission Line Project is located along Clay Hill Road in Windsor County, Vermont.

The license for Project No. 12766 was issued for a period ending November 30, 2021. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 12766 is issued to Green Mountain Power Corporation, for a period effective December 1, 2021 through November 30, 2022, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before November 30, 2022, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Green Mountain Power Corporation is authorized to continue operation of the Clay Hill Road Line 66 Transmission Line Project, until such time as the Commission acts on its application for a new major license.

Dated: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27150 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–395–000.

Applicants: East Cheyenne Gas Storage, LLC.

Description: § 4(d) Rate Filing: East Cheyenne Tariff Filing to be effective 1/6/2022.

Filed Date: 12/7/21.

Accession Number: 20211207–5062.

Comment Date: 5 p.m. ET 12/20/21.

Docket Numbers: RP22–396–000.

Applicants: Sea Robin Pipeline Company, LLC.

Description: Compliance filing: Annual Flowthrough Crediting Mechanism Filing on 12/8/21 to be effective N/A.

Filed Date: 12/8/21.

Accession Number: 20211208–5051.

Comment Date: 5 p.m. ET 12/20/21.

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. The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27065 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5261–023]

Green Mountain Power Corporation; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 5261–023.

c. *Date Filed:* August 27, 2021.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Newbury Hydroelectric Project.

f. *Location:* On the Wells River, in the town of Newbury, Orange County, Vermont. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* John Greenan, Green Mountain Power Corporation, 2152 Post Road, Rutland, VT 05701; Phone at (802) 770–2195, or email at *John.Greenan@greenmountainpower.com*.

i. *FERC Contact:* Adam Peer at (202) 502–8449, or *adam.peer@ferc.gov*.

j. *Deadline for filing scoping comments:* January 7, 2022.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Newbury Hydroelectric Project (P–5261–023).

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 on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The application is not ready for environmental analysis at this time.

l. *The Newbury Project consists of:* (1) An 11.4-acre impoundment at a normal water surface elevation of 463.9 feet mean sea level; (2) a 26-foot-high by 90-foot-long concrete gravity dam that includes a 73.3-foot-long spillway topped with 5-foot-high pneumatic crest gates; (3) a seasonally installed, 8-foot-long by 4-foot-wide steel sluice box on the south side of the spillway to provide downstream fish passage; (4) an 11.2-foot-wide, 9-foot-long intake structure that includes trash racks with 1-inch clear bar spacing, connected to a 5-foot-diameter, 435-foot-long underground steel penstock; (5) a powerhouse area containing a single 315-kilowatt turbine-generator unit; (6) a second 50-kilowatt turbine-generator unit located outside of the powerhouse area approximately 75-feet downstream of the dam along the bypassed reach; (7) a 125-foot-long tailrace; (8) three 150-foot-long generator leads that create a 480 Volt, 3 phase 150-foot-long underground transmission line connected to three pole mounted 167 kilovolt-ampere step-up transformers; and (9) appurtenant facilities. The project creates a 590-foot-long bypassed reach of the Wells River.

The current license requires Green Mountain Power Corporation to: (1) Operate the project in run-of-river mode; (2) release a continuous bypassed reach minimum flow of 50 cubic feet per second (cfs) from April 15 to June 10 and 25 cfs during the remainder of the year; and (3) release a year-round, continuous aesthetic flow of 5 cfs over the dam. The average annual generation of the project is approximately 882 megawatt-hours.

Green Mountain Power Corporation proposes to: (1) Continue operating the project in run-of-river mode; (2) release new bypassed reach minimum flows of 35 cfs from May 15 to October 15 and 30 cfs from October 16 to May 14; (3) release an aesthetic flow of 10 cfs over the dam from May 15 to October 15 during daytime hours and no aesthetic flow the remainder of the year; and (4) construct a hand-carry access area at the head of the project impoundment for recreational boaters.

m. 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 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. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

n. You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process

Commission staff will prepare either an environmental assessment (EA) or an Environmental Impact Statement (EIS) that describes and evaluates the probable effects, if any, of the licensee's proposed action and alternatives. The EA or EIS will consider environmental impacts and reasonable alternatives to the proposed action. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission prepares an EA or an EIS. At this time, we do not anticipate holding on-site scoping meetings. Instead, we are soliciting written comments and suggestions on the preliminary list of issues and alternatives to be addressed in the NEPA document, as described in scoping document 1 (SD1), issued December 8, 2021.

Copies of the SD1 outlining the subject areas to be addressed in the NEPA document were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27067 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2997–032]

South Sutter Water District; Notice of Application for Approval of Contract for the Sale of Power Under Section 22 of the Federal Power Act

Take notice that on December 3, 2021, South Sutter Water District (SSWD), filed with the Commission an application for approval of a contract for the sale of power from its licensed Camp Far West Hydroelectric Project No. 2997 (the ''Camp Far West Project'') for a period beyond the expiration of its existing license for the project. The project is located on the Bear River in Nevada, Yuba and Placer counties, California.

Section 22 of the Federal Power Act, 16 U.S.C. 815, provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service commission or other similar authority in the state in which the sale or delivery of power is made.

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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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–2997–032.

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–2997) in the docket number field to access the document. For assistance, contact FERC Online Support.

Comment/Intervention Deadline: 5:00 p.m. Eastern Time on January 7, 2022.

Dated: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27068 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10853–000]

Otter Tail Power Company; Notice of Authorization for Continued Project Operation

On November 27, 2019, Otter Tail Power Company, licensee for the Otter Tail River Hydroelectric Project No. 10853, filed an Application for a New Major License for Otter Tail River Hydroelectric Project pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Otter Tail River Hydroelectric Project consists of five developments on the Otter Tail River that starts in the Township of Friberg, Minnesota and extends downstream (south) of the City of Fergus Falls, Minnesota.

The license for Project No. 10853 was issued for a period ending November 30, 2021. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 10853 is issued to Otter Tail Power Company, for a period effective December 1, 2021 through November 30, 2022 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before November 30, 2022, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Otter Tail Power Company, is authorized to continue operation of the Otter Tail River Hydroelectric Project, until such time as the Commission acts on its application for a new major license.

Dated: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27155 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2816–0000]

North Hartland, LLC; Notice of Authorization for Continued Project Operation

On November 26, 2019, North Hartland, LLC, licensee for the North Hartland Hydroelectric Project No. 2816, filed an Application for a New Major License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The North Hartland Hydroelectric Project is located on the Ottauquechee River in Windsor County, Vermont.

The license for Project No. 2816 was issued for a period ending November 30,

2021. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2816 is issued to North Hartland, LLC for a period effective December 1, 2021 through November 30, 2022, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before November 30, 2022, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that North Hartland, LLC is authorized to continue operation of the North Hartland Hydroelectric Project, until such time as the Commission acts on its application for a new major license.

Dated: December 9, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27151 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2284–048]

Brookfield White Pine Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No:* 2284–048.

c. *Date Filed:* November 16, 2021.

d. *Applicant:* Brookfield White Pine Hydro, LLC.

e. *Name of Project:* Brunswick Hydroelectric Project.

f. *Location:* Androscoggin River in Sagadahoc and Cumberland counties, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Kelly Maloney, (207) 755–5606, *kelly.maloney@brookfieldrenewable.com.*

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* January 7, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2284–048. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* Brookfield White Pine Hydro, LLC proposes to convey an easement to the Maine Department of Transportation (DOT) to facilitate replacement of the Frank J. Wood bridge located downstream of the Brunswick Dam. The bridge replacement work would not result in any changes to project structures or operations but would require placement of bridge piers within the project boundary. In cooperation with the Federal Highway Administration, the DOT completed its final environmental assessment of the bridge replacement work in April 2019, which found that the work would result in no significant impact to the environment.

l. *Locations of the Application:* 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 document field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3673 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, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant

and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: December 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–27061 Filed 12–14–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0439; EPA–HQ–OW–2011–0442; EPA–HQ–OW–2011–0443; FRL 9129–01–OW]

Proposed Information Collection Requests; Comment Request: Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules, Microbial Rules, and Public Water System Supervision Program Renewal Information Collection Requests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is planning to submit the following information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) for the: Microbial Rules ICR, OMB Control No. 2040–0205; the Public Water System Supervision (PWSS) Program ICR, OMB Control No. 2040–0090; and the Disinfectants/Disinfection Byproducts, Chemical and Radionuclides (DBPCR) Rules, OMB Control No. 2040–0204. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described in this document. This is a proposed extension of the Microbial ICR, which is currently approved through July 31, 2022; the PWSS Program ICR and the DBPCR ICR, which are both currently approved through March 31, 2023. These rules are designed to ensure that Americans receive safe drinking water and ensure fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income. 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 February 14, 2022.

ADDRESSES: Submit your comments, referencing the Docket ID numbers EPA–HQ–OW–2011–0439 for the DBPCR ICR; EPA–HQ–OW–2011–0442 for the Microbial Rules ICR; EPA–HQ–OW–2011–0443 for the PWSS Program ICR online using *https://www.regulations.gov* (our preferred method), by email *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The 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: Kevin Roland, Drinking Water Protection Division, Office of Ground Water and Drinking Water, (4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–4588: fax number: 202–564–3755; email address: *roland.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public dockets for these ICRs (see the **ADDRESSES** section of this document for Docket ID numbers for each ICR). The dockets can be viewed online at *https://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 the EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the 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. The EPA will consider the comments received and amend the ICRs as appropriate. The final ICR packages will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICRs to OMB and the opportunity to submit additional comments to OMB. To support the data collection and program implementation in the rules and activities listed below, EPA is currently modernizing the Safe Drinking Water Information System (SDWIS). EPA is designing the modernized SDWIS in coordination with state drinking water and information technology programs, which will house monitoring data and other compliance information in a system centrally hosted by EPA and accessed by participating state primacy programs. This central data system can facilitate the transfer of additional data between states and EPA where needed to improve program oversight to protect public health. EPA will continue to work with its primacy partners on SDWIS modernization.

Microbial Rules (EPA ICR No. 1895.10, Docket No. EPA–HQ–OW–2011–0442)

Abstract: The Microbial Rules ICR examines public water system and primacy agency burden and costs for recordkeeping and reporting requirements in support of the microbial drinking water regulations. These recordkeeping and reporting requirements are mandatory for compliance with 40 CFR parts 141 and 142. The following microbial regulations are included: The Surface Water Treatment Rule (SWTR), the Total Coliform Rule (TCR), the Revised Total Coliform Rule (RTCR), the Interim Enhanced Surface Water Treatment Rule (IESWTR), the Filter Backwash Recycling Rule (FBRR), the Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), the Ground Water Rule (GWR), and the Aircraft Drinking Water Rule (ADWR). Future microbial-related rulemakings will be added to this consolidated ICR after the regulations are promulgated and the initial, rule-specific, ICRs are due to expire.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are public water systems and primacy agencies.

Respondent's obligation to respond: Mandatory for compliance with 40 CFR parts 141 and 142.

Estimated number of respondents: 146,808 (total).

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually, and annually).

Total estimated burden: 18,127,581 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $972,102,000 (per year), includes $228,972,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no estimated increase or decrease of hours in the total estimated respondent burden compared to what was identified in the ICR currently approved by OMB.

Public Water System Supervision Program (EPA ICR No. 0270.47, EPA–HQ–OW–2011–0443)

Abstract: The Public Water System Supervision (PWSS) Program ICR examines public water systems, primacy agencies (*i.e.,* states and tribes with primary enforcement authority) and tribal operator certification provider burden, and costs for ''cross-cutting'' recordkeeping and reporting requirements (*i.e.,* the burden and costs for complying with drinking water information requirements that are not associated with contaminant-specific rulemakings). EPA intends to collect information and data as part of the agency's oversight of state primacy programs and national SDWA implementation. The following activities have recordkeeping and reporting requirements that are mandatory for compliance with the Code of Federal Regulations (CFR) at 40 CFR parts 141 and 142: The Consumer Confidence Report Rule (CCR), the Variance and Exemption Rule (V/E Rule), General State Primacy Activities, the Public Notification Rule (PN), and Proficiency Testing Studies for Drinking Water Laboratories. The information collection activities for both the Operator Certification and the Capacity Development Program are driven by the grant withholding and reporting provisions under sections 1419 and 1420, respectively, of the Safe Drinking Water Act. The information collection for the Tribal Operator Certification Program is driven by grant eligibility requirements outlined in the Drinking Water Infrastructure Grant Tribal Set-Aside Program Final Guidelines and the Tribal Drinking Water Operator Certification Program Guidelines.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are new and existing public water systems and primacy agencies.

Respondent's obligation to respond: Mandatory for compliance with 40 CFR parts 141 and 142.

Estimated number of respondents: 148,674 (total).

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually and annually).

Total estimated burden: 3,643,372 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $192,654,000 (per year), includes $38,121,000 in operation and maintenance costs.

Changes in Estimates: There is an expected decrease of hours in the total estimated respondent burden compared to what was identified in the ICR currently approved by OMB, due to use of centralized software for data entry and rule compliance calculations. The updated, estimated burden will be incorporated into a revised supporting statement (which will be available in the docket) and in a second **Federal Register** notice (for public comment) at a later date, to be determined, before the ICR package is sent to OMB for approval.

The Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules (EPA ICR No. 1896.11, EPA–HQ–OW–2011–0439)

Abstract: The Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rules ICR examines public water system and primacy agency burden and costs for recordkeeping and reporting requirements in support of the Disinfectants/Disinfection Byproducts, Chemical and Radionuclides Rules. These recordkeeping and reporting requirements are mandatory for compliance with 40 CFR parts 141 and 142. The following regulations are included: The Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR), the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR), the Chemical Phase Rules (Phases II/IIB/V), the Radionuclides Rule, Disinfectant Residual Monitoring and Associated Activities under the Surface Water Treatment Rule (SWTR),[1] the Arsenic Rule and the Lead and Copper Rule (LCR), including the Lead and Copper Rule Short Term Revisions.

Future microbial-related rulemakings will be added to this consolidated ICR after the regulations are promulgated and the initial, rule-specific, ICRs are due to expire.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are public water systems and primacy agencies.

Respondent's obligation to respond: Mandatory for compliance with 40 CFR parts 141 and 142.

Estimated number of respondents: 146,772 (total).

Frequency of response: Varies by requirement (*i.e.,* on occasion, monthly, quarterly, semi-annually, and annually).

Total estimated burden: 5,161,356 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $455,885,000 (per year), which includes $252,952,000 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no estimated increase or decrease of hours in the total estimated respondent burden compared to what was identified in the ICR currently approved by OMB.

Jennifer L. McLain,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2021–27097 Filed 12–14–21; 8:45 am]

BILLING CODE 6560–50–P

[1] Includes only SWTR components relating to disinfectant residual monitoring and associated activities. All remaining SWTR requirements are included in the Microbial Rules ICR.

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee of State Regulators; Notice of Charter Renewal

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of renewal.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (FACA), and after consultation with the General Services Administration, the Chairman of the Federal Deposit Insurance Corporation has determined that renewal of the FDIC Advisory Committee of State Regulators (Committee) is in the public interest in connection with the performance of duties imposed upon the FDIC by law. The Committee has been a successful undertaking by the FDIC and has provided valuable feedback to the agency on a broad range of policy regarding the regulation of state-chartered financial institutions throughout the United States. The Committee will continue to provide a

forum where state regulators and the FDIC can discuss a variety of current and emerging issues that have potential implications regarding the regulation and supervision of state-chartered financial institutions. The structure and responsibilities of the Committee are unchanged from when it was originally established in December 2019. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Debra A. Decker, Committee Management Officer of the FDIC, at (202) 898–8748.

Authority: 5 U.S.C. Appendix.

Dated: December 9, 2021.

Federal Deposit Insurance Corporation.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–27146 Filed 12–14–21; 8:45 am]

BILLING CODE 6714–01–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 January 14, 2022.

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. *Local Bancorp, Inc., Little Rock, Arkansas;* to become a bank holding company by acquiring Red Level Financial Corporation and its wholly owned subsidiary, The Peoples Bank of Red Level, both of Red Level, Alabama.

Board of Governors of the Federal Reserve System, December 10, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–27144 Filed 12–14–21; 8:45 am]

BILLING CODE 6210–01–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 December 30, 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. *Jeremy Francis Gilpin, South Lake Tahoe, California; Jeffrey Alan Smith and Thomas H. Greene, both of Atlanta, Georgia; Joy B. Smith, Cairo, Georgia; and Mark Burgessporter, Duluth, Georgia;* as a group acting in concert, to acquire voting shares of Community Bankshares, Inc., LaGrange, Georgia, and thereby indirectly acquire voting shares of Community Bank and Trust—West Georgia, LaGrange, Georgia, and Community Bank and Trust—Alabama, Union Springs, Alabama.

Board of Governors of the Federal Reserve System, December 10, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–27145 Filed 12–14–21; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–XXXX; Docket No. 2021–0001; Sequence No. 16]

Information Collection; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

AGENCY: General Services Administration.

ACTION: Notice; request for comment.

SUMMARY: The General Services Administration (GSA) as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a new proposed collection of information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on new collection proposed by the Agency.

DATES: *Submit comments on or before:* February 14, 2022.

ADDRESSES: Submit comments identified by Information Collection 3090–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), to: *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. 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 Information Collection 3090–XXXX, Improving Customer Experience (OMB Circular A–11, Section 280 Implementation), in all correspondence related to this collection. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Camille Tucker, U.S. General Services Administration, 1800 F Street NW, Washington, DC 20405, via phone at 202–603–2666, or email to *camille.tucker@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the PRA, (44 U.S.C. 3501–3520) Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, GSA is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veterans benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: Conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. GSA will limit its inquiries to data collections that solicit strictly voluntary opinions or responses.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

Method of Collection

GSA will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. GSA may also utilize observational techniques to collect this information.

Data

Form Number(s): None.
Type of Review: New.

B. Annual Reporting Burden

Affected Public: Collections will be 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. For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

Estimated Number of Respondents: 2,001,550.

Estimated Time per Response: Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 2 hours to participate in an interview.

Estimated Total Annual Burden Hours: 101,125.

Estimated Total Annual Cost to Public: $0.

C. Public Comments

GSA invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Beth Anne Killoran,
Deputy Chief Information Officer.

[FR Doc. 2021–27050 Filed 12–14–21; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0319; Docket No. 2021–0001; Sequence No. 11]

Submission for OMB Review; CDP Supply Chain Climate Change Information Request

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB), GSA will invite the public to comment on a renewal and extension concerning the CDP Supply Chain Climate Change Information Request.

DATES: GSA will consider all comments received by January 14, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Mr. Jed Ela, Sustainability Advisor, Office of Government-wide Policy, at *jed.ela@gsa.gov,* 202–854–8804.

SUPPLEMENTARY INFORMATION:

A. Purpose

The CDP Supply Chain Climate Change Information Request is an electronic questionnaire designed to collect information that is widely used by large private and public sector organizations to understand, assess, and mitigate potentially disruptive and costly supply chain risks, investment risks, and environmental impacts. The questionnaire is administered by CDP North America, Inc., a 501(c)(3) nonprofit organization (''CDP''). CDP administers the questionnaire annually on behalf of over 590 institutional investors, 200 major corporations, and several large governmental purchasing organizations in addition to GSA. CDP's most recent annual survey was directed to over 20,000 companies, with over 9,600 electing to respond.

Under previously approved information collection requests, GSA has directed CDP since 2017 to include several hundred major Federal contractors annually among its potential survey respondents. In accordance with 31 U.S. Code § 3512(c)(1)(b), GSA uses information received from these companies via CDP to inform and develop purchasing policies and contract requirements necessary to safeguard Federal assets against waste, loss, and misappropriation resulting from unmitigated exposure to supply chain energy market and environmental risks. GSA also uses the information in accordance with Executive Orders 13990, 14008, and 14030 to inform development of policies and programs to reduce climate risks and greenhouse gas emissions associated with federal procurement activities.

For example, GSA has used CDP information in recent years to perform critical market research in connection with multi-billion-dollar strategic contracting efforts. In one case, GSA determined that data center facilities used by potential network infrastructure providers could be at risk due to flooding, extreme heat, or lack of available cooling water sources, placing Federal client operations at risk. In another case, GSA used information from the CDP survey to research potential contractors' existing risk mitigation and greenhouse gas reduction practices and to design appropriate contract requirements to ensure that contractors assess and mitigate these risks and reduce greenhouse gases associated with their federal contract activities. In another case, GSA determined that energy savings practices available to potential information technology service providers could significantly lower their overhead costs and that this would likely reduce contract costs for GSA and other Federal agencies. GSA uses the information collected to research development of similar policies and programs and to verify contractor compliance with existing programs.

B. Annual Burden Hours

GSA expects to direct CDP to request voluntary survey responses from up to 500 large and medium-sized businesses per year. Estimates of response time per respondent vary greatly depending on whether each requested respondent (a) elects not to respond; (b) responds, but would have responded to CDP regardless of GSA's request (because the respondent was also requested to respond to CDP by other customer and/or investor stakeholders); or (c) responds to CDP because of GSA's request. Analysis of total response time is thus based on estimates for each of these categories.

(a) Requested respondents who elect not to respond. Based on historical CDP response rates and GSA's intended recipients, GSA estimates that 250 out of 500 annual requested respondents will be in this category. Hour burden for this category: 250 non-responses; time per respondent 0; total time 0.

(b) Respondents who would have responded to CDP regardless of GSA's request. These respondents will complete some or all of the collection instrument, but would have done so regardless of GSA's request. In addition, some of these respondents will answer a small number of additional questions (requiring a small fraction of their overall response time to CDP) based on GSA's request. In addition, all of these respondents will need to complete one additional question in order to direct CDP to share their responses with GSA. Based on historical CDP response rates and GSA's intended recipients, GSA estimates that 220 out of 500 annual requested respondents will be in this category. Hour burden for this category: 220 responses; average time per respondent 5 minutes; total burden 18 hours.

(c) Respondents who respond to CDP because of GSA's request. These respondents may need to invest significant time drafting their responses and gathering facts, including searching and compiling existing data sources such as utility bills, and completing and reviewing the collection instrument. Based on historical CDP response rates and GSA's intended recipients, GSA estimates that 30 out of 500 annual requested respondents will be in this category. Based on discussions with several dozen previous respondents to CDP's questionnaire, as well as public input received in response to a related information collection request notice (see 82 FR 3794), time burden for this collection is estimated to average 120 hours per response. Hour burden for this category: 30 responses; average time per respondent 120 hours; total burden 3600 hours.

Based on the individual category response times above, the total estimated response burden for all 500 requested respondents is summarized below.

Frequency: Annual.

Affected Public: Federal contractors.

Number of Respondents: 500.

Responses per Respondent: 1.

Total Annual Responses: 250.

Estimated Time per Respondent: 14.5.

Total Burden Hours: 3,618.

C. Public Comments

A 60-day notice published in the **Federal Register** at 86 FR 51889 on September 17, 2021. The one comment received requested that GSA provides detail on how it will summarize the responses CDP receives; and that a link to the CDP questionnaire is included in the Supporting Statement.

In response, the link to the scorecard summarizing CDP responses will be updated on *d2d.gsa.gov,* and the link to the questionnaire will be included in the supporting statement.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.*

Beth Anne Killoran,

Deputy Chief Information Officer.

[FR Doc. 2021–27048 Filed 12–14–21; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0346]

Jeffrey A. Styron: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Jeffrey A. Styron for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Styron was convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Styron was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of September 29, 2021 (30 days after receipt of the notice), Mr. Styron has not responded. Mr. Styron's failure to respond and request a hearing constitutes a waiver of Mr. Styron's right to a hearing concerning this matter.

DATES: This order is applicable December 15, 2021.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food. On March 9, 2021, Mr. Styron was convicted as defined in section 306(l)(1)(A) of the FD&C Act, in the U.S. District Court for the Eastern District of North Carolina, when the court accepted Mr. Styron's plea of guilty and entered judgment against him for the offense of Lacey Act False Labeling and Aiding and Abetting in violation of 16 U.S.C. 3372(d), 3372(d)(1), 3372(d)(2), 3373(d)(3)(A)(i), 3373(d)(3)(A)(ii), and 18 U.S.C. 2.

FDA's finding that the debarment is appropriate is based on the felony conviction referenced herein. The factual basis for this conviction is as follows: As contained in the Plea Agreement filed in his case on September 3, 2020, Mr. Styron admitted that he knowingly made or submitted and caused to be made or submitted a false record, account, label for, or identification of any fish or wildlife, as set forth in the Criminal Information. The Criminal Information, filed July 22, 2020, sets forth that Mr. Styron was an owner-operator of Garland Fulcher Seafood Company, Inc. (GFS) and the manager and supervisor of the company's facility in North Carolina. GFS was in the business of purchasing, processing, packaging, and selling seafood, including crabmeat. Beginning at least as early as January 2014 and continuing through December 2017, Mr. Styron and his company were unable to satisfy customer demand for domestically harvested blue crab. Mr. Styron caused the company to purchase foreign crabmeat from South America and Asia. Mr. Styron then directed his employees to repack foreign crabmeat into containers labeled ''Product of the USA,'' which was then sold to customers as jumbo domestically harvested ''fresh'' blue crab. Mr. Styron knew that the crabmeat sold during that time period was labeled and represented as domestically harvested crabmeat when, in truth and in fact, it was or contained foreign crabmeat. Within this time period, at his direction GFS purchased and repackaged thousands of pounds of foreign jumbo crabmeat from South America and Asia. The foreign jumbo crabmeat was repacked into containers labeled ''Product of USA.''

As a result of this conviction FDA sent Mr. Styron, by certified mail on August 18, 2021, a notice proposing to debar him for a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Mr. Styron's felony conviction of violating the Lacey Act False Labeling and Aiding and Abetting in violation of 16 U.S.C. 3372(d), 3372(d)(1), 3372(d)(2), 3373(d)(3)(A)(i), 3373(d)(3)(A)(ii), and 18 U.S.C. 2 constitutes conduct relating to the importation into the United States of an article of food because the offense involved Mr. Styron and his company falsely labeling crabmeat that was imported from a number of foreign countries as crabmeat that was a ''Product of USA.''

The proposal was also based on a determination, after consideration of the relevant factors set forth in section 306(c)(3) of the FD&C Act, that Mr. Styron should be subject to a 5-year period of debarment. The proposal also offered Mr. Styron an opportunity to request a hearing, providing Mr. Styron 30 days from the date of receipt of the letter in which to file the request, and advised Mr. Styron that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Styron failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(1)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Styron has been convicted of a felony count under Federal law for conduct relating to the importation into the United States of an article of food and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Styron is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Jeffrey A. Styron is a prohibited act.

Any application by Mr. Styron for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2021–N–0346 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27053 Filed 12–14–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0505]

Julia Fees: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Julia Fees for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Ms. Fees was convicted of one felony count under Federal law for conspiracy to commit offenses against the United States. The factual basis supporting Ms. Fees' conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Ms. Fees was given notice of the proposed debarment and was given an opportunity to request a hearing to show why she should not be debarred. As of September 12, 2021 (30 days after receipt of the notice), Ms. Fees had not responded. Ms. Fees' failure to respond and request a hearing constitutes a waiver of her right to a hearing concerning this matter.

DATES: This order is applicable December 15, 2021.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On May 5, 2021, Ms. Fees was convicted, as defined in section 306(l)(1) of FD&C Act, in the U.S. District Court for the Western District of Pennsylvania, when the court entered judgment against her for the offense of conspiracy to commit offenses against the United States, in violation of 18 U.S.C. 2 and 371. FDA's finding that debarment is appropriate is based on the felony conviction referenced herein.

The factual basis for this conviction is as follows: As contained in the indictment in Ms. Fees' case, filed August 22, 2017, to which she plead guilty, from on or about April 2015 and continuing until May 2017, Ms. Fees was involved in the operation of a website, *www.etizy.com,* through which she sold and distributed a drug known as etizolam to consumers throughout the United States. Etizolam is a drug known as thienodiazepine, which is chemically similar to benzodiazepines and carries risks of dependency, toxicity, and the possibility of fatal overdose. Etizolam is not FDA-approved in the United States. Ms. Fees and her co-conspirator illegally bought etizolam from an overseas supplier in India, which she then arranged to have smuggled into the United States through the use of multiple post office boxes controlled by her and her co-conspirator. To avoid Federal regulators, she used false and misleading labeling and generally misrepresented the nature of the products sold on the website she operated. Ms. Fees reshipped the misbranded etizolam to customers located in the United States.

As a result of this conviction, FDA sent Ms. Fees, by certified mail, on August 3, 2021, a notice proposing to debar her for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Ms. Fees' felony conviction under Federal law for conspiracy to commit offenses against the United States, in violation of 18 U.S.C. 371, was for conduct relating to the importation into the United States of any drug or controlled substance because she illegally imported, relabeled, and then introduced unapproved etizolam products into interstate commerce. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Ms. Fees' offense and concluded that the offense warranted the imposition of a 5-year period of debarment.

The proposal informed Ms. Fees of the proposed debarment and offered her an opportunity to request a hearing, providing her 30 days from the date of receipt of the letter in which to file the request, and advised her that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Ms. Fees received the proposal and notice of opportunity for a hearing on August 13, 2021. Ms. Fees failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived her opportunity for a hearing and waived any contentions concerning her debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Ms. Julia Fees has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Ms. Fees is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug or controlled substance by, with the assistance of, or at the direction of Ms. Fees is a prohibited act.

Any application by Ms. Fees for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2021–N–0505 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: December 9, 2021.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2021–27056 Filed 12–14–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Interdisciplinary, Community-Based Linkages

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL) will hold public meetings for the 2022 calendar year (CY). Information about ACICBL, agendas, and materials for these meetings can be found on the ACICBL website at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages/index.html.*

DATES: ACICBL meetings will be held on:

- January 20, 2022, 10:00 a.m.–5:00 p.m. Eastern Time (ET) and January 21, 2022, 10:00 a.m.–2:00 p.m. ET;
- April 18, 2022, 10:00 a.m.–5:00 p.m. ET; and
- August 26, 2022, 10:00 a.m.–5:00 p.m. ET.

ADDRESSES: Meetings will be held virtually and by teleconference, no in-person meetings will be conducted in 2022. For updates on how the meetings will be held, visit the ACICBL website 30 business days before the date of the meeting, where instructions for joining meetings will be posted. For meeting information updates, go to the ACICBL website meeting page at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages/meetings/index.html.*

FOR FURTHER INFORMATION CONTACT: Shane Rogers, Designated Federal Official, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15N142, Rockville, Maryland 20857; 301–443–5260; or *SRogers@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACICBL provides advice and recommendations to the Secretary of HHS on policy, program development, and other matters of significance concerning the activities under section 750–760, Title VII, Part D of the Public Health Service (PHS) Act. ACICBL submits an annual report to the Secretary of HHS and to Congress describing its activities, including findings and recommendations made by the ACICBL concerning the activities under sections 750–760 of the PHS Act. Since priorities dictate meeting times, be advised that start times, end times, and agenda items are subject to change. For CY 2022 meetings, agenda items may include, but are not limited to, policy and program development and other significant matters related to activities authorized under Part D of the PHS Act as well as issues related to the pending Committee reports. Refer to the ACICBL website listed above for all current and updated information concerning the CY 2022 ACICBL meetings, including draft agendas and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the ACICBL should be sent to Shane Rogers using the contact information above at least 5 business days before the meeting date(s). Individuals who need special assistance or another reasonable accommodation should notify Shane Rogers using the contact information listed above at least 10 business days before the meeting(s) they wish to attend.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–27129 Filed 12–14–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the United States Court of Federal Claims and to serve a copy of the petition to the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on November 1, 2021, through November 30, 2021. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of

person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the United States Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of HHS) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Diana Espinosa,

Acting Administrator.

List of Petitions Filed

1. Rusty Ross Alto, Ellicott City, Maryland, Court of Federal Claims No: 21–2116V
2. Richard Lucero, Denver, Colorado, Court of Federal Claims No: 21–2117V
3 Josephine Lebar, Sarasota, Florida, Court of Federal Claims No: 21–2118V
4. Raithe Pace, Lansdale, Pennsylvania, Court of Federal Claims No: 21–2122V
5. Denise Shanno, Council Bluffs, Iowa, Court of Federal Claims No: 21–2123V
6. Christina Lane on behalf of C. L., Phoenix, Arizona, Court of Federal Claims No: 21–2124V
7. Marlon T. Young, Boscobel, Wisconsin, Court of Federal Claims No: 21–2127V
8. Tandy Hamilton, Goodyear, Arizona, Court of Federal Claims No: 21–2130V
9. Jason R. Kinsey, Greenville, North Carolina, Court of Federal Claims No: 21–2132V
10. Sherri Pulsipher, Las Vegas, Nevada, Court of Federal Claims No: 21–2133V
11. Robert Duhaime, Lakeland, Florida, Court of Federal Claims No: 21–2134V
12. Debbie L. Aretz on behalf of Estate of Sally Jo Bennett, Deceased, Paw Paw, Michigan, Court of Federal Claims No: 21–2135V
13. Eric Adamczyk on behalf of J. A., Pittsburgh, Pennsylvania, Court of Federal Claims No: 21–2136V
14. Angelina M. Lombardo, Buffalo, New York, Court of Federal Claims No: 21–2137V
15. Anthony Beauford, Southfield, Michigan, Court of Federal Claims No: 21–2139V
16. Katharine Storch on behalf of the Estate of Anna Beracz, Deceased, Willoughby Hills, Ohio, Court of Federal Claims No: 21–2140V
17. Mary Lou Hilvers, Cincinnati, Ohio, Court of Federal Claims No: 21–2144V
18. Patricia Hupp, Westerville, Ohio, Court of Federal Claims No: 21–2145V
19. Michael Wade, Louisville, Ohio, Court of Federal Claims No: 21–2149V
20. Leonard DiTomaso, Ho-Ho-Kus, New Jersey, Court of Federal Claims No: 21–2152V
21. Rhonda Lindsay, Farmington Hills, Michigan, Court of Federal Claims No: 21–2153V
22. Jeremy Harmon on behalf of B. H., Phoenix, Arizona, Court of Federal Claims No: 21–2154V
23. Carol Lester, Harker Heights, Texas, Court of Federal Claims No: 21–2155V
24. Alisa Jett-Crawford, Ocala, Florida, Court of Federal Claims No: 21–2157V
25. Crystal B. Smith, Aiken, South Carolina, Court of Federal Claims No: 21–2158V
26. Maryeileen Scott, Fort Rucker, Alabama, Court of Federal Claims No: 21–2159V
27. Kevin Hayes, Groton, Massachusetts, Court of Federal Claims No: 21–2162V
28. Frederick Neri and Elizabeth Neri on behalf of F. N., Phoenix, Arizona, Court of Federal Claims No: 21–2163V
29. Lori Black, Columbus, Ohio, Court of Federal Claims No: 21–2164V
30. Sarah Scarboro, Hodges, South Carolina, Court of Federal Claims No: 21–2166V
31. Mary Moreno, San Diego, California, Court of Federal Claims No: 21–2169V
32. Stephanie Stimson, Durant, Oklahoma, Court of Federal Claims No: 21–2171V
33. Shane Gabis, Cary, North Carolina, Court of Federal Claims No: 21–2172V
34. Carolyn Dianne Conn, Georgetown, Texas, Court of Federal Claims No: 21–2173V
35. Cortney Perez and Javiere Valdez on behalf of E. V., Princeton, Indiana, Court of Federal Claims No: 21–2174V
36. Larry Lenz, San Antonio, Texas, Court of Federal Claims No: 21–2176V
37. Michael Wade, Missoula, Montana, Court of Federal Claims No: 21–2177V
38. Jo Sutton, Dallas, Texas, Court of Federal Claims No: 21–2178V
39. Darren Champion, Boulder, Colorado, Court of Federal Claims No: 21–2179V
40. Donna Jackson, Springfield, Missouri, Court of Federal Claims No: 21–2180V
41. Parris Hitchcock, Taylorsville, Georgia, Court of Federal Claims No: 21–2184V
42. Terry Collins, Venice, Florida, Court of Federal Claims No: 21–2188V
43. Marta Irizarry—Calderon, Kissimmee, Florida, Court of Federal Claims No: 21–2189V
44. Alice Raye Carpenter, Gold Beach, Oregon, Court of Federal Claims No: 21–2192V
45. Edward J. Sedan, Emerson, New Jersey, Court of Federal Claims No: 21–2194V
46. Kim Rinella, Gurnee, Illinois, Court of Federal Claims No: 21–2196V
47. Shannon Lynne Brodeur, Houghton, Michigan, Court of Federal Claims No: 21–2198V
48. Charlene Carter, Fort Pierce, Florida, Court of Federal Claims No: 21–2201V
49. Theresa Kelly, Lubbock, Texas, Court of Federal Claims No: 21–2202V
50. Alba Pallone, Milford, Connecticut, Court of Federal Claims No: 21–2205V
51. Stacey Connors, Mechanicsburg, Pennsylvania, Court of Federal Claims No: 21–2206V
52. Fran Baskin, Silver Spring, Maryland, Court of Federal Claims No: 21–2207V
53. Paul Geiser, Dover, Pennsylvania, Court of Federal Claims No: 21–2212V
54. Romeo Allas, Santa Clarita, California, Court of Federal Claims No: 21–2215V
55. Brenda Perez, Los Angeles, California, Court of Federal Claims No: 21–2216V
56. Arilyanne Velazquez and Melvin Jones on behalf of L. J., Phoenix, Arizona, Court of Federal Claims No: 21–2217V
57. Vanessa Boling on behalf of K. B., Phoenix, Arizona, Court of Federal Claims No: 21–2218V
58. Steven Beachy, Washington, District of Columbia, Court of Federal Claims No: 21–2219V
59. Ronald Martin, Summerville, South Carolina, Court of Federal Claims No: 21–2220V
60. Stephanie Poppen, Waynesville, Missouri, Court of Federal Claims No: 21–2221V
61. Kelly Wyble, Belton, Missouri, Court of Federal Claims No: 21–2222V
62. Kaleigh Watts, Gilbert, South Carolina, Court of Federal Claims No: 21–2223V
63. Jacqueline Bejarano on behalf of M. F. B., Rancho Cucamonga, California, Court of Federal Claims No: 21–2224V
64. Ezra Zakoo, Seattle, Washington, Court of Federal Claims No: 21–2226V
65. Michele Damiano, Phoenix, Arizona, Court of Federal Claims No: 21–2227V
66. Moira MacAvoy, Charlottesville, Virginia, Court of Federal Claims No: 21–2228V
67. Shannon Perez, Dresher, Pennsylvania, Court of Federal Claims No: 21–2229V
68. Riana Proia on behalf of A. M., Dresher, Pennsylvania, Court of Federal Claims No: 21–2234V
69. Alden Harmon, St. Charles, Missouri, Court of Federal Claims No: 21–2236V

70. Gordon Pari, Englewood, New Jersey, Court of Federal Claims No: 21–2237V
71. Taylor Parker, Englewood, New Jersey, Court of Federal Claims No: 21–2238V

[FR Doc. 2021–27076 Filed 12–14–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the National Advisory Council on Nurse Education and Practice

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the National Advisory Council on Nurse Education and Practice (NACNEP) will hold public meetings for the 2022 calendar year (CY). Information about NACNEP, agendas, and materials for these meetings can be found on the NACNEP website at *https://www.hrsa.gov/advisory-committees/nursing/index.html.*

DATES: NACNEP meetings will be held on:

- February 2, 2022, 10:00 a.m.–5:00 p.m. Eastern Time (ET) and February 3, 2022, 10:00 a.m.–4:00 p.m. ET;
- May 4, 2022, 10:00 a.m.–5:00 p.m. ET and May 5, 2022, 10:00 a.m.–4:00 p.m. ET;
- August 10, 2022, 10:00 a.m.–5:00 p.m. ET and August 11, 2022, 10:00 a.m.–4:00 p.m. ET; and
- December 7, 2022, 10:00 a.m.–5:00 p.m. ET and December 8, 2022, 10:00 a.m.–4:00 p.m. ET.

ADDRESSES: Meetings may be held in-person, by teleconference, and/or video conferencing. For updates on how the meeting will be held, visit the NACNEP website 30 business days before the date of the meeting, where instructions for joining meetings either in-person or remotely will be posted. In-person NACNEP meetings will be held at 5600 Fishers Lane, Rockville, Maryland 20857. For meeting information updates, go to the NACNEP website meeting page at *https://www.hrsa.gov/advisory-committees/nursing/index.html.*

FOR FURTHER INFORMATION CONTACT: Camillus Ezeike, Ph.D., JD, LLM, RN, PMP, Designated Federal Officer, NACNEP, Bureau of Health Workforce, Division of Nursing and Public Health, HRSA, 5600 Fishers Lane, 11N–120, Rockville, Maryland 20857; 301–443–2866; or *BHWNACNEP@hrsa.gov.*

SUPPLEMENTARY INFORMATION: NACNEP provides advice and recommendations to the Secretary of HHS in policy, program development, and other matters of significance concerning the activities under Title VIII of the Public Health Service Act, including the range of issues relating to the nurse workforce, education, and practice improvement. NACNEP also prepares and submits an annual report to the Secretary of HHS and Congress describing its activities, including NACNEP's findings and recommendations concerning activities under Title VIII, as required by the Public Health Service Act.

Since priorities dictate meeting times, be advised that times and agenda items are subject to change. For CY 2022 meetings, agenda items may include, but are not limited to, the nursing workforce, nursing practice improvement, nursing education, and the response to the COVID–19 pandemic. Refer to the NACNEP website listed above for all current and updated information concerning the CY 2022 NACNEP meetings, including draft agendas and meeting materials that will be posted 14 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting(s). Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to NACNEP should be sent to Camillus Ezeike using the contact information above at least 5 business days before the meeting.

Individuals who plan to attend meetings that are held in-person and need special assistance or another reasonable accommodation should notify Camillus Ezeike at the address and phone number listed above at least 10 business days before to the meeting(s) they wish to attend. Since all in-person meetings will occur in a federal government building, attendees must go through a security check to enter the building. Non-U.S. citizen attendees must notify HRSA of their planned attendance at least 20 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–27127 Filed 12–14–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; FGF21 and aging.

Date: January 10, 2022.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Anita H. Undale, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–7428, *anita.undale@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer's Disease Drug Development.

Date: January 20, 2022.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814 (Video Meeting).

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Hearing loss and aging.

Date: February 1, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Anita H. Undale, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–7428, *anita.undale@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: _December 10, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27126 Filed 12–14–21; 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; RESPOND: Epidemiology to End the HIV Epidemic (RESPOND: EEE) (R01 Clinical Trial Optional).

Date: January 6, 2022.

Time: 10:00 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 3G31, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Cynthia L. De La Fuente, Ph.D., Scientific Review Officer, Scientific Review Program, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31, Rockville, MD 20892, 240–669–2740, *delafuentecl@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: December 10, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27124 Filed 12–14–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Therapeutics.

Date: January 6, 2022.

Time: 1:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–905–8294 *rahman-sesay@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–DA22–008: Tools and Technologies to Explore Nervous System Biomolecular Condensates.

Date: January 14, 2022.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aurea D. De Sousa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, Bethesda, MD 20892, (301) 827–6829, *aurea.desousa@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 9, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–27058 Filed 12–14–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0737]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0058

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0058, Application for Permit to Transport Municipal and Commercial Waste; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before January 14, 2022.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2021–0737]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703

Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2021–0737], and must be received by January 14, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0058.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (86 FR 51170, September 14, 2021) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Application for Permit to Transport Municipal and Commercial Waste.

OMB Control Number: 1625–0058.

Summary: This information collection provides the basis for issuing or denying a permit, required under 33 U.S. Code 2601 and 33 CFR 151.1009, for the transportation of municipal or commercial waste in the coastal waters of the United States.

Need: In accordance with 33 U.S.C. 2601, the U.S. Coast Guard issued regulations requiring an owner or operator of a vessel to apply for a permit to transport municipal or commercial waste in the United States and to display an identification number or other marking on their vessel.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: Every 18 months.

Hour Burden Estimate: The estimated burden has decreased from 13 hours to 4 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: December 7, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–27099 Filed 12–14–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0736]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0029

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0029, Self-propelled Liquefied Gas Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before January 14, 2022.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2021–0736]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://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.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management,

telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2021–0736], and must be received by January 14, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0029.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (86 FR 51169, September 14, 2021) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Self-propelled Liquefied Gas Vessels.

OMB Control Number: 1625–0029.

Summary: The information is needed to ensure compliance with our rules for the design and operation of liquefied gas carriers.

Need: Title 46 U.S. Code sections 3703 and 9101 authorizes the Coast Guard to establish regulations to protect life, property, and the environment from the hazards associated with the carriage of dangerous liquid cargo in bulk. Title 46 CFR part 154 prescribes the rules for the carriage of liquefied gases in bulk on self-propelled vessels by governing the design, construction, equipment, and operation of these vessels and the safety of personnel aboard them.

Forms: None.

Respondents: Owners and operators of self-propelled vessels carrying liquefied gas.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 8,169 hours to 14,781 hours a year, due to an increase in the estimated number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: December 7, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–27098 Filed 12–14–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0026]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigrant Petition by Alien Entrepreneur

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 February 14, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0026 in the body of the letter, the agency name and Docket ID USCIS–2007–0021. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0021.

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–2007–0021 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:* Immigrant Petition by Alien Entrepreneur.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–526; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The form is used to petition for classification as an alien entrepreneur as provided by sections 121(b) and 162(b) of the Immigration Act of 1990. The data collected on this form will be used by USCIS to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–526 is 3,656 and the estimated hour burden per response is 1.83 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 6,690 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 $4,021,600.

Dated: December 10, 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. 2021–27141 Filed 12–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0001]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Alien Fiancé(e)

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until January 14, 2022.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0028. All submissions received must include the OMB Control Number 1615–0001 in the body of the letter, the agency name and Docket ID USCIS–2006–0028.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on August 25, 2021, at 86 FR 47508, allowing for a 60-day public comment period. USCIS received one comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0028 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact

the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Alien Fiancé(e).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129F; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–129F must be filed with U.S. Citizenship and Immigration Services (USCIS) by a citizen of the United States in order to petition for an alien spouse, finance(e), or child.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129F is 47,700 and the estimated hour burden per response is 3.25 hours. The estimated total number of respondents for the information collection of Biometrics is 47,700 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 210,834 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $5,412,004.

Dated: December 10, 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. 2021–27143 Filed 12–14–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000.L1440000.BJ0000.212.HAG 22–0002]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Oregon State Office, Portland, Oregon, 30 calendar days from the date of this publication.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing, January 14, 2022.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the BLM, Oregon State Office, 1220 SW 3rd Avenue, Portland, Oregon 97204, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Mary Hartel, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW 3rd Avenue, Portland, Oregon 97204; telephone: (503) 808–6131; email: *mhartel@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at (800) 877–8339 to contact Ms. Hartel during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM, Oregon State Office, Portland, Oregon:

Willamette Meridian, Oregon

T. 35 S., R. 3 E., accepted September 14, 2021
T. 29 S., R. 2 W., accepted September 14, 2021
T. 30 S., R. 8 W., accepted October 19, 2021
T. 26 S., R. 3 W., accepted October 19, 2021
T. 29 S., R. 12 W., accepted October 19, 2021

Willamette Meridian, Washington

T. 40 N., R. 39 E., accepted September 14, 2021
T. 10 N., R. 27 E., accepted September 14, 2021
T. 10 N., R 28 E., accepted September 14, 2021

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the Chief Cadastral Surveyor for Oregon/Washington, BLM. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A notice of protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Oregon/Washington during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the Chief Cadastral Surveyor for Oregon/Washington within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C., Chapter 3)

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2021–27106 Filed 12–14–21; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–33109; 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 December 4, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by December 30, 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 December 4, 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:

ARKANSAS

Arkansas County

Buerkle, Paul and Ella, House, 109 East 11th St., Stuttgart, SG100007320

Chicot County

Scott Memorial Methodist Episcopal Church, 350 North Main St., Eudora, SG100007330

Conway County

Stuckey's, 304 North Springfield St., Plumerville, SG100007319

Garland County

Plunkett-Jarrell Grocer Co. Building, 150 Creek St., Hot Springs, SG100007318

Lonoke County

Bank of Carlisle, (Thompson, Charles L., Design Collection TR), 113 North Court St., Carlisle, MP100007317

Miller County

Nix Creek Bridge, US 71 over Nix Cr., Texarkana, SG100007323

Phillips County

First Presbyterian Church, 629 Porter St., Helena-West Helena, SG100007322

Pulaski County

Southwestern Bell Headquarters Building, 1111 West Capitol Ave., Little Rock, SG100007314

Arkansas State Fairgrounds Historic District, 2600 Howard St., Little Rock, SG100007315

Broadmoor Neighborhood Historic District, Subdivision located west of South University Ave., southeast of Boyle Park Rd., and north of West 32nd St., Little Rock, SG100007316

Randolph County

Bispham-Brown House, 705 North Marr St., Pocahontas, SG100007329

St. Francis County

Forrest City Public Library, (New Deal Recovery Efforts in Arkansas MPS), 421 South Washington St., Forrest City, MP100007321

Union County

Hillsboro Street Viaduct, Hillsboro St. between Washington and Madison Aves., El Dorado, SG100007327

Early View Lodge No. 181, 1965 Mount Zion Rd., Urbana vicinity, SG100007328

Washington County

Presbyterian Center, 902 West Maple St., Fayetteville, SG100007324

Winslow Commercial Historic District, 108, 150, and 182 North Winslow Blvd., Winslow, SG100007325

North Garvin Drive Historic District, 15, 37, and 49 North Gavin Dr., Fayetteville, SG100007326

CONNECTICUT

New London County

Burnham Tavern, 223 North Burnham Hwy. (CT169), Lisbon, SG100007297

DISTRICT OF COLUMBIA

District of Columbia

National Presbyterian Church, 4101, 4121, and 4125 Nebraska Ave. NW; 4120–4124 Van Ness Street NW, Washington, SG100007331

MINNESOTA

Otter Tail County

Lewis House and Medical Office, 415 Douglas Ave., Henning, SG100007309

SOUTH CAROLINA

Edgefield County

Edgefield Cotton Mill-Addison Mill, 100 CTC Dr., Edgefield, SG100007303

Florence County

Cockfield, P.D., House 125 Valley St., Lake City, SG100007306

Greenville County

Triangle Building, 1203–1211 Pendleton St., Greenville, SG100007305

Oconee County

Seneca Cotton Mill, 1300 East South 6th St., Seneca, SG100007304

York County

Sturgis, R.L. and Annie, House, 522 East Main St., Rock Hill, SG100007302

VERMONT

Bennington County

Rupert Village Historic District, VT153, Rupert Mountain, West Pawlet, and Youlin Rds., Rupert, SG100007308

A request for removal has been made for the following resources:

ARKANSAS

Benton County

Osage Creek Bridge, (Benton County MRA), 4½ mi. north of Tontitown, Tontitown, OT87002418

Garland County

Greenwood School, 1425 Greenwood Ave., Hot Springs, OT100001995

Newton County

Buffalo River Bridge, (Historic Bridges of Arkansas MPS), AR 7, over the Buffalo River, Pruitt, OT90000509

White County

Moore House, (White County MPS), 405 Center St., Searcy, OT91001210

Additional documentation has been received for the following resources:

ARIZONA

Pima County

Jefferson Park Historic District (Additional Documentation), 1290 Edison St., Tucson, AD12000241

Iron Horse Expansion Historic District (Additional Documentation), 601 East 10th St., Tucson, AD86001347

OREGON

Benton County

College Hill West Historic District (Additional Documentation), Roughly bounded by NW Johnson and Polk Aves., NW Arnold Way, and NW 36th St., Corvallis, AD02000827

Multnomah County

Laurelhurst Historic District (Additional Documentation), (Historic Residential Suburbs in the United States, 1830–1960 MPS), Roughly bounded by NE Stark, NE Senate. NE 44th & NE 32nd, Portland, AD100003462

Authority: Section 60.13 of 36 CFR part 60

Dated: December 7, 2021.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021–27077 Filed 12–14–21; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Knitted Footwear, DN 3580;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Nike, Inc., on December 9, 2021. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain knitted footwear. The complainant names as respondents: Adidas AG World of Sports of Germany; adidas North America, Inc. of Portland, OR; and adidas America, Inc. of Portland, OR. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3580'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews,

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: December 9, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–27070 Filed 12–14–21; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Foreign Workers in Agriculture in the United States: Adverse Effect Wage Rates for Non-Range Occupations in 2022

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is issuing this notice to announce the 2022 Adverse Effect Wage Rates (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform agricultural labor or services other than the herding or production of livestock on the range. AEWRs are the minimum wage rates the DOL has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment so that the wages and working conditions of workers in the United States (U.S.) similarly employed will not be adversely affected. In this notice, DOL announces updates of the AEWRs.

DATES: These rates are applicable *December 29, 2021.*

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary and seasonal agricultural workers in the U.S. unless the petitioner has received an H–2A labor certification from DOL. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. *See* 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rates for 2022

DOL's H–2A regulations at 20 CFR 655.122(l) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate; or (v) the federal or state minimum wage rate in effect at the time the work is performed. Further, when the AEWR is adjusted during a work contract and is higher than the highest of the previous AEWR, the prevailing rate, the agreed-upon collective bargaining wage, the federal minimum wage rate, or the state minimum wage rate, the employer must pay that adjusted AEWR upon the effective date of the new rate, as provided in the applicable **Federal Register** Notice. *See* 20 CFR 655.122(l) (requiring the applicable AEWR or other wage rate to be paid based on the AEWR or rate in effect ''at the time work is performed'').

On November 5, 2020, DOL published a final rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States,* 85 FR 70445 (2020 AEWR Final Rule), to establish a new methodology for setting hourly AEWRs, effective December 21, 2020. However, on December 23, 2020, the U.S. District Court for the Eastern District of California issued an order enjoining DOL from implementing the 2020 AEWR Final Rule and ordering DOL to set the hourly AEWRs using the methodology set forth in the *Temporary Agricultural Employment of H–2A Aliens in the United States,* 75 FR 6884 (Feb. 12, 2010) (2010 H–2A Final Rule). *See* Order Granting Plaintiffs' Motion for a Preliminary Injunction, *United Farm Workers, et al.* v. *U.S. Dep't of Labor, et al.,* No. 20–cv–1690 (E.D. Cal.), ECF No. 37. Pursuant to that order, DOL has used the methodology set forth in the 2010 H–2A Final Rule to determine the 2022 AEWRs.

Accordingly, the 2022 AEWRs for all agricultural employment (except for the herding or production of livestock on the range, which is covered by 20 CFR 655.200 through 655.235) for which temporary H–2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the state or region as published by the U.S. Department of Agriculture (USDA) in the November 24, 2021 Farm Labor Report. The 2010 H–2A Final Rule, 20 CFR 655.120(c), requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** Notice. Accordingly, the 2022 AEWRs to be paid for agricultural work performed by H–2A and workers in corresponding employment on and after the effective date of this notice are set forth in the table below:

TABLE—2022 ADVERSE EFFECT WAGE RATES

State	2022 AEWRs
Alabama	$11.99
Arizona	14.79
Arkansas	12.45
California	17.51
Colorado	15.58
Connecticut	15.66
Delaware	15.54
Florida	12.41
Georgia	11.99
Hawaii	16.54
Idaho	14.68
Illinois	15.89
Indiana	15.89
Iowa	16.19
Kansas	16.47
Kentucky	13.89
Louisiana	12.45
Maine	15.66
Maryland	15.54
Massachusetts	15.66
Michigan	15.37
Minnesota	15.37

TABLE—2022 ADVERSE EFFECT WAGE RATES—Continued

State	2022 AEWRs
Mississippi	12.45
Missouri	16.19
Montana	14.68
Nebraska	16.47
Nevada	15.58
New Hampshire	15.66
New Jersey	15.54
New Mexico	14.79
New York	15.66
North Carolina	14.16
North Dakota	16.47
Ohio	15.89
Oklahoma	13.88
Oregon	17.41
Pennsylvania	15.54
Rhode Island	15.66
South Carolina	11.99
South Dakota	16.47
Tennessee	13.89
Texas	13.88
Utah	15.58
Vermont	15.66
Virginia	14.16
Washington	17.41
West Virginia	13.89
Wisconsin	15.37
Wyoming	14.68

Authority: 20 CFR 655.120(c).

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–27119 Filed 12–14–21; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Foreign Workers in Agriculture in the United States: Adverse Effect Wage Rate for Range Occupations in 2022

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration of the Department of Labor (DOL) is issuing this notice to announce the 2022 Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform herding or production of livestock on the range. AEWRs are the minimum wage rates DOL has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment so that the wages and working conditions of workers in the United States (U.S.) similarly employed will not be adversely affected. In this notice, DOL announces the annual update of the AEWR for workers engaged in the herding or production of livestock on the range, as required by the methodology previously established in 2015.

DATES: The rate is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, N–5311, 200 Constitution Ave. NW, Washington, DC 20210, Telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary and seasonal agricultural workers in the U.S. unless the petitioner has received an H–2A labor certification from DOL. The H–2A labor certification provides that (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. *See* 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rate for 2022

DOL's H–2A regulations covering the herding or production of livestock on the range, published in the **Federal Register** as the *Temporary Agricultural Employment of H–2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States,* 80 FR 62958 (Oct. 16, 2015), provide that employers must offer, advertise in recruitment, and pay each worker employed under 20 CFR 655.200 through 655.235 a wage that is at least the highest of (1) the monthly AEWR, (2) the agreed-upon collective bargaining wage, or (3) the applicable minimum wage imposed by Federal or State law or judicial action. *See* 20 CFR 655.210(g); 655.211(a)(1). Further, when the monthly AEWR is adjusted during a work contract and is higher than both the agreed-upon collective bargaining wage and the applicable minimum wage imposed by Federal or State law or judicial action in effect at the time the work is performed, the employer must pay that adjusted monthly AEWR upon publication by DOL in the **Federal Register**. *See* 20 CFR 655.211(a)(2).

As provided in 20 CFR 655.211(c)(2), the monthly AEWR for range occupations in all States for a calendar year is based on the monthly AEWR for the previous calendar year ($1,727.75), adjusted by the Employment Cost Index (ECI) for wages and salaries published by the Bureau of Labor Statistics for the preceding annual period. The 12-month change in the ECI for wages and salaries of private industry workers between September 2020 and September 2021 was 4.6 percent, resulting in a monthly AEWR for range occupations in effect for 2022 of $1,807.23.[1] The national monthly AEWR rate for all range occupations in the H–2A program in 2022 is calculated by multiplying the monthly AEWR for calendar year 2021 by the October 2021 ECI adjustment ($1,727.75 × 1.046 = $1,807.23) or $1,807.23. Accordingly, any employer certified or seeking certification for range workers must pay each worker a wage that is at least the highest of the monthly AEWR of $1,807.23, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State law or judicial action at the time work is performed on or after the effective date of this notice.

Authority: 20 CFR 655.211(b).

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–27121 Filed 12–14–21; 8:45 am]

BILLING CODE 4510–FP–P

[1] The regulation at 20 CFR 655.211(c)(2) states that the monthly AEWR is calculated based on the ECI for wages and salaries ''for the preceding October—October period.'' This regulatory language was intended to identify the Bureau of Labor Statistics' October publication of ECI for wages and salaries, which presents data for the September to September period. Accordingly, the most recent 12-month change in the ECI for private sector workers published on October 29, 2021, by the Bureau of Labor Statistics was used for establishing the monthly AEWR under the regulations. *See https://www.bls.gov/news.release/archives/eci_10292021.pdf.* The ECI for private sector workers was used rather than the ECI for all civilian workers given the characteristics of the H–2A herder workforce.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0046]

QPS Evaluation Services, Inc.: Request for Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of QPS Evaluation Services, Inc. (QPS) requesting renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL).

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before December 30, 2021.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2019–0008, Occupational Safety and Health Administration, U.S. Department of Labor; telephone (202) 693–2350. OSHA's TTY number is (877) 889–5627. Please note: While OSHA's docket office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the record by express delivery, hand delivery and messenger service.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0046). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security Numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before December 30, 2021 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of a NRTL signifies that the organization meets the requirements in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational web page for each NRTL that details its scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

OSHA processes applications by a NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, Appendix A, paragraph II.C. In accordance with these procedures, NRTLs submit a renewal request to OSHA, not less than nine months or no more than one year, before the expiration date of its current recognition. The submission includes a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL's headquarters and key sites within the past 18 to 24 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

QPS initially received OSHA recognition as a NRTL on March 2, 2011 (76 FR 11518). QPS's most recent renewal was granted on April 25, 2016, for a five-year period ending on April 25, 2021 (81 FR 24133). QPS submitted its request for renewal in July, 2019 (OSHA–2010–0046–0016). While OSHA should have rejected the renewal request because it was submitted more than one year before the expiration of QPS's current recognition (see above discussion), OSHA failed to do so and instead accepted the request. Because OSHA accepted the request rather than rejecting it, OSHA is processing the renewal request even though it was filed outside the time period permitted by 29 CFR 1910.7 Appendix A.

The renewal application was amended on August 25, 2021 (OSHA–2010–0046–0017) to indicate that a change in company ownership had occurred after QPS submitted the original renewal application. Through communications with QPS, OSHA confirmed that QPS's acquisition by another company was the only material change that occurred after QPS submitted its initial renewal application.

QPS retains its recognition pending OSHA's final decision in this renewal process. The current address of the QPS facility recognized by OSHA and included as part of the renewal request is: QPS Evaluation Services, Inc., 81

Kelfield Street, Unit 8, Toronto, Ontario M9W 5A3 Canada.

II. Notice of Preliminary Findings

OSHA is providing notice that QPS is applying for renewal of its recognition as a NRTL. This renewal covers QPS's existing NRTL scope of recognition. OSHA evaluated QPS's application for renewal and preliminarily determined that QPS can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. OSHA has determined that it does not need to conduct an on-site review of QPS's facility, based on its evaluations of QPS's application and all other available information. This information includes OSHA's most recent audit of QPS's NRTL recognized site during this recognition period, and the satisfactory resolution of non-conformances with the requirements of 29 CFR 1910.7.

OSHA welcomes public comment as to whether QPS meets the requirements of 29 CFR 1910.7 for renewal of their recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in QPS's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–3653, Occupational Safety and Health Administration, U.S. Department of Labor; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2010–0046.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments (if any), will make a recommendation to the Assistant Secretary on whether to grant QPS's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of this final decision in the **Federal Register**.

III. Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on December 8, 2021.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–27122 Filed 12–14–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2020–0010]

Maritime Advisory Committee on Occupational Safety and Health (MACOSH): Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH meeting.

SUMMARY: The Maritime Advisory Committee on Occupational Safety and Health (MACOSH) will meet February 15, 2022, by teleconference and WebEx.

DATES: MACOSH will meet from 1:00 p.m. to 5:00 p.m., ET, Tuesday, February 15, 2022.

ADDRESSES:

Submission of comments and requests to speak: Submit comments and requests to speak at the MACOSH meeting by February 8, 2022, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2020–0010), using the following method:

Electronically: Comments and request to speak, including attachments, must be submitted electronically at: *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting nominations.

Requests for special accommodations: Submit requests for special accommodations for this MACOSH meeting by February 8, 2022, to Ms. Carla Marcellus, Occupational Safety and Health Administration, Directorate of Standards and Guidance, U.S. Department of Labor; telephone (202) 693–1865; email *marcellus.carla@dol.gov.*

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions at (202) 693–2350 (TTY (877) 889–5627).

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2020–0010). OSHA will place comments and requests to speak, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information about MACOSH: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor; telephone (202) 693–2066; email: *wangdahl.amy@dol.gov.*

Telecommunication requirements: For additional information about the telecommunication requirements for the meeting, please contact Ms. Carla Marcellus, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–1865; email *marcellus.carla@dol.gov.*

*For copies of this **Federal Register** Notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's web page at *www.osha.gov.*

SUPPLEMENTARY INFORMATION:

Attendance at this MACOSH meeting will be by teleconference and WebEx only. The teleconference dial-in number and passcode are as follows: Dial-in number: 1–888–972–9246; Passcode: 6530908 and the WebEx link and password are: *https://usdolee.webex.com/usdolee/onstage/g.php?MTID=ef16443d91d442fc7c01b7b904318cc55* and Password: Welcome!24. The workgroups will discuss line safety, on-dock rail safety, heat stress, and prevention of fires on vessels, and provide a summary of fire resistant/retardant materials.

Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and

Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(d), 5 U.S.C. App. 2, Secretary of Labor's Order No. 8–2020 (85 FR 58383), and 29 CFR part 1912.

Signed at Washington, DC, on December 8, 2022.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–27118 Filed 12–14–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0860]

The 13 Carcinogens Standards; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to obtain the Office of Management and Budget's (OMB) approval for the information collection requirements contained in the 13 Carcinogens Standard.

DATES: Comments must be submitted (postmarked, sent or received) by February 14, 2022.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA–2011–0860). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the correct format, reporting burden (time and costs) is minimal, collection instruments are clearly understandable, and OSHA's estimate of the information collection burden is correct. The OSH Act (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The information collection requirements specified in the 13 Carcinogens Standard (29 CFR 1920.1003, 1915.1003, and 1926.1103) protect workers from the adverse health effects that may result from their exposure to the specified carcinogens. The following is a brief description of the collection of information requirements contained in the 13 Carcinogens Standard: Establishing and implementing a medical surveillance program for workers assigned to enter regulated areas; informing workers of their medical examination results; and providing workers with access to their medical records. Further, employers must retain worker medical records for specified time periods and make them available upon request to OSHA and NIOSH.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting an adjustment increase of 105.34 hours (from 1,504 hours to 1,609.34 hours). The increase is a result of a slight growth in the number of establishments affected by the Standard from 101 to 104 establishments. This results in an increase in the number of workers receiving medical examinations, from 695 to 716. The agency is also requesting an adjustment cost increase of $191,794, which is the result of an increase in the cost of medical examinations from $166 to $429. The cost of the physical exam is $180 and the hospital fee for out-of-network/uninsured patient is $249. This explains the 61% increase in cost of the medical cost.

Type of Review: Extension of a currently approved collection.

Title: The 13 Carcinogens Standard (29 CFR 1910.1003, 1915.1003, and 1926.1103).

OMB Control Number: 1218–0085.

Affected Public: Businesses or other for-profits.

Frequency of Responses: On occasion, annually.

Average Time per Response: Time per response ranges from approximately 5 minutes (for employers to maintain records) to 2 hours (for worker medical surveillance).

Number of Respondents: 1,640.

Total Responses: 1,640.

Burden Hours: 1,609.34.

Estimated Cost (Operation and Maintenance): $307,164.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All

comments, attachments, and other materials must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0860). You may supplement electronic submissions by uploading document files electronically. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publically available to read or download from this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for Information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on December 8, 2021.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–27123 Filed 12–14–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0046]

QPS Evaluation Services, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for QPS Evaluation Services, Inc. as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of QPS Evaluation Services, Inc. (QPS) as a NRTL. QPS's expansion covers the addition of eleven test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including QPS, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

QPS submitted an application, dated January 30, 2020 (OSHA–2010–0046–0015) to add eleven additional test standards to QPS's NRTL recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing QPS's expansion application in the **Federal Register** on August 16, 2021 (86 FR 45759). The agency requested comments by August 31, 2021, but it received no comments in response to this notice. OSHA is now proceeding with this final notice to grant expansion of QPS's scope of recognition.

To obtain or review copies of all public documents pertaining to QPS's application, go to *http://www.regulations.gov* or contact the Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions. Docket No. OSHA–2010–0046 contains all materials in the record concerning QPS's recognition.

II. Final Decision and Order

OSHA staff examined QPS's expansion application, its capability to meet the requirements of the test standard, and other pertinent information. Based on its review of this evidence, OSHA finds that QPS meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant this expansion to QPS's scope of recognition. OSHA limits the expansion of QPS's recognition to testing and certification of products for demonstration of conformance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN QPS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
UL 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures "d".
UL 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosure "p".
UL 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety "e".
UL 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
UL 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".
UL 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
UL 60079–25	Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.
UL 60079–26	Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
UL 60079–28	Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation.
UL 60079–31	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure "t".

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, OSHA may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 01–00–004, Chapter 2, Section VIII), only standards determined to be appropriate test standards may be approved for NRTL recognition. Any NRTL recognized for an appropriate test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, QPS must abide by the following conditions of the recognition:

1. QPS must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);
2. QPS must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. QPS must continue to meet the requirements for recognition, including all previously published conditions on QPS's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of QPS, subject to the limitations and conditions specified above.

III. Authority and Signature

Douglas L. Parker, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on December 7, 2021.

Douglas L. Parker,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–27120 Filed 12–14–21; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Financial Guide for Grantees

AGENCY: Legal Services Corporation.

ACTION: Request for comments.

SUMMARY: The Legal Services Corporation (''LSC'') is updating its Financial Guide (''Guide'') for grantees. LSC previously sought comment on the revised Guide and is now seeking additional comments on discrete changes to the Guide.

DATES: All comments and recommendations must be received on or before the close of business on January 31, 2022.

ADDRESSES: You may submit comments by any of the following methods.

Instructions: Electronic submissions are preferred via email with attachments in Acrobat PDF format. LSC may not consider written comments sent via any other method or received after the end of the comment period.

Email: financialguide@lsc.gov. Please include ''Financial Guide Comment'' in the subject line of the message.

Fax, U.S. Mail, Hand Delivery, or Courier: Please call 202–295–1563 for instructions if you need to send materials by one of these methods.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Senior Assistant General Counsel, (202) 295–1563, or *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (LSC) has conducted a comprehensive review of the *Accounting Guide for LSC Recipients, 2010 Edition.* Based on input from LSC grantees and LSC's fiscal compliance analysts, LSC believes that the format of the Accounting Guide no longer best serves grantees or LSC. LSC has restructured the document and renamed it the *Financial Guide.* The new draft *Financial Guide* removes outdated or inapplicable materials, improves materials directly related to LSC-specific issues, and adds clarity about both required and recommended financial practices. The draft *Financial Guide* also addresses areas that were previously identified as problematic or complex, such as cost allocation, and assists grantees in the financial management of LSC grants. Overall, the draft *Financial Guide* conforms to existing LSC and grantee practices and requirements. Additionally, in some places, the draft *Financial Guide* sets out requirements that previously have not been published for comment.

LSC originally sought comment on the comprehensive revisions to the *Financial Guide* via a notice published in the **Federal Register** on July 7, 2020. 85 FR 40688 (July 7, 2020). LSC received 38 unique comments on the draft Financial Guide from five grantees and the National Legal Aid and Defender Association on behalf of itself and its LSC grantee members. Generally, the commenters suggested clarifications and requested that LSC make many of the proposed requirements into recommendations to accommodate the diversity of grantee sizes, fiscal sophistication, and resources.

LSC conducted a thorough review of the entire draft and all comments. In most cases, LSC agreed with the comments and changed 17 proposed requirements into recommendations. Additionally, LSC removed five requirements related to audits and accounting. These changes align with the new scope of the Financial Guide to focus on providing guidance related to LSC rules and regulations—including those pertaining to internal controls—and not technical audit and accounting-specific requirements. LSC also added clear definitions that ''must'' and ''shall'' state requirements, but ''should'' states a strong recommendation. For all required items, grantees can opt to use different methods of reaching the goal, subject to LSC's determination that the alternatives are sufficient.

OCE also identified several current requirements that had not appeared in the prior version of the Financial Guide that was published for comment. These are requirements that LSC has been applying through required corrective actions and most, perhaps all, grantees have already implemented. OCE also added some requirements and recommendations related to ''high-risk'' areas, such as cost allocation and employee expense reimbursements.

LSC has published the revised draft *Financial Guide* for comment on the Matters for Comment page at *www.lsc.gov.* LSC is seeking comment only on the areas identified below as new requirements or substantive revisions to the version of the Financial Guide for which LSC sought comment in 2020.

Newly Identified Requirements

Section 1.3—Recipient Responsibility

This new section contains general statements moved from other sections that grantees must keep their financial policies and procedures up to date with accounting standards and changes to LSC requirements (such as regulations, the Audit Guide, etc.). This new section also contains a statement that ''Any policies and procedures implementing the requirements of this Guide must be written and approved by the recipient's governing body.'' LSC already requires grantees to obtain governing body approval of their policies and procedures through policy reviews during competitive assessments and required corrective actions after a fiscal review. The following sections are all affected by this requirement:

Section 2.1.1.a—Accounting System Capabilities
Section 2.2.2—Payroll
Section 2.2.3—Reconciliations
Section 2.3.1—Document Integrity
Section 2.5.3—Electronic Data Processing and Cybersecurity (Board approval of policy is new)
Section 3.1.4—Derivative Income
Section 3.2.1—Bank Accounts
Section 3.2.2—Cash Receipts
Section 3.2.3—Investments (if applicable)
Section 3.2.4—Cash Disbursements
Section 3.2.6—Client Trust Accounts
Section 3.4—PAI. This section now clearly states that the financial accounting of the 12.5% expenditure for the PAI requirement must be in policies and procedures that are written and board approved, the same as other financial policies and procedures.
Section 3.5.1—Procurement and Contracting (Board approval of policy is new)
Section 3.6—Property and equipment
Section 3.7—Cost Principles (Board approval of policy is new)
Section 3.8—Subgrants. The grantee's policies and procedures regarding the financial accounting for subgrants must be written and board approved. For subrecipients, it now states that ''Recipients must ensure that subrecipients have written policies and procedures consistent with applicable LSC requirements, including this Guide.'' Part 1627 provides flexibility for subrecipients' financial accounting to reflect the amount of the subgrant and capacity of the subrecipient. The relationship between the recipient and subrecipient will determine the proper method of financial reporting following generally accepted accounting principles. 45 CFR 1627.4(f)(1)(i).

Section 2.1.1—General Accounting System Requirements

This section now provides more specifics about the general accounting system requirements. Most, if not all, grantees already meet these requirements, which are items that LSC already requires grantees to adopt in required corrective actions after a fiscal review.

2.2.2—Time and Attendance (Payroll)

This section now provides more specific requirements for formal payroll policies and procedures including time and attendance records, use of a payroll register, and review of payroll before processing and payment.

3.2.1—Bank Accounts

This section now explicitly requires documentation and tracking of all bank accounts opened and closed (*e.g.,* purpose, authorized signatory, custodian, opening date, and closing date) within the last three years.

3.2.1.b—Electronic Banking

This section now requires recipients to conduct a risk assessment of electronic banking policies and procedures, with Board oversight, to identify areas requiring additional safeguards.

3.2.4.a—Employee Expense Reimbursements

This new section requires grantees to have written and well-defined expense reimbursement policies and procedures. It also provides a number of recommendations for those policies.

3.2.5—Petty Cash

This section now explicitly requires a monthly reconciliation of all petty cash funds and identification of all required supporting documentation. Also, the section now requires that policies describe all allowable uses of petty cash.

3.6.3—Disposal of Property and Equipment

This new section references the Part 1631 requirements for disposal of real and personal property. It also requires that the grantee's policies include ''disposal procedures, controls, and documentation requirements.''

New Recommendations

Section 2.3.2—Document Destruction

This section ''strongly encourages recipients to develop and implement a policy (in accordance with their record retention policy) to address the proper destruction of documents and data.''

Section 3.2.4—Cash Disbursements

This section now states that ''Recipients may consider additional control measures related to higher risk disbursements (*e.g.,* require a second check signer for amounts over a certain threshold).''

Significant Clarifications

LSC reorganized several sections to group items together more logically, provide clearer explanations, and better identify areas of risk. The following sections had notable updates.

2.1.1.a—Accounting System Capabilities

This section now provides a detailed bullet list of basic capabilities of an adequate accounting system involving collecting, allocating, tracking, documenting, and reporting financial information.

3.7.1—Cost Allocation

This section now provides a detailed bullet list of basic requirements for cost allocation policies to better illustrate the cost allocation requirements proposed in the published draft Financial Guide.

2.5.3—Security for Data and Records Including Electronic Data Processing and Cybersecurity

This section combines information from scattered sections in the previous draft to more clearly require grantees to ''have written security policies and procedures for physical and digital assets including all financial data and records in any form (*e.g.,* electronic data processing (EDP) and cybersecurity policies and procedures).'' Furthermore, LSC recommends in this section that ''These policies and practices should be part of an overall data and records security policy and an annual overall risk-assessment process.'' Finally, LSC provides in this section a bullet list of issues that these policies must address, including a risk assessment at least annually and resolution of risk findings or conclusions.

Dated: December 10, 2021.

Stefanie Davis,

Senior Assistant General Counsel.

[FR Doc. 2021–27178 Filed 12–14–21; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (21–087)]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than December 30, 2021 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than December 30, 2021 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: *Objections and Further Information:* Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to Phone: (202) 358–3437.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in: U.S. Patent No. 10,369,767 titled ''Blocking/Deblocking Resin Systems for Use as a 'Co-Cure-Ply' in the Fabrication of Large-scale Composite Structure''; and U.S. Patent No. 10,549,516 titled ''Off-Set Resin Formulations and Blocking/Deblocking Resin Systems for Use as a 'Co-Cure-Ply' in the Fabrication of Large-Scale Composite Structure'' to Paradigm Materials, LLC, having its principal place of business in Bothell, Washington. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Helen M. Galus,

Agency Counsel for Intellectual Property.

[FR Doc. 2021–27112 Filed 12–14–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (21–088)]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.

DATES: The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than December 30, 2021 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than December 30, 2021 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: *Objections and Further Information:* Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at email: *hq-patentoffice@mail.nasa.gov.* Questions may be directed to Phone: (202) 358–3437.

SUPPLEMENTARY INFORMATION: NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in: U.S. Patent No. 8,167,204 B2 for an invention titled ''Wireless Damage Location Sensing System,'' NASA Case Number LAR–17593–1; U.S. Patent No. 7,086,593 B2 for an invention titled ''Magnetic Field Response Measurement Acquisition System,'' NASA Case Number LAR–16908–1; U.S. Patent No. 7,159,774 B2 for an invention titled ''Magnetic Field Response Measurement Acquisition System,'' NASA Case Number LAR–17280–1; U.S. Patent No.

8,430,327 B2 for an invention titled ''Wireless Sensing System Using Open-Circuit, Electrically-Conductive Spiral-Trace Sensor,'' NASA Case Number LAR–17294–1; U.S. Patent No. 8,042,739 B2 for an invention titled ''Wireless Tamper Detection Sensor and Sensing System,'' NASA Case Number LAR–17444–1; U.S. Patent No. 7,814,786 B2 for an invention titled ''Wireless Sensing System for Non-Invasive Monitoring of Attributes of Contents in a Container,'' NASA Case Number LAR–17488–1; U.S. Patent No. 8,673,649 B2 for an invention titled ''Wireless Chemical Sensor and Sensing Method for Use Therewith,'' NASA Case Number LAR–17579–1; U.S. Patent No. 9,329,149 B2 for an invention titled ''Wireless Chemical Sensor and Sensing Method for Use Therewith,'' NASA Case Number LAR–17579–2; U.S. Patent No. 9,733,203 B2 for an invention titled ''Wireless Chemical Sensing Method,'' NASA Case Number LAR–17579–3; U.S. Patent No. 8,179,203 B2 for an invention titled ''Wireless Electrical Device Using Open-Circuit Elements Having No Electrical Connections,'' NASA Case Number LAR–17711–1; U.S. Patent No. 10,193,228 B2 for an invention titled ''Antenna for Near Field Sensing and Far Field Transceiving,'' NASA Case Number LAR–18400–1; U.S. Patent No. 7,075,295 B2 for an invention titled ''Magnetic Field Response Sensor for Conductive Media,'' NASA Case Number LAR–16571–1; U.S. Patent No. 7,589,525 B2 for an invention titled ''Magnetic Field Response Sensor for Conductive Media,'' NASA Case Number LAR–16571–2; U.S. Patent No. 7,759,932 B2 for an invention titled ''Magnetic Field Response Sensor for Conductive Media,'' NASA Case Number LAR–16571–3; U.S. Patent No. 7,047,807 B2 for an invention titled ''Flexible Framework for Capacitive Sensing,'' NASA Case Number LAR–16974–1; U.S. Patent No. 7,683,797 B2 for an invention titled ''Damage Detection/Locating System Providing Thermal Protection,'' NASA Case Number LAR–17295–1; U.S. Patent No. 7,711,509 B2 for an invention titled ''Method of Calibrating a Fluid-Level Measurement System,'' NASA Case Number LAR–17480–1; U.S. Patent No. 10,605,673 B2 for an invention titled ''Wireless Temperature Sensor Having No Electrical Connections,'' NASA Case Number LAR–17747–2–CON–1; U.S. Patent No. 8,636,407 B2 for an invention titled ''Wireless Temperature Sensor Having No Electrical Connections and Sensing Method for Use Therewith,'' NASA Case Number LAR–18016–1; U.S. Patent No. 10,031,031 B2 for an invention titled ''Wireless Temperature Sensor Having No Electrical Connections and Sensing Method for Use Therewith,'' NASA Case Number LAR–17747–1–CON; and U.S. Patent No. 10,180,341 B2 for an invention titled ''Multi-Layer Wireless Sensor Construct for Use at Electrically Conductive Material Surfaces,'' NASA Case Number LAR–18399–1 to Gyra Systems, Inc., having its principal place of business in La Mesa, California. The fields of use may be limited to particular package and content monitoring, and/or similar field(s) of use thereto. NASA has not yet made a final determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Helen M. Galus,

Agency Counsel for Intellectual Property.

[FR Doc. 2021–27111 Filed 12–14–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, December 16, 2021.

PLACE: Due to the COVID–19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.ncua.gov*) and access the provided webcast link.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Share Insurance Fund 2022 Normal Operating Level.
2. NCUA Rules and Regulations, Complex Credit Union Leverage Ratio.
3. NCUA Rules and Regulations, Mortgage Servicing Assets.
4. NCUA's 2022–2023 Budget.
5. NCUA Rules and Regulations, Subordinated Debt.

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703–518–6304.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2021–27086 Filed 12–13–21; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0153]

Geologic and Geotechnical Site Characterization Investigations for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 3 to Regulatory Guide (RG) 1.132, ''Geologic and Geotechnical Site Characterization Investigations for Nuclear Power Plants.'' It provides guidance on field investigations for determining the geologic, geotechnical, geophysical, and hydrogeologic characteristics of a prospective site for engineering analysis and design of nuclear power plants.

DATES: Revision 3 to RG 1.132 is available on December 15, 2021.

ADDRESSES: Please refer to Docket ID NRC–2021–0153 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–2021–0153. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *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, at 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 RG 1.132 and the regulatory analysis may be found in ADAMS under Accession Nos. ML21298A054 and ML21194A177, respectively.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Edward O'Donnell, telephone: 301–415–3317, email: *Edward.ODonnell@nrc.gov* and Scott Stovall, telephone: 301–415–2405, email: *Scott.Stovall@nrc.gov*. Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing RG 1.132 in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

II. Additional Information

Revision 3 to RG 1.132 was issued for public comment on August 18, 2021 with a temporary identification of Draft Regulatory Guide, DG–1392 and the NRC published a notice of the availability of DG–1392 in the **Federal Register** on August 18, 2021 (86 FR 46279) for a 45-day public comment period. The public comment period closed on October 4, 2021. There were no public comments on DG–1392.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

Issuance of Revision 3, to RG 1.132 does not constitute as backfitting, as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.'' Issuance of Revision 3, to RG 1.132 also does not constitute as forward fitting, as that term is defined and described in MD 8.4, or affect issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Power Plants.'' As explained in this regulatory guide, applicants and licensees are not required to comply with the positions set forth in this regulatory guide.

Dated: December 9, 2021.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2021–27115 Filed 12–14–21; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment in the **Federal Register**.

DATES: Submit comments on or before January 14, 2022.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by email at *pcfr@peacecorps.gov.* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Response Interview Assessment Form.

OMB Control Number: 0420–0556.

Agency Form Number: PC–2135.

Type of Request: Intent to seek reinstatement, without change, of a previously approved information collection for which approval has expired, for three years.

Originating Office: Peace Corps Response.

Affected Public: This collection will request information from individuals who apply to become a Peace Corps Response volunteer.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Peace Corps Response Interview Assessment:

(a) Annual Estimated Number of Respondents: 1,000

(b) Frequency of Response: One time

(c) Estimated Average Burden per Response: 60 minutes

(d) Annual estimated Total Reporting Burden: 1,000 hours

(e) Estimated annual cost to respondents: 0.00

General description of collection and purpose: The Peace Corps Response Interview Assessment is necessary to assess applicants' qualifications and eligibility to serve in Peace Corps Response. The interview is a critical point in the recruitment process, as it is the point when the applicant and the recruitment and placement specialist verbally discuss the nature of the Volunteer assignment. The Information Collection expired on November 30, 2020. We are seeking reinstatement without change of this information collection and a three-year clearance.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on December 10, 2021.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2021–27172 Filed 12–14–21; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2020–83]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 17, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2020–83; *Filing Title:* USPS Notice of Amendment to Parcel Select Contract 37, Filed Under Seal; *Filing Acceptance Date:* December 9, 2021; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 17, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–27173 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL REGULATORY COMMISSION

[Docket No. CP2022–34; Order No. 6059]

Inbound Competitive Multi-Service Agreements With Foreign Postal Operators

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent filing by the Postal Service that it has entered into the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators (FPOs). This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 16, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Commission Action
III. Ordering Paragraphs

I. Introduction

On December 8, 2021, the Postal Service filed a notice with the Commission pursuant to 39 CFR 3035.105 and Order No. 546,[1] giving notice that it has entered into an Inbound Competitive Multi-Service Agreement with Foreign Postal Operators (FPOs). The Notice concerns the inbound portions of the competitive multi-product Interconnect Remuneration Agreement USPS and Specified Postal Operators II (IRA–USPS II Agreement). Notice at 1. The Postal Service seeks to include the IRA–USPS II Agreement within the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 (MC2010–34) product. *Id.* The IRA–USPS II Agreement contains rates for inbound competitive parcels and packets. *Id.* at 6.

The Postal Service asserts that the IRA–USPS II Agreement ''is functionally equivalent to the baseline agreement filed in Docket No. MC2010–34 because the terms of this agreement are similar in scope and purpose to the terms of the CP2010–95 Agreement.'' *Id.* at 3. Concurrent with the Notice, the Postal Service filed supporting financial documentation and the following documents:

- Attachment 1—an application for non-public treatment;
- Attachment 2—the IRA–USPS II Agreement;
- Attachment 3—a ZIP file with FPO-specific information related to FPOs that are parties to the IRA–USPS II Agreement;
- Attachment 4—Governors' Decision No. 19–1;
- Attachment 5—a certified statement required by 39 CFR 3035.105(c)(2). *Id.* at 5.

[1] Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 8, 2021 (Notice). Docket Nos. MC2010–34 and CP2010–95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Service Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010 (Order No. 546).

The Postal Service intends for the IRA–USPS II Agreement to become effective January 1, 2022, and continue indefinitely. *Id.* The Postal Service expects that additional FPOs may become party to the agreement and states that it will update this docket should additional FPOs accede to the IRA–USPS II Agreement. *Id.* at 6.

The Postal Service states it intends for these rates to be in effect on January 1, 2022. *Id.* at 1. The Postal Service states that, beginning with the rates that will be in effect in 2022, any party to the IRA–USPS II Agreement can change its delivery rates by communicating the new rates to the International Post Corporation by July 1 of the year preceding the rates' application. *Id.* at 6. Additionally, the Postal Service notes that the IRA–USPS II Agreement allows parties to self-declare rates within defined parameters. *Id.*

The Postal Service states that the IRA–USPS II Agreement is in compliance with 39 U.S.C. 3633 and is functionally equivalent to the inbound competitive portions of the baseline agreement, which was included in the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product (MC2010–34). *Id.* at 10. For these reasons, the Postal Service avers that the IRA–USPS II Agreement should be added to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product. *Id.*

II. Commission Action

The Commission establishes Docket No. CP2022–34 to consider the Notice. Interested persons may submit comments on whether the IRA–USPS II Agreement is consistent with 39 U.S.C. 3633 and 39 CFR 3035.105 and whether it is functionally equivalent to the baseline agreement included in the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product (MC2010–34). Comments are due by December 16, 2021.

The Notice and related filings are available on the Commission's website (*http://www.prc.gov*). The Commission encourages interested persons to review the Notice for further details.

The Commission appoints Katalin K. Clendenin to serve as Public Representative in this proceeding.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2022–34 for consideration of the matters raised by the Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 8, 2021.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due by December 16, 2021.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2021–27092 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: U.S. Postal Service®.

ACTION: Notice of a modified system of records.

SUMMARY: The United States Postal Service® (USPS®) is proposing to revise a Customer Privacy Act Systems of Records (SOR). These modifications are being made to reflect enhanced functionality within an integrated technology system that supports USPS Identity Verification Services (IVS) and will seek to enhance In-Person Identity Proofing Capabilities to voluntarily align with National Institute of Standards and Technology (NIST) 800.63A Digital Identity standards. This enhanced functionality will be used to meet internal USPS needs and the requirements of other Federal government agencies. Modifications to this SOR are also being proposed to support a separate initiative that enhances the In-Person enrollment process for the Informed Delivery® feature, with an objective to improve the customer experience.

DATES: These revisions will become effective without further notice on January 14, 2022, unless, in response to comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters (*privacy@usps.gov*). To facilitate public inspection, arrangements to view copies of any written comments received will be made upon request.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or *privacy@usps.gov*.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. The Postal Service has determined that Customer Privacy Act System of Records USPS 910.000 Identity and Document Verification Services, should be revised to support efforts to enhance identity proofing capabilities and voluntarily align with new digital identity standards set forth by NIST. Additional proposed modifications support enhancements to the In-Person enrollment process for the Informed Delivery feature.

I. Background

The Postal Service utilizes a modern integrated Identity Verification System (IVS) to optimize, manage, and develop the Postal Service capabilities to support Identity Proofing for USPS, and other Federal Agencies under agreement with USPS, to provide identity verification services. Services provided by USPS may include biometric fingerprint collection, remote proofing, In-Person proofing webservices and Application Programming Interfaces (APIs) that enable the support and fulfillment of Federal agency requirements. USPS SOR 910.000, Identity and Document Verification, is being modified to reflect enhanced functionality within this integrated Identity Verification Services (IVS) system.

The Postal Service is seeking to enhance USPS's identity proofing capabilities. The objectives of this initiative will advance the mission of the Postal Service by:

- Providing additional Identity proofing capabilities to meet requirements set forth in agreements with participating Federal Agencies, as authorized by 39 U.S.C. 411
- Improve the effectiveness and security of USPS internal identity proofing capabilities and processes

The Postal Service is voluntarily aligning its capabilities and processes with selected guidelines and standards for In-Person identity proofing from the National Institute of Standards and Technology (NIST). USPS offers an In-Person Proofing (IPP) service to support individuals that are not able to verify their identity remotely online. In-Person proofing capabilities provide different levels of certainty for which a user's identity claim can be assessed at an

accepted level of trust to determine eligibility for access to applications and uses. By enhancing identity proofing capabilities and processes, the Postal Service is positioning itself to better support the needs of other Federal Agencies that require identity proofing services. The Postal Service is uniquely positioned to offer In-Person proofing services at selected Retail Post Offices, across its large Retail Network, with the added values of accessibility and convenience.

Currently, the IPP Basic capability is used to support the Informed Delivery feature at USPS. However, the IPP program continues to mature to support potential Federal use cases or requirements, and advanced capabilities. The future vision and roadmap for the USPS IPP program will include the ability to support advanced identity proofing standards for sensitive or risk averse transactions that would require real-world evidence to ensure that the user is who they claim to be. The new and enhanced In Person proofing capability will voluntarily align with NIST 800.63A guidelines for Identity Proofing at the Identity Assurance Level (IAL), Level 2 (IAL–2). In this context, the Identity Proofing process utilizes attribute information provided by the individual applicant, such as name, address of residence, phone number and email address, that is subsequently validated using various forms of identity evidence and documentation. The goal of identity verification is to confirm and establish a linkage between the claimed identity and the real-life existence of the subject presenting the evidence, thereby ensuring that the individual user is who they claim to be and minimizing the risk of fraud or misuse.

More detailed information that pertains to Identity Proofing Requirements may be obtained from NIST Special Publication 800–63, Digital Identity Guidelines available for viewing at *https://www.nist.gov/identity-access-management/nist-special-publication-800-63-digital-identity-guidelines*. As described by NIST, ''The Special Publication (SP) 800–63 document suite provides technical requirements for federal agencies implementing digital identity services in a four-volume set: SP 800–63–3 Digital Identity Guidelines, SP 800–63A Enrollment and Identity Proofing, SP 800–63B Authentication and Lifecycle Management, and SP 800–63C Federation and Assertions. The publication provides security and privacy controls for digital identity management for designated levels of assurance, including identity proofing, authentication and use of authenticators, and identity federation. SP 800–63–3 establishes risk-based processes for the assessment of risks for identity management activities and selection of appropriate assurance levels and controls. Organizations have the flexibility to choose the appropriate assurance level to meet their specific needs.''

As indicated above, by voluntarily aligning with the NIST Digital Identity Guidelines for Enrollment and Identity Proofing as outlined in NIST SP–800.63A, the Postal Service can attain certification at the IAL–2 Level, that will enhance the ability to meet the future needs of other Federal Agencies as authorized by 39 U.S.C. 411, via interagency agreements. Obtaining IAL–2 Level certification will enhance In-Person Proofing capabilities available through the Postal Service and the ability to support other Federal Agency initiatives and partnerships that require IAL–2 level Identity Proofing services.

The Postal Service is also proposing to enhance the In-Person enrollment process for the Informed Delivery feature by streamlining the process steps and combining aspects for determining eligibility and identity proofing. The customer will have the option to voluntarily have the barcode on the back of their government issued IDs scanned to capture name and address information that will be used to confirm eligibility for the Informed Delivery feature, and to prefill that information during the enrollment process. The objective of this Informed Delivery initiative is to improve efficiency by combining similar information collected across the In-Person enrollment process when customers sign-up for the Informed Delivery feature.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is proposing to modify USPS SOR 910.000 in support of enhancing In-Person Proofing, Identity Proofing Capabilities to support both USPS and external Federal Agencies by voluntarily aligning with NIST 800.63 standards.

The Postal Service requires the need to capture and store a customer or participants name, address, phone number, personal email, high-resolution images and associated attribute information, then validate the information collected using various forms of identity evidence and documentation to enhance Identity Proofing capabilities that will be used to:

- Verify the authenticity of the person's associated Identity Documents to further confirm their proof of Identity
- Align with audit requirements for storing and maintaining Personally Identifiable Information (PII)
- Voluntarily align with NIST 800.63 Identity Verification guidelines and standards
- Provide USPS with the ability to provide Identity Proofing services to other partnering Federal Agencies
- Provide reporting capabilities for USPS and other partnering Federal Agencies
- Provide the Postal Service with the ability to be certified at the 800.63A IAL–2 level, increasing the USPS security posture and the ability to meet the security requirements of other Federal Agency partnerships.

Accordingly, to support enhanced In-Person Proofing, Identity Proofing capabilities, three new purposes are being added to USPS SOR 910.000, along with proposed modifications to three existing purposes. A new Category of Records and record retention and disposal policy that pertain to records maintained for Identity Proofing activities are also being added to support the enhanced IPP initiative.

In addition, the Postal Service is proposing to modify SOR 910.000, to include two new purposes in support of enhancements to the In-Person enrollment process for the Informed Delivery feature. Similarly, modifications to USPS SOR 820.300, Informed Delivery are being proposed and will be described in a separate **Federal Register** Notice.

III. Description of the Modified System of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions to this SOR has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect this modified system of records to have any adverse effect on individual privacy rights. Accordingly, for the reasons stated above, the Postal Service proposes revisions to this system of records. SOR 910.000 Identity and Document Verification is provided below in its entirety.

SYSTEM NAME AND NUMBER:

USPS 910.000, Identity and Document Verification Services.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

USPS Marketing, Headquarters; Integrated Business Solutions Services Centers; and contractor sites.

SYSTEM MANAGER(S):

Chief Information Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1500.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, 404, and 411.

PURPOSE(S) OF THE SYSTEM:

1. To provide services related to identity and document verification services.
2. To issue and manage public key certificates, user registration, email addresses, and/or electronic postmarks.
3. To provide secure mailing services.
4. To protect business and personal communications.
5. To enhance personal identity and privacy protections.
6. To improve the customer experience and facilitate the provision of accurate and reliable delivery information.
7. To identify, prevent, or mitigate the effects of fraudulent transactions.
8. To support other Federal Government Agencies by providing authorized services.
9. To ensure the quality and integrity of records.
10. To enhance the customer experience by improving the security of Change-of-Address (COA) and Hold Mail processes, along with other products, services and features that require identity proofing and document verification.
11. To protect USPS customers from becoming potential victims of mail fraud and identity theft.
12. To identify and mitigate potential fraud in the COA and Hold Mail processes, along with other products, services and features that require identity proofing and document verification.
13. To verify a customer's identity when applying for COA and Hold Mail services, along with other products, services and features that require identity proofing and document verification.
14. To provide an audit trail for COA and Hold Mail requests (linked to the identity of the submitter).
15. To enhance remote identity proofing with a Phone Verification and One-Time Passcode solution.
16. To enhance remote identity proofing, improve fraud detection and customer's ability to complete identity proofing online with a Device Reputation Remote Identity Verification solution.
17. To verify a customer's Identity using methods and Identity Proofing standards that voluntarily align with NIST Special Publication 800.63 and support other Federal Agency partner security requirements.
18. To enhance In-Person identity proofing, improve Identity Document fraud detection and enable a customer to successfully complete identity proofing activities required for access to Postal Service products, services and features.
19. To enhance In-Person identity proofing, improve Identity Document fraud detection and enable a customer to successfully complete identity proofing activities as required by partnering Federal Agencies to authorize or allow individual customer access to a privilege, system, or role.
20. To facilitate the In-Person enrollment process for the Informed Delivery® feature.
21. To provide customers with the option to voluntarily scan the barcode on the back of government issued IDs to capture name and address information that will be used to confirm eligibility and prefill information collected during the In-Person Informed Delivery enrollment process.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Customers who apply for identity and document verification services.
2. Customers who may require identity verification for Postal products, services and features.
3. USPS customers who sign-up, register or enroll to participate as users in programs, request features, or obtain products and/or services that require document or identity verification.
4. Individual applicants and users that require identity verification or document verification services furnished by the Postal Service in cooperation with other Government agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Customer information:* Name, address, customer ID(s), telephone number, text message number and carrier, mail and email address, date of birth, place of birth, company name, title, role, and employment status.
2. *Customer preference information:* Preferred means of contact.
3. *Authorized User Information:* Names and contact information of users who are authorized to have access to data.
4. *Verification and payment information:* Credit or debit card information or other account number, government issued ID type and number, verification question and answer, and payment confirmation code. (Note: Social Security Number and credit or debit card information may be collected, but not stored, in order to verify ID.)
5. *Biometric information:* Fingerprint, photograph, height, weight, and iris scans. (Note: Information may be collected, secured, and returned to customer or third parties at the request of the customer, but not stored.)
6. *Digital certificate information:* Customer's public key(s), certificate serial numbers, distinguished name, effective dates of authorized certificates, certificate algorithm, date of revocation or expiration of certificate, and USPS-authorized digital signature.
7. *Online user information:* Device identification, device reputation risk and confidence scores.
8. *Transaction information:* Clerk signature; transaction type, date and time, location, source of transaction; product use and inquiries; Change of Address (COA) and Hold Mail transactional data.
9. *Electronic information*: Information related to encrypted or hashed documents.
10. *Recipient information:* Electronic signature ID, electronic signature image, electronic signature expiration date, and timestamp.
11. *In-Person Proofing and Enhanced Identity Verification Attributes:* Contents of Valid Identification (ID) Documents; High resolution images of front and back of ID documents, bar code on ID Document and the content of displayed and encoded fields on ID documents that may be collected and stored in order to facilitate security validation and Identity Proofing of an applicant, participant or customer's ID; Facial Image; Name, Address, and Unique ID Document number; Birthdate, Eye Color, Height and Weight; Signature; Organ donation preference.
12. *Strong ID Documents used for In-Person Identity Proofing:* Photo ID, unique ID Number and the name of the Individual being identified; Passports, Passport cards; State ID Cards, State Driver's Licenses: Uniformed Service ID's, and Government ID documents.

RECORD SOURCE CATEGORIES:

Individual Customers, Users, Participants and Applicants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Standard routine uses 1. through 7., 10., and 11. apply.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated databases, computer storage media, and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By customer name, customer ID(s), distinguished name, certificate serial number, receipt number, transaction date, and email addresses.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Records related to Pending Public Key Certificate Application Files are added as received to an electronic database, moved to the authorized certificate file when they are updated with the required data, and records not updated within 90 days from the date of receipt are destroyed.
2. Records related to the Public Key Certificate Directory are retained in an electronic database, are consistently updated, and records are destroyed as they are superseded or deleted.
3. Records related to the Authorized Public Key Certificate Master File are retained in an electronic database for the life of the authorized certificate.
4. When the certificate is revoked, it is moved to the certificate revocation file.
5. The Public Key Certificate Revocation List is cut off at the end of each calendar year and records are retained 30 years from the date of cutoff. Records may be retained longer with customer consent or request.
6. Other records in this system are retained 7 years, unless retained longer by request of the customer.
7. Records related to electronic signatures are retained in an electronic database for 3 years.
8. Other categories of records are retained for a period of up to 30 days.
9. Driver's License data will be retained for 5 years.
10. COA and Hold Mail transactional data will be retained for 5 years.
11. Records related to Phone Verification/One-Time Passcode and Device Reputation assessment will be retained for 7 years.
12. Records collected for Identity Proofing at the Identity Assurance Level 2 (IAL–2), including ID document images, Identity Verification Attributes, and associated data will be retained up to 5 years, or as stipulated within Interagency Agreements (IAAs) with partnering Federal Agencies. Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge.

Access to records is limited to individuals who need the information to perform their job and whose official duties require such access.

Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

Key pairs are protected against cryptanalysis by encrypting the private key and by using a shared secret algorithm to protect the encryption key, and the certificate authority key is stored in a separate, tamperproof, hardware device. Activities are audited, and archived information is protected from corruption, deletion, and modification.

For authentication services and electronic postmark, electronic data is transmitted via secure socket layer (SSL) encryption to a secured data center. Computer media are stored within a secured, locked room within the facility. Access to the database is limited to the system administrator, database administrator, and designated support personnel. Paper forms are stored within a secured area within locked cabinets.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedure and Record Access Procedures above.

NOTIFICATION PROCEDURES:

Customers wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain name, address, email, and other identifying information.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

March 16, 2020, 85 FR 14982; December 13, 2018, 83 FR 64164; December 22, 2017, 82 FR 60776; August 29, 2014, 79 FR 51627; October 24, 2011, 76 FR 65756; April 29, 2005, 70 FR 22516.

Joshua J. Hofer,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2021–27113 Filed 12–14–21; 8:45 am]

BILLING CODE P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 22, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 729 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–22, CP2022–24.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27162 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 24, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 731 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–25, CP2022–27.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27164 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 30, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 127 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–27, CP2022–29.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27166 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 30, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 211 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–26, CP2022–28.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27167 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 1, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 210 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–24, CP2022–26.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27165 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 6, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 732 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–29, CP2022–32.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27169 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: December 23, 2021, at 11:30 a.m.

PLACE: Washington, DC

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Thursday, December 23, 2021, at 11:30 a.m.

1. Strategic Items.
2. Administrative Items.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2021–27229 Filed 12–13–21; 11:15 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 8, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 733 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–30, CP2022–33.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27170 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 22, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 730 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–23, CP2022–25.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27163 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 3, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 212 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–28, CP2022–31.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–27168 Filed 12–14–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service™.

ACTION: Notice of modified systems of records.

SUMMARY: The United States Postal Service® (Postal Service) is proposing to revise a Customer Privacy Act System of Records (SOR). These modifications are being made to support an initiative that enhances the In-Person enrollment process for the Informed Delivery feature with an objective to improve the customer experience.

DATES: These revisions will become effective without further notice on January 14, 2022, unless in response to comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters (*privacy@usps.gov*). To facilitate public inspection, arrangements to view copies of any written comments received will be made upon request.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or *privacy@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. The Postal Service has determined that Customer Privacy Act System of Records, USPS 820.300 Informed Delivery, should be revised to support enhancements to the In-Person enrollment process for the Informed Delivery feature.

I. Background

The Postal Service is proposing to enhance the in-person enrollment process for the Informed Delivery feature by streamlining the process steps and combining aspects for determining eligibility and identity proofing. The customer will have the option to voluntarily have the barcode on the back of their government issued IDs scanned to capture name and address information that will be used to confirm eligibility for the Informed Delivery® feature, and to prefill that information during the enrollment process. The objective of this initiative is to improve efficiency by combining similar information collected across the in-person enrollment process when customers sign-up for the Informed Delivery feature.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is proposing to modify SOR 820.300 Informed Delivery to support enhancements to the in-person enrollment process for the Informed Delivery feature. Two new purposes are being added to the existing SOR, appearing as purpose numbers 13 and 14. A new category of records is also being added to the existing SOR, appearing as number 10, In-Person enrollment process. The system manager's title has also been updated to reflect recent organizational changes.

III. Description of the Modified System of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect this amended system of records to have any adverse effect on

individual privacy rights. The notice for USPS SOR 820.300, Informed Delivery is provided below in its entirety, as follows:

SYSTEM NAME AND NUMBER:

USPS 820.300, Informed Delivery.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

USPS Headquarters; Wilkes-Barre Solutions Center; and Eagan, MN.

SYSTEM MANAGER(S):

Vice President, Innovative Business Technology, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1010.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and 404.

PURPOSE(S) OF THE SYSTEM:

1. To support the Informed Delivery® notification service which provides customers with electronic notification of physical mail that is intended for delivery at the customer's address.

2. To provide daily email communication to consumers with images of the letter-size mailpieces that they can expect to be delivered to their mailbox each day.

3. To provide an enhanced customer experience and convenience for mail delivery services by linking physical mail to electronic content.

4. To obtain and maintain current and up-to-date address and other contact information to assure accurate and reliable delivery and fulfillment of postal products, services, and other material.

5. To determine the outcomes of marketing or advertising campaigns and to guide policy and business decisions through the use of analytics.

6. To identify, prevent, or mitigate the effects of fraudulent transactions.

7. To demonstrate the value of Informed Delivery in enhancing the responsiveness to physical mail and to promote use of the mail by commercial mailers and other postal customers.

8. To enhance the customer experience by improving the security of Change of Address (COA) and Hold Mail processes.

9. To protect USPS customers from becoming potential victims of mail fraud and identity theft.

10. To identify and mitigate potential fraud in the COA and Hold Mail processes.

11. To verify a customer's identity when applying for COA and Hold Mail services.

12. To support the Targeted Offers application which enables customers to securely share their preferences related to marketing content with mailers.

13. To facilitate the in-person enrollment process for the Informed Delivery feature.

14. To provide customers with the option to voluntarily scan the barcode on the back of government issued IDs to capture name and address information that will be used to confirm eligibility and prefill information collected during the Informed Delivery in-person enrollment process.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Customers who are enrolled in Informed Delivery notification service.

2. Customers who are enrolled in Targeted Offers.

3. Mailers that use Informed Delivery notification service to enhance the value of the physical mail sent to customers.

4. Mailers that use Targeted Offers to conduct more targeted digital and physical prospecting campaigns based on consumer preferences.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Customer information:* Name; customer ID(s); mailing (physical) address(es) and corresponding 11-digit delivery point ZIP Code; phone number(s); email address(es); text message number(s) and carrier.

2. *Customer account preferences:* Individual customer preferences related Start Printed Page 2592 to email and online communication participation level for USPS and marketing information; and mail content preferences for Targeted Offers.

3. *Mailer Information:* Mailing Categories for mailers that use Targeted Offers.

4. *Customer feedback:* Information submitted by customers related to Informed Delivery notification service or any other postal product or service.

5. *Subscription information:* Date of customer sign-up for services through an opt-in process; date customer opts-out of services; nature of service provided.

6. *Data on mailpieces:* Destination address of mailpiece; Intelligent Mail barcode (IMb); 11-digit delivery point ZIP Code; and delivery status; identification number assigned to equipment used to process mailpiece.

7. *Mail Images:* Electronic files containing images of mailpieces captured during normal mail processing operations.

8. *User Data associated with 11-digit ZIP Codes:* Information related to the user's interaction with Informed Delivery email messages, including but not limited to, email open and click-through rates, dates, times, and open rates appended to mailpiece images (user data is not associated with personally identifiable information).

9. *Data on Mailings:* Intelligent Mail barcode (IMb) and its components including the Mailer Identifier (Mailer ID or MID), Service Type Identifier (STID) Serial Number, and unique IA code.

10. *In-Person enrollment process:* Name and address information collected from the voluntary scan of the barcode on the back of government issued IDs used to confirm eligibility and prefill enrollment information.

RECORD SOURCE CATEGORIES:

Individual customers who request to enroll in the Informed Delivery feature notification service; *usps.com* account holders; other USPS systems and applications including those that support online change of address, mail hold services, Premium Forwarding Service, or P.O. Boxes Online; commercial entities, including commercial mailers or other Postal Service business partners and third-party mailing list providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Standard routine uses 1. through 7., 10., and 11. apply.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database and computer storage media.

POLICIES OF PRACTICES FOR RETRIEVAL OF RECORDS:

By customer email address, 11-Digit ZIP Code and/or the Mailer ID component of the Intelligent Mail Barcode.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Mailpiece images will be retained up to 7 days (mailpiece images are not associated with personally identifiable information). Records stored in the subscription database are retained until the customer cancels or opts out of the service.

2. User data is retained for 2 years, 11 months.

Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice. Any records existing on paper will be destroyed by burning, pulping, or shredding.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Computers and computer storage media are located in controlled-access

areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software. Online data transmissions are protected by encryption. Access is controlled by logon ID and password. Online data transmissions are protected by encryption.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedures below or Record Access Procedures above.

NOTIFICATION PROCEDURES:

Customers who want to know if information about them is maintained in this system of records must address inquiries in writing to the system manager. Inquiries must contain name, address, email, and other identifying information.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

December 27, 2018, 83 FR 66768; August 25, 2016, *81 FR 58542.*

Joshua Hofer,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2021–27110 Filed 12–14–21; 8:45 am]

BILLING CODE P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Orbital Debris Research and Development Interagency Working Group Listening Sessions; Withdrawal

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice; withdrawal.

SUMMARY: The Office of Science and Technology Policy (OSTP) published a document in the **Federal Register** of December 10, 2021, regarding two meetings. These meetings have been cancelled and will be rescheduled. OSTP will publish an updated notice with the rescheduled information in the future.

DATES: This withdrawal is effective December 15, 2021.

FOR FURTHER INFORMATION CONTACT: Ezinne Uzo-Okoro at *OrbitalDebris@ostp.eop.gov* or by calling 202–456–4444.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 10, 2021, withdraw FR Doc 2021–26729. The meetings announced in this notice have been cancelled and will be rescheduled. OSTP will publish an updated notice with the rescheduled information in the future.

Authority: 86 FR 70547.

Dated: December 13, 2021.

Stacy Murphy,

Operations Manager.

[FR Doc. 2021–27248 Filed 12–14–21; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34436; 812–15246]

Oaktree Fund Advisors, LLC and Oaktree Diversified Income Fund Inc.

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, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under 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 management investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees, and early withdrawal charges (''EWCs'').

Applicants: Oaktree Diversified Income Fund Inc. (the ''Initial Fund'') and Oaktree Fund Advisors, LLC (the ''Adviser'' and together with the Initial Fund the ''Applicants'').

Filing Dates: The application was filed on July 9, 2021, and amended on September 24, 2021 and December 3, 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 by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 4, 2022 and should be accompanied by proof of service on the 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 at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Michael R. Rosella, Esq., Vadim Avdeychik, Esq., Paul Hastings LLP, 200 Park Avenue, New York, New York 10166; Brian Hurley, Esq., Oaktree Diversified Income Fund Inc., Brookfield Place, 250 Vesey Street, 15th Floor, New York, New York 10281–1023.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876 or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations:

1. The Initial Fund is a newly organized Maryland corporation that is registered under the Act as a closed-end management investment company. The Initial Fund is classified as a diversified investment company as defined under section 5(b)(1) of the Act. The Initial Fund operates as an ''interval fund'' pursuant to rule 23c–3 under the Act and continuously offers its shares.

2. The Adviser is a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, as amended. The Adviser serves as investment adviser to the Initial Fund.

3. Applicants seek an order to permit the Initial Fund to issue multiple classes

of shares, each having its own fee and expense structure, and to impose asset-based distribution and service fees, and EWCs.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser, and which operates as an interval fund pursuant to rule 23c–3 under the Act or provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (the ''Exchange Act'') (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund makes a continuous public offering of its shares. Applicants state that additional offerings by any Fund relying on the order may be on a private placement or public offering basis. Shares of the Funds will not be listed on any securities exchange, nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund may offer classes of shares in addition to its initial share class, with each class having its own fee and expense structure. The terms of any additional classes may differ from the initial class pursuant to and in compliance with rule 18f–3 under the Act.

7. Applicants state that shares of a Fund may be subject to a repurchase fee at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year. Any repurchase fee will apply equally to all classes of shares of a Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. Further, applicants represent that to the extent a Fund determines to waive, impose scheduled variations of, or eliminate any repurchase fee, it will do so consistently with the requirements of rule 22d–1 under the Act as if the repurchase fee were a CDSL (defined below) and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such repurchase fee will apply uniformly to all shareholders of the Fund regardless of class.

8. Applicants state that the Initial Fund adopted a fundamental policy to repurchase a specified percentage of its shares (no less than 5% and not more than 25%) at net asset value on a periodic basis. Such repurchase offers will be conducted pursuant to rule 23c–3 under the Act.[3] Each Future Fund will likewise adopt a fundamental investment policy in compliance with rule 23c–3 and make periodic repurchase offers to its shareholders, or provide periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Exchange Act. Any repurchase offers made by the Funds will be made to all holders of shares of each such Fund.

9. Applicants represent that any asset-based distribution and/or service fees for each class of shares of the Funds will comply with the provisions of FINRA Rule 2341 (''Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses, and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A.[5] As is required for open-end funds, each Fund will disclose fund expenses borne by shareholders during the reporting period in shareholder reports, and describe in their prospectuses any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[6] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[7]

10. Each Fund will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to each Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

11. Applicants state that each Fund may impose an EWC on shares submitted for repurchase that have been held less than a specified period and may grant waivers of the EWCs on repurchases in connection with certain categories of shareholders or transactions to be established from time to time. Applicants state that each Fund will apply the EWC (and any waivers or scheduled variations of the EWC) uniformly to all shareholders in a given class and consistently with the requirements of rule 22d–1 under the Act as if the Fund were an open-end investment company.

13. Each Fund operating as an interval fund pursuant to rule 23c–3 under the Act may offer its shareholders an exchange feature under which the shareholders of the Fund may, in connection with the Fund's periodic repurchase offers, exchange their shares of the Fund for shares of the same class of (i) registered open-end investment companies or (ii) other registered closed-end investment companies that comply with rule 23c–3 under the Act and continuously offer their shares at net asset value, that are in the Fund's group of investment companies (collectively, the ''Other Funds''). Shares of a Fund operating pursuant to rule 23c–3 that are exchanged for shares of Other Funds will be included as part of the amount of the repurchase offer amount for such Fund as specified in rule 23c–3 under the Act. Any exchange option will comply with rule 11a–3 under the Act, as if the Fund were an open-end investment company subject to rule 11a–3. In complying with rule 11a–3, each Fund will treat an EWC as

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in compliance with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants submit that rule 23c–3 and Regulation M under the Exchange Act permit an interval fund to make repurchase offers to repurchase its shares while engaging in a continuous offering of its shares pursuant to rule 415 under the Securities Act of 1933, as amended.

[4] Any reference to the Sales Charge Rule includes any successor or replacement Sales Charge Rule that may be adopted by the Financial Industry Regulatory Authority (''FINRA'').

[5] In all respects other than class-by-class disclosure, each Fund will comply with the requirements of Form N–2.

[6] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[7] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, *et seq.* of the Act.

if it were a contingent deferred sales load (''CDSL'').[8]

Applicants' Legal Analysis:

Multiple Classes of Shares

1. Section 18(a)(2) of the Act makes it unlawful for a closed-end investment company to issue a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a registered closed-end investment company may not issue or sell any senior security that is stock if, immediately thereafter, the company has outstanding more than one class of senior security that is stock. Section 18(g) of the Act defines ''senior security'' that is stock as ''any stock of a class having priority over any other class as to distribution of assets or payment of dividends''. Applicants state that the creation of multiple classes of Shares of a Fund proposed herein may result in Shares of a class having ''priority over another class as to payment of dividends,'' and being deemed a ''senior security,'' because shareholders of different classes may pay different distribution fees, different shareholder services fees, and any other expense (as described elsewhere in this notice). Accordingly, applicants state that the creation of multiple classes of Shares of a Fund with different fees and expenses may be prohibited by section 18(c).

3. Section 18(i) of the Act provides, in relevant part, that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures. Applicants state that each Fund will comply with the provisions of rule 18f-3 as if it were an open-end investment company.

Early Withdrawal Charges

1. Section 23(c) of the Act provides, in relevant part, that no registered closed-end investment company shall purchase securities of which it is the issuer, except: (a) On a securities exchange or other open market; (b) pursuant to tenders, after reasonable opportunity to submit tenders given to all holders of securities of the class to be purchased; or (c) under other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors.

2. Rule 23c–3 under the Act permits an interval fund to make repurchase offers of between five and twenty-five percent of its outstanding shares at net asset value at periodic intervals pursuant to a fundamental policy of the interval fund. Rule 23c–3(b)(1) under the Act permits an interval fund to deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is paid to the interval fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.

3. Section 23(c)(3) provides that the Commission may issue an order that would permit a closed-end investment company to repurchase its shares in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

4. Applicants request relief under section 6(c), discussed above, and section 23(c)(3) from rule 23c–3 to the extent necessary for the Funds to impose EWCs on shares of the Funds submitted for repurchase that have been held for less than a specified period.

5. Applicants state that the EWCs they intend to impose are functionally similar to CDSLs imposed by open-end investment companies under rule 6c–10 under the Act. Rule 6c–10 permits open-end investment companies to impose CDSLs, subject to certain conditions. Applicants note that rule 6c–10 is grounded in policy considerations supporting the employment of CDSLs where there are adequate safeguards for the investor and state that the same policy considerations support imposition of EWCs in the interval fund context. In addition, applicants state that EWCs may be necessary for the distributor to recover distribution costs. Applicants represent that any EWC imposed by the Funds will comply with rule 6c–10 under the Act as if the rule were applicable to closed-end investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N–1A concerning CDSLs as if the Fund were an open-end investment company.

Asset-Based Service and Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of (or principal underwriter for) a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Funds to impose asset-based distribution and/or service fees. Applicants have agreed to comply

[8] A CDSL, which may be assessed by an open-end fund pursuant to rule 6c–10 of the Act, is a distribution related charge payable to the distributor. Pursuant to the requested order, any EWC will likewise be a distribution-related charge payable to the distributor as distinguished from a repurchase fee, which is payable to a Fund to reimburse the Fund for costs incurred in liquidating securities in the Fund's portfolio.

with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based service and distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will ensure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies, and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition:

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Dated: December 10, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–27158 Filed 12–14–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93743; File No. SR–CBOE–2021–073]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

December 9, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 2, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule in connection with the Exchange's planned extension of Global Trading Hours (''GTH'') and the GTH Cboe Volatility Index (''VIX'')/VIX Weekly (''VIXW'') Lead Market-Maker (''LMM'') Incentive Program and GTH S&P 500 Index (''SPX'')/SPX Weekly (''SPXW'') LMM Incentive Program.[3]

Beginning Sunday, November 21, 2021, the Exchange plans to extend the hours of its GTH session by starting the GTH trading session at 7:15 p.m. CT[4] on the immediately preceding calendar day, rather than at the current start time of 2:00 a.m. The GTH trading session will continue to end at 8:15 a.m. As such, the proposed rule change updates the Fees Schedule to reflect the extended GTH trading session. Specifically, footnote 37 of the Fees Schedule currently provides that GTH is a separate trading session from Regular Trading Hours (''RTH'') for VIX, SPX and SPW.[5] GTH commences at 2:00 A.M. CST and terminates at 8:15 A.M. CST, and is conducted on an all-electronic trading model with no open outcry capability. Footnote 37 is currently appended to various transaction and surcharge fees for orders in VIX, SPX and SPXW under the Rate Table—Underlying Symbol List A of the Fees Schedule, as well as certain programs in the Fees Schedule.[6] Such fees, surcharges and programs apply[7] during both Regular Trading Hours (''RTH'') and GTH. In line with the newly extended GTH hours, the proposed rule change amends footnote 37 to provide that GTH commences at 7:15 P.M. CST and terminates at 8:15 A.M. CST. The fees, surcharges and programs applicable during GTH will continue to apply in the same manner as they currently do; the trading hours in which such fees, surcharges and programs apply are merely being extended.

The proposed rule change also amends the GTH VIX/VIXW LMM Incentive Program and GTH SPX/SPXW LMM Incentive Program. Both LMM Incentive Programs provide a rebate to Trading Permit Holders (''TPHs'') with LMM appointments to the respective incentive program that meet certain quoting standards in the applicable series in a month. The Exchange notes that meeting or exceeding the quoting standards (both current and as proposed; described in further detail below) in each of the LMM Incentive Program products to receive the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on November 19, 2021 (SR–CBOE–2021–069). On December 2, 2021, the Exchange withdrew that filing and submitted this filing.

[4] Unless otherwise specified, all times herein this proposal are in Central Time.

[5] The proposed rule change makes a nonsubstantive change to capitalize the ''W'' in SPXW to make the term consistent with the manner in which the symbol is formatted throughout the Fees Schedule.

[6] *See* Cboe Options, Fees Schedule, Cboe Options Clearing Trading Permit Holder Proprietary Products Sliding Scale, Cboe Options Clearing Trading Permit Holder VIX Sliding Scale, Customer Large Trade Discount, Large Trade Discount, Electronic Trading Permit Fees, Trade Processing Services, Regulatory Fees, and TPH Transaction Fee Policies and Rebate Programs.

[7] The Fees Schedule also provides for the GTH Executing Agent Subsidy Program, which applies only during GTH.

applicable rebate is optional for an LMM appointed to a program. Particularly, an LMM appointed to an incentive program is eligible to receive the corresponding rebate if it satisfies the applicable quoting standards, which the Exchange believes encourages the LMM to provide liquidity in the applicable class and trading session (*i.e.,* GTH, including as extended). The Exchange may consider other exceptions to the programs' quoting standards based on demonstrated legal or regulatory requirements or other mitigating circumstances. In calculating whether an LMM appointed to an incentive program meets the applicable program's quoting standards each month, the Exchange excludes from the calculation in that month the business day in which the LMM missed meeting or exceeding the quoting standards in the highest number of the applicable series.[8]

In light of the extended GTH trading session, the Exchange proposes to adopt an additional GTH LMM Incentive Program for both VIX/VIXW and SPX/SPXW to cover the newly extended portion of the GTH trading session. Specifically, the LMMs appointed to the proposed additional programs must provide continuous electronic quotes during GTH from 7:15 P.M. CST to 2:00 A.M. CST (''GTH1'')[9] that meet or exceed the proposed quoting standards under each program (as described in further detail below) for the same amount of time in the same number of series as they are currently required to quote pursuant to the current GTH VIX/VIXW and GTH SPX/SPX LMM Incentive Programs,[10] as applicable, in order to receive the same rebates for each series as currently offered under the GTH VIX/VIXW and GTH SPX/SPX LMM Incentive Programs,[11] as applicable. As with the current programs, the Exchange may consider other exceptions to the quoting standards for the proposed GTH1 LMM Incentive Programs based on demonstrated legal or regulatory requirements or other mitigating circumstances, and, in calculating whether an LMM met the applicable GTH1 LMM Incentive Program's quoting standards each month, the Exchange will exclude from the calculation in that month the business day in which the LMM missed meeting or exceeding the applicable quoting standard in the highest number of series.

Like the current GTH VIX/VIXW LMM Incentive Program, the proposed GTH1 VIX/VIXW LMM Incentive Program offers basic quoting standards for VIXW options and for VIX options, and heightened quoting standards for VIX options, that apply based on the VIX Index value at the prior market close (*i.e.,* at the close of the preceding RTH session) as follows:

Proposed GTH1 VIXW options basic quoting standards:

Premium level	Less than 21 days to expiration		21 days or greater to expiration	
	Width	Size	Width	Size
VIX Value at Prior Close <18				
$0.00–$1.00	1.00	10	1.50	10
$1.01–$3.00	1.50	10	2.50	10
$3.01–$5.00	2.50	3	4.00	3
$5.01–$10.00	4.00	1	6.00	1
$10.01–$30.00	6.00	1	10.00	1
Greater than $30.00	10.00	1	10.00	1
VIX Value at Prior Close from 18–25				
$0.00–$1.00	1.50	5	2.00	5
$1.01–$3.00	2.50	5	4.00	5
$3.01–$5.00	4.00	1	5.00	1
$5.01–$10.00	6.00	1	8.00	1
$10.01–$30.00	10.00	1	10.00	1
Greater than $30.00	10.00	1	10.00	1
VIX Value at Prior Close from >25				
$0.00–$1.00	10.00	1	10.00	1
$1.01–$3.00	10.00	1	10.00	1
$3.01–$5.00	10.00	1	10.00	1
$5.01–$10.00	10.00	1	10.00	1
$10.01–$30.00	10.00	1	10.00	1
Greater than $30.00	10.00	1	10.00	1

[8] The Exchange notes that, regarding the VIX/VIXW LMM Incentive Program, which has multiple sets of quoting standards, an LMM's worst quoting day will be excluded from the calculation applicable to each set of quoting standards for that month.

[9] The proposed rule change also renames the existing GTH VIX/VIXW and GTH SPX/SPXW LMM Incentive Programs as ''GTH2 VIX/VIXW LMM Incentive Program'' and ''GTH2 SPX/SPXW LMM Incentive Program'' and clarifies in the programs' descriptions that GTH2 runs from 2:00 A.M. CST to 8:15 A.M. CST. The Exchange notes that the scope of these current programs is not changing as the ''GTH2'' hours are the same as the current GTH hours.

[10] That is, at least 99% of each of the VIX and VIXW series, 90% of the time in a given month pursuant to the GTH1 (as proposed) and current GTH (GTH2, as renamed) VIX/VIXW LMM Incentive Program, and in at least 85% of each of the SPX and SPXW series 90% of the time in a given month pursuant to the GTH1 (as proposed) and current GTH (GTH2, as renamed) SPX/SPXW LMM Incentive Program.

[11] That is: (1) A rebate for that month in the amount of $15,000 for VIX and $10,000 for VIXW, pursuant to the GTH1 (as proposed) and GTH (GTH2, as renamed) VIX/VIXW LMM Incentive Program, if the appointed LMM meets or exceeds the basic quoting standards (as proposed for the GTH1 program and currently for the GTH2 program); (2) a rebate for that month of $0.02 per VIX/VIXW contract executed in its Market-Maker capacity during RTH, pursuant to the proposed GTH1 and current GTH2 VIX/VIXW LMM Incentive Program, if the appointed LMM meets or exceeds the heightened quoting standards; and (3) a rebate for that month in the amount of $15,000 for SPX and $35,000, pursuant to the SPXW GTH1 (as proposed) and GTH (GTH2, as renamed) SPX/SPXW LMM Incentive Program, if the appointed LMM meets or exceeds the heightened quoting standards (as proposed for the GTH1 program and currently for the GTH2 program).

Proposed GTH1 VIX options basic quoting standards:

Premium level	Expiring		Near term		Mid term		Long term	
	Less than 15 days		15 days to 60 days		61 days to 180 days		181 days or greater	
	Width	Size	Width	Size	Width	Size	Width	Size
VIX Value at Prior Close <18								
$0.00–$1.00	0.35	*30	0.25	*40	0.35	*30	0.80	*5
$1.01–$3.00	0.50	*15	0.35	*25	0.50	*15	0.90	*5
$3.01–$5.00	0.60	*15	0.35	*15	0.60	*10	1.00	*5
$5.01–$10.00	1.00	10	0.80	*10	1.30	10	2.00	5
$10.01–$30.00	2.00	5	1.50	5	2.00	5	3.00	3
Greater than $30.00	5.00	3	3.00	3	5.00	3	5.00	3
VIX Value at Prior Close from 18–25								
$0.00–$1.00	0.50	*15	0.35	*30	0.50	*15	1.00	*5
$1.01–$3.00	0.50	*10	0.50	*20	0.70	*10	1.00	*5
$3.01–$5.00	0.80	*5	0.50	*15	0.80	*5	1.30	5
$5.01–$10.00	1.50	*5	1.00	*5	2.00	5	2.20	5
$10.01–$30.00	3.00	1	2.50	1	3.00	1	5.00	1
Greater than $30.00	5.00	1	5.00	1	5.00	1	10.00	1
VIX Value at Prior Close from >25								
$0.00–$1.00	0.80	*10	0.50	*10	0.60	*10	1.20	*5
$1.01–$3.00	1.00	10	0.75	*10	1.00	10	1.20	*5
$3.01–$5.00	1.20	*5	0.90	10	1.20	5	1.80	5
$5.01–$10.00	2.00	5	1.50	5	2.50	5	3.00	3
$10.01–$30.00	5.00	1	5.00	1	5.00	1	7.00	1
Greater than $30.00	10.00	1	10.00	1	10.00	1	10.00	1

Proposed GTH1 VIX options heightened quoting standards:

Premium level	Expiring		Near term	
	Less than 15 days		15 days to 60 days	
	Width	Size	Width	Size
VIX Value at Prior Close <18				
$0.00–$1.00	0.20	*50	0.20	*50
$1.01–$3.00			0.25	*30
$3.01–$5.00			0.35	*20
VIX Value at Prior Close from 18–25				
$0.00–$1.00	0.25	*30	0.20	*30
$1.01–$3.00			0.30	*20
$3.01–$5.00			0.40	*20
VIX Value at Prior Close from >25				
$0.00–$1.00	0.30	*20	0.25	*20
$1.01–$3.00			0.40	*15
$3.01–$5.00			0.60	*15

The Exchange notes that the proposed VIXW options basic quoting standards under the proposed GTH1 program are identical to the VIXW options basic quoting standards under the current GTH program. Additionally, the proposed VIX options basic and heightened quoting standards under the proposed GTH1 program are, by and large, substantially the same as the VIX options basic and heightened quoting standards under the current GTH program, differing only in marginally smaller quote sizes in certain categories as marked by an asterisk in the tables above. The Exchange believes it is appropriate to adopt slightly smaller quote sizes, in general, for the quoting standards applicable during the new overnight hours as the Exchange anticipates that the newly extended portion of GTH may sustain lower volume and general participation and higher volatility, and thus it may be more difficult for LMMs to quote aggressively at the same sizes within the same widths as provided in the existing GTH VIX/VIXW LMM Incentive Program. The Exchange notes that it examined and compared quotes and volume in VIX futures during GTH1 trading hours and current GTH hours to assist it in determining the reduction in certain quote sizes from the current GTH program. Marginally smaller quote sizes are designed to incentivize LMMs appointed to the GTH1 VIX/VIXW program to quote aggressively in VIX options during the new extended hours

to receive the rebate offered under the program, resulting in tighter spreads and increased liquidity during the newly extended hours to the benefit of investors.

Like the current GTH SPX/SPXW LMM Incentive Program, the proposed GTH1 SPX/SPXW LMM Incentive Program offers heightened quoting standards for SPX/SPXW VIX Index value at the prior market close (*i.e.,* at the close of the preceding RTH session) as follows:

Premium level	Expiring		Near term		Mid term		Long term	
	7 days or less		8 days to 60 days		61 days to 270 days		271 days to 500 days	
	Width	Size	Width	Size	Width	Size	Width	Size
VIX Value at Prior Close <20								
$0.00–$1.00	$*0.50	*15	$0.40	15	$0.60	5	$1.20	5
$1.01–$3.00	*0.70	*15	*0.70	*15	1.50	*5	*2.50	5
$3.01–$5.00	*1.40	*10	2.00	15	2.00	*5	*5.00	5
$5.01–$10.00	*7.00	*5	4.00	10	*3.50	*5	*6.00	5
$10.01–$30.00	*18.00	1	*6.00	5	*5.00	5	*8.00	5
Greater than $30.00	*24.00	1	*10.00	1	12.00	1	50.00	1
VIX Value at Prior Close from 20–30								
$0.00–$1.00	*0.70	*10	0.80	10	0.75	5	2.00	5
$1.01–$3.00	*1.20	*10	*1.10	*10	*2.40	5	*3.50	5
$3.01–$5.00	*3.00	10	3.50	10	*3.50	5	*6.00	5
$5.01–$10.00	*12.00	*5	7.00	*5	*4.00	5	*8.00	5
$10.01–$30.00	*24.00	1	*10.00	*1	*7.00	5	*12.00	5
Greater than $30.00	*30.00	1	12.00	1	2.00	1	60.00	1
VIX Value at Prior Close >30								
$0.00–$1.00	*1.20	*5	*1.20	*5	1.00	5	3.00	5
$1.01–$3.00	*3.00	*5	*2.70	*5	3.00	5	*5.00	5
$3.01–$5.00	*5.00	*5	*5.50	*5	*6.00	5	8.00	5
$5.01–$10.00	*16.00	5	*12.00	5	*5.00	3	10.00	1
$10.01–$30.00	20.00	1	*15.00	5	15.00	1	18.00	1
Greater than $30.00	30.00	1	*30.00	1	30.00	1	70.00	1

The proposed SPX/SPXW options heightened quoting standards under the proposed GTH1 program are substantially similar to the SPX/SPXW options heightened quoting standards under the current GTH program, differing only in marginally smaller quote sizes and wider quote widths in certain categories as marked by an asterisk in the tables above. The Exchange believes it is appropriate to adopt slightly smaller quote sizes and wider widths, in general, for the quoting standards applicable during the new overnight hours for the same reasons as described above—the Exchange anticipates that the newly extended portion of GTH may sustain lower volume and general participation and higher volatility, and thus it may be more difficult for LMMs to quote aggressively at the same sizes within the same widths as provided in the existing GTH SPX/SPXW LMM Incentive Program. The Exchange also examined and compared quotes and volume in S&P 500 E-mini futures during GTH1 trading hours and current GTH hours to assist it in determining the reduction in certain quote sizes and widening of certain quote widths from the current GTH program. Marginally smaller quote sizes and wider widths are designed to incentivize LMMs appointed to the GTH1 SPX/SPXW program to quote aggressively in SPX/SPXW options during the new extended hours to receive the rebate offered under the program, resulting in tighter spreads and increased liquidity during the newly extended hours to the benefit of investors. The Exchange further notes that the quote widths and sizes typical in SPX/SPXW options differ from that in VIX options, therefore, the proposed GTH1 SPX/SPXW heightened quoting requirements reflect quote widths and sizes that align with the market characteristics in SPX/SPXW options.

The Exchange believes the proposed quoting requirements for VIX/VIXW options under the proposed GTH1 VIX/VIXW LMM Incentive Program and SPX/SPXW options under the proposed GTH1 VIX/VIXW LMM Incentive Program are designed to encourage LMMs appointed to the program to provide significant liquidity in VIX/VIXW and SPX/SPXW options during the extended portion of the GTH trading session. The Exchange notes that each of the proposed programs provide for quoting standards that apply depending on the VIX Index value at the prior market close (*i.e.,* at the close of the preceding RTH session). The VIX Index value categories under the proposed GTH1 VIX/VIXW and GTH1 SPX/SPXW LMM Incentive Programs are identical to the VIX value categories in the existing GTH VIX/VIXW and GTH SPX/SPXW LMM Incentive Programs, respectively, and are designed to encourage LMMs appointed to the programs to meet the quoting standards by tailoring such quoting standards to reflect market characteristics in VIX/VIXW and SPX/SPXW options depending on the volatility levels of the VIX Index (*i.e.,* in the proposed categories in which the value of the VIX is relatively higher based on the closing VIX Index value from the preceding trading session indicates that the VIX Index is experiencing generally higher volatility).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[14] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

First, the Exchange believes that the proposed rule change to update footnote 37 to reflect the extended GTH trading session, set to begin November 21, 2021, is reasonable, equitable and not unfairly discriminatory. In particular, the Exchange believes that the proposed rule change is reasonable because it merely updates footnote 37 to provide for the appropriate trading hours that will be in place for the GTH trading session as of November 21, 2021. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the newly extended GTH trading session hours will apply equally to all market participants, in that, all market participants that choose to trade during GTH will be able to trade during the new trading hours. The fees, surcharges and programs applicable during GTH will continue to apply in the same manner as they currently do; the trading hours in which such fees, surcharges and programs apply are merely being extended.

Regarding both the GTH1 SPX/SPXW and GTH1 VIX/VIXW LMM Incentive Programs generally, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to continue to offer LMM Incentive Programs as financial incentives, including as proposed, to LMMs appointed to the programs, because it benefits all market participants trading in the corresponding products during GTH (including as extended). These incentive programs encourage the LMMs appointed to such programs to satisfy the applicable quoting standards, which may increase liquidity and provide more trading opportunities and tighter spreads. Indeed, the Exchange notes that these LMMs serve a crucial role in providing quotes and the opportunity for market participants to trade VIX/VIXW and SPX/SPXW options, as applicable, which can lead to increased volume, providing for robust markets. The Exchange ultimately offers the LMM Incentive Programs, including as amended, to sufficiently incentivize LMMs appointed to each incentive program to provide key liquidity and active markets in the corresponding program products during the corresponding trading sessions (and specific trading session hours, as proposed), and believes that these incentive programs, as amended, will continue to encourage increased quoting to add liquidity in each of the corresponding program products, thereby protecting investors and the public interest. The Exchange also notes that an LMM appointed to an incentive program may undertake added costs each month to satisfy that heightened quoting standards (*e.g.,* having to purchase additional logical connectivity).

The Exchange believes that the proposed rule change to adopt the GTH1 VIX/VIXW and GTH1 SPX/SPXW LMM Incentive Programs is reasonable. Particularly, the Exchange believes the proposed quoting requirements under each are reasonably designed to encourage LMMs appointed to each program to provide significant liquidity in VIX/VIXW and SPX/SPXW options during the extended, overnight portion of the GTH trading session in order to meet the applicable quoting standards and receive the corresponding rebate. The provision of liquid and active markets facilitates tighter spreads, increased trading opportunities, and overall enhanced market quality to the benefit of all market participants, particularly in during newly extended trading hours which may experience generally lower volume and participation.

As described above, the continuous quoting requirements (*i.e.,* percentage of time and percentage of series), the applicable rebates under the proposed GTH1 VIX/VIXW and GTH1 SPX/SPXW LMM Incentive Programs, and the manner in which the proposed quoting standards are tailored to the VIX Index value are the same as those under the current GTH VIX/VIXW and GTH SPX/SPXW LMM Incentive Programs, respectively. The Exchange believes that the proposed quoting standards under the GTH1 programs are reasonable because they are either identical (as is the case for the proposed basic quoting standards for VIXW options) or substantially similar (as is the case for the proposed basic and heightened quoting standards for VIX options and proposed heighten quoting standards for SPX/SPXW options) to the corresponding quoting standards currently in place for VIX and VIXW and SPX/SPXW under the existing GTH LMM Incentive Programs for these products. Regarding the proposed quoting standards applicable to VIX options and SPX/SPXW, the Exchange believes it is appropriate to adopt slightly smaller quote sizes (for VIX and SPX/SPXW options) and wider quote widths (for SPX/SPXW options) for the proposed GTH1 quoting standards applicable during the new overnight hours because such overnight hours may sustain lower volume and general participation and higher volatility and, therefore, marginally smaller quote sizes and wider quote widths (where applicable) are designed to incentivize LMMs appointed to the GTH1 VIX/VIXW or GTH1 SPX/SPXW program to quote aggressively in VIX options or SPX/SPXW options, respectively, during the extended GTH hours, resulting in tighter spreads and increased liquidity during the newly extended hours to the benefit of investors. As stated above, the quote widths and sizes typical in SPX/SPXW options differ from that in VIX options, therefore, the proposed GTH1 heightened quoting requirements for SPX/SPXW reflect quote widths and sizes that align with the market characteristics in SPX/SPXW options.

The Exchange also believes it is equitable and not unfairly discriminatory to adopt new GTH1 VIX/VIXW and GTH1 SPX/SPXW LMM Incentive Programs because such programs will equally apply to any and all TPHs with LMM appointments to the GTH1 VIX/VIXW LMM Incentive Program and GTH1 SPX/SPXW LMM Incentive Program, respectively, that seek to meet the applicable program's quoting standards in order to receive the same rebates as currently offered under the existing GTH VIX/VIXW and GTH SPX/SPXW LMM Incentive Programs. Additionally, like with all other existing LMM Incentive Programs in the Fees Schedule, if an LMM appointed to the GTH1 VIX/VIXW or GTH1 SPX/SPXW LMM Incentive Program does not satisfy the quoting standards for any given month, then it simply will not receive the corresponding rebate offered by the program for that month.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would

[14] 15 U.S.C. 78f(b)(4).

encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution and price improvement opportunities for all TPHs. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [15]

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as the newly extended GTH trading session hours will apply equally to all market participants, in that, all market participants that choose to trade during GTH will be able to trade during the new trading hours and the fees, surcharges and programs applicable during GTH will continue to apply in the same manner as they currently apply. Also, the proposed GTH1 VIX/VIXW and GTH1 SPX/SPXW LMM Incentive Programs will apply to all LMMs appointed to each program in a uniform manner. To the extent the LMMs appointed to one of the proposed programs receive a benefit that other market participants do not, as stated, these LMMs in their role as Market-Makers on the Exchange have different obligations and are held to different standards. For example, Market-Makers play a crucial role in providing active and liquid markets in their appointed products, thereby providing a robust market which benefits all market participants. Such Market-Makers also have obligations and regulatory requirements that other participants do not have. An LMM appointed to a program may undertake added costs each month that it needs to satisfy the quoting standards (*e.g.,* having to purchase additional logical connectivity). The programs are ultimately designed to attract additional order flow in VIX/VIXW and SPX/SPXW options to the Exchange during the newly extended GTH trading session, wherein greater liquidity will benefit all market participants by providing more trading opportunities, tighter spreads, and added market transparency and price discovery, and signals to other market participants to direct their order flow to those markets, thereby contributing to robust levels of liquidity during new trading hours.

The Exchange also does not believe that the proposed changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act because the proposed programs are applicable to transactions in products exclusively listed on the Exchange. Additionally, the Exchange notes that it operates in a highly competitive market. TPHs have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges, as well as off-exchange venues, where competitive products are available for trading. Based on publicly available information, no single options exchange has more than 15% of the market share.[16] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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.'' [17] The fact that this market is competitive has also 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'. . . .''.[18] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 [20] thereunder. 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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change 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–CBOE–2021–073 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2021–073. 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

[15] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[16] *See* Cboe Global Markets U.S. Options Market Volume Summary, Month-to-Date (November 12, 2021), available at *https://markets.cboe.com/us/options/market_statistics/.*

[17] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[18] 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)).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–073 and should be submitted on or before January 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–27072 Filed 12–14–21; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93745; File No. SR–CboeBYX–2021–024]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Make Certain Clarifying Changes Related to Periodic Auctions

December 9, 2021.

On October 14, 2021, Cboe BYX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to make certain clarifying changes to Exchange Rule 11.25 related to periodic auctions for the trading of U.S. equity securities. The proposed rule change was published for comment in the **Federal Register** on October 26, 2021.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission will either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 10, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates January 24, 2022 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBYX–2021–024).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–27075 Filed 12–14–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93390 (October 20, 2021), 86 FR 59202.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93744; File No. SR–CBOE–2021–072]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

December 9, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Exchange proposes to amend its Fees Schedule in connection with its strategy order fee cap and the installation fee for the tethering of new equipment in connection with Market-Maker handheld terminals for indexes, effective December 1, 2021.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 15% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to the competitive environment, the Exchange offers specific rates and credits in its fees schedule, like that of other options exchanges' fees schedules, which the Exchange believes provide incentive to Trading Permit Holders (''TPHs'') to increase order flow of certain qualifying orders.

The Exchange proposes to amend footnote 13 of the Fees Schedule in connection with its strategy fee cap. Currently, footnote 13 provides that Market-Maker, Clearing TPH, JBO participant, broker-dealer and non-TPH market-maker transaction fees are capped at $0.00 for all merger, short stock interest, reversal, conversion and jelly roll strategies executed in open outcry on the same trading day in the same option class across all symbols in equities, ETFs and ETNs.[4] Strategies tied to QCC orders are not eligible to receive a strategy rebate and strategies defined in footnote 13[5] are not eligible for an ORS/CORS subsidy. Specifically, the proposed rule change amends footnote 13 so that the strategy fee cap also applies to Professional transaction fees. The proposed change is designed to incentivize an increase in the number of strategy orders executed in a Professional capacity in equity, ETF and ETN options (*i.e.,* multiply-listed options) in open outcry. Professionals generally provide a greater competitive stream of order flow (by definition, more than 390 orders in listed options per day on average during a calendar month), thus, applying the strategy cap to Professional strategies executed in multiply-listed options in open outcry is designed to incentivize increased competitive execution and improved pricing opportunities in such options to the benefit of all market participants.

The Exchange also proposes to waive the installation fee for Cloud9 handheld tethering services. The Exchange is currently working to relocate its trading floor and anticipates its opening at the new location in mid-2022. Currently, pursuant to the Facility Fees table of the Fees Schedule, the Exchange assesses a $900 fee for the electrician services in connection with the installation of the infrastructure related to the tethering of Market-Maker handheld terminals for indexes. The Exchange plans to implement a new voice communication service, Cloud9, for the new trading floor, and all index trading pits will support Market-Maker handheld terminals using Cloud9 equipment once on the new trading floor. The Exchange wishes to encourage TPHs to install the Cloud9 equipment for their handheld terminals on the current trading floor prior to the move to the new trading floor in order to make the transition to Cloud9 services on the new trading floor as seamless as possible. As such, the Exchange proposes to waive the installation fee for the tethering of Cloud9 equipment for Market-Maker handheld terminals for indexes on the Exchange's current trading floor. Specifically, the proposed rule change adopts footnote 38, which provides that the Exchange will waive the installation fee for installation services in connection with the tethering of Cloud9 equipment for Market-Maker handheld terminals for indexes on the Cboe Options trading floor located at 400 S LaSalle Street, and appends footnote 38 to the line item in the Facility Fees table for Market-Maker handheld terminal tethering services for indexes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

The Exchange believes that proposed rule change to apply the strategy order fee cap to Professional transactions in multiply-listed options in open outcry is consistent with Section 6(b)(4) of the Act in that the proposal is reasonable, equitable and not unfairly discriminatory. As noted above, the Exchange operates in highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory in that the Exchange and competing options exchanges currently offer reduced fees or credits in connection with strategy orders executed in open outcry.[9] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive

[3] *See* Cboe Global Markets U.S. Options Market Volume Summary, Month-to-Date (November 22, 2021), available at *https://www.cboe.com/us/options/market_statistics/.*

[4] A ''merger strategy'' is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, *i.e.,* cash or stock. A ''short stock interest strategy'' is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. A ''reversal strategy'' is established by combining a short security position with a short put and a long call position that shares the same strike and expiration. A ''conversion strategy'' is established by combining a long position in the underlying security with a long put and a short call position that shares the same strike and expiration. A ''jelly roll strategy'' is created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position.

[5] *See id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] *See e.g.,* BOX Options Market LLC (''BOX'') Fee Schedule, Section II.D, Strategy Qualified Open Outcry ''QOO'' Order Fee Cap and Rebate; *and* NYSE American Options Fee Schedule, Section I(J), Strategy Execution Fee Cap.

forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow. To respond to this competitive marketplace, the Exchange has established incentives to facilitate the execution of orders via open outcry, which promotes price discovery on the public markets. To the extent that these incentives succeed, the increased liquidity on the Exchange would result in enhanced market quality for all participants.

Particularly, the Exchange believes that applying the strategy fee cap to Professional transactions in multiply-listed options in open outcry is reasonable because it is designed to incentivize Professionals to increase their strategy orders in multiply-listed options submitted to and executed on the Exchange's trading floor. As stated above, Professionals generally provide a greater competitive stream of order flow, thus, incentivizing an increase in Professional strategies executed in multiply-listed options in open outcry may encourage competitive execution and improved pricing opportunities in such options to the benefit of all market participants. The Exchange offers a hybrid market system and aims to balance incentives for its TPHs to continue to contribute to deep liquid markets for investors on both its electronic and open outcry platforms. As such, the Exchange believes the proposed applications of the strategy fee cap to Professional transactions in open outcry is a reasonable means to further encourage open outcry liquidity. The Exchange provides other opportunities in its Fees Schedule for TPHs, including those that submit order flow to the Exchange in a Professional capacity, to receive reduced fees or enhanced rebates for orders executed electronically.[10] The Exchange notes that all market participants stand to benefit from any increase in volume transacted on the trading floor, which promotes market depth, facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

In addition, the Exchange believes that the proposed rule change to waive the installation fees in connection with the tethering of Cloud9 equipment for Market-Maker handheld terminals is reasonably designed to encourage TPHs to install the new Cloud9 equipment for their handheld terminals on the current trading floor prior to the move to the new trading floor in order to make TPHs' transition to Cloud9 services on the new trading floor as seamless as possible.

The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because, as proposed, the strategy fee cap applies to all strategy orders executed by Professionals on the trading floor equally and because the Exchange believes that facilitating strategy orders submitted by Professionals via open outcry encourages and supports increased liquidity and execution opportunities in open outcry, which functions as an important price-improvement mechanism. Also, the proposed strategy fee cap already applies in the same manner to other market participants that execute strategies in multiply-listed options in open outcry.

The Exchange also believes that the proposed waiver of the installation fees in connection with the installation of Cloud9 equipment is equitable and not unfairly discriminatory because the proposed waiver will apply uniformly to all TPHs that require the Exchange to provide installation services for the new Cloud9 equipment on the Exchange's current trading floor in anticipation of the transition to the new trading floor.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change regarding the application of the strategy fee cap will apply uniformly to all Professionals that execute strategy orders in multiply-listed options in open outcry, in the same way the cap applies today to such orders submitted by Market-Makers, Clearing TPHs, JBO participants, broker-dealers and non-TPH market-makers. By applying the strategy fee cap to Professionals, which generally provide a greater competitive stream of order flow, the proposed fee change is designed to enhance order flow directed to open outcry for execution and increase volume transacted on the trading floor, thus promoting market depth, facilitating tighter spreads and enhancing price discovery to the benefit of all market participants. Additionally, the proposed waiver of the installation fees in connection with the installation of Cloud9 equipment will apply uniformly to all TPHs that require the Exchange to provide installation services for the new Cloud9 equipment on the Exchange's current trading floor in anticipation of the transition to the Exchange's new trading floor.

The Exchange also does not believe that the proposed rule change in connection with the strategy fee cap will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act because, as noted above, competing options exchanges, as well as the Exchange, currently have similar fee programs in place in connection with strategy orders executed in open outcry.[11] The Exchange also does not believe that the proposed rule change in connection with the waiver of the installation fee will impose any burden on intermarket competition because it is not competitive in nature, but merely relates to installation services provided by the Exchange in connection with the relocation of its trading floor. Additionally, and as previously discussed, the Exchange operates in a highly competitive market. TPHs have numerous alternative venues that they may participate on and direct their order flow, including 15 other options exchanges. Based on publicly available information, no single options exchange has more than 16% of the market share.[12] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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

[10] *See e.g.,* Cboe Options Fees Schedule, "Volume Incentive Program" and footnote 36, which credits each qualifying TPH (including in a Professional capacity) the per contract amount resulting from each public customer ("C" capacity code) order transmitted by that TPH which is executed electronically on the Exchange (with some exceptions).

[11] *See supra* note 10.

[12] *See supra* note 3.

investors and listed companies.'' [13] The fact that this market is competitive has also 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'. . . .''.[14] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f) of Rule 19b–4 [16] thereunder. 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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change 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.

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[14] *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)).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2021–072 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–CBOE–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–CBOE–2021–072 and should be submitted on or before January 5, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–27073 Filed 12–14–21; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 11606]

Notice of Charter Renewal of the Advisory Committee on International Postal and Delivery Services

AGENCY: Department of State.

ACTION: Notice of charter renewal.

This notice announces the renewal of the charter or the Advisory Committee on International Postal and Delivery Services (IPODS). In accordance with the provisions of the 2006 Postal Accountability and Enhancement Act and the Federal Advisory Committee Act, the Committee's charter has been extended until November 5, 2023.

The Department of State uses the IPODS Committee to remain informed of the interests of users and providers of international postal and delivery services. The Assistant Secretary of State for International Organization Affairs appoints members of the committee, including representatives of the Department of Commerce, the Department of Homeland Security, the Office of the United States Trade Representative, the Postal Regulatory Commission, the Military Postal Service Agency, and the United States Postal Service.

FOR FURTHER INFORMATION CONTACT: Ms. Shereece Robinson of the Office of Specialized and Technical Agencies (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, at tel. (202) 663–2649, by email at *RobinsonSA2@state.gov* or by mail at IO/STA, L409 (SA1), Department of State, 2401 E Street NW, Washington, DC 20037.

Stuart Smith,

Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Department of State.

[FR Doc. 2021–27085 Filed 12–14–21; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF STATE

[Public Notice: 11610]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Language of Beauty in African Art'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''The Language of Beauty in

African Art'' at the Kimbell Art Museum, Fort Worth, Texas; the Art Institute of Chicago, in Chicago, Illinois; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made by the Assistant Secretary of the Bureau of Educational and Cultural Affairs in the U.S. Department of State, Lee A. Satterfield, pursuant to the authority vested in her the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O.12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2021–27236 Filed 12–14–21; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from The University of Chicago (WB21–89–12/8/21) for permission to use data from the Board's 1984–2020 Unmasked Carload Waybill Samples. A copy of this request may be obtained from the Board's website under docket no. WB21–89.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2021–27140 Filed 12–14–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36472 [1]]

CSX Corporation and CSX Transportation, Inc., et al.—Control and Merger—Pan Am Systems, Inc., Pan Am Railways, Inc., Boston and Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of public hearing; page limit for final briefs.

SUMMARY: The Surface Transportation Board (Board) will hold a public hearing in this docket on January 13, 2022. The hearing will be entirely virtual and held online. If necessary, the hearing will continue on January 14, 2022. All interested persons are invited to appear. Additionally, the Board will set a limit of 20 pages on the filing of final briefs.

DATES: The hearing will be held on January 13, 2022, beginning at 9:30 a.m. Persons may participate online using video conferencing. The Board will issue a subsequent decision with instructions for participation and public observation of the hearing. The subsequent decision will indicate whether the hearing will be conducted over one or two days and include the schedule of appearances for speakers.

Any person wishing to speak at the hearing shall file with the Board by December 20, 2021, a notice of intent to participate (identifying the entity, if any, the person represents, the proposed speaker, the amount of time requested, and summarizing the key points that the speaker intends to address). The notices of intent to participate are not required to be served on the parties of record; they will be posted to the Board's website when they are filed.

ADDRESSES: All filings, referring to Docket No. FD 36472 et al., should be filed with the Surface Transportation Board via e-filing on the Board's website.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: In a decision served on July 30, 2021 in this docket (*Decision No. 4*), served and published in the **Federal Register** (86 FR 41145) on July 30, 2021, the Board accepted for consideration the revised application (Revised Application) filed by CSX Corporation, CSX Transportation Inc., 747 Merger Sub 2, Inc., Pan Am Systems, Inc., Pan Am Railways, Inc., Boston and Maine Corporation, Pan Am Southern, LLC, Maine Central Railroad Company, Northern Railroad, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company (collectively, Applicants). The Revised Application seeks Board approval under 49 U.S.C. 11321–26 for: (1) CSXC, CSXT, and 747 Merger Sub 2 to control the seven railroads controlled by Systems and PAR, and (2) CSXT to merge six of the seven railroads into CSXT. This proposal is referred to as the Merger Transaction. In addition to the Merger Transaction, there are six related transactions (Related Transactions) for which parties seek approval.

Numerous parties have filed replies or comments to the Revised Application and Applicants' other filings,[2] including: The U.S. Department of Justice; the U.S. Department of Transportation; the Massachusetts Department of Transportation and

[1] This decision embraces the following dockets: *Norfolk Southern Railway—Trackage Rights Exemption—CSX Transportation, Inc.,* Docket No. FD 36472 (Sub–No. 1); *Norfolk Southern Railway—Trackage Rights Exemption—Providence & Worcester Railroad,* Docket No. FD 36472 (Sub–No. 2); *Norfolk Southern Railway—Trackage Rights Exemption—Boston & Maine Corp.,* Docket No. FD 36472 (Sub–No. 3); *Norfolk Southern Railway—Trackage Rights Exemption—Pan Am Southern LLC,* Docket No. FD 36472 (Sub–No. 4); *Pittsburg & Shawmut Railroad—Operation Exemption—Pan Am Southern LLC,* Docket No. FD 36472 (Sub–No. 5); *SMS Rail Lines of New York, LLC—Discontinuance Exemption—in Albany County, N.Y.,* Docket No. AB 1312X.

[2] Applicants submitted their original application on February 25, 2021, requesting that the Board treat the transaction as a ''minor'' transaction, but the Board found the proposed transaction should be classified as a ''significant'' transaction. The Board therefore considered the February 25, 2021 submission a prefiling notification, as required in ''significant'' transactions. *See Decision No. 1.* On April 26, 2021, Applicants submitted an application for a ''significant'' transaction, but by decision served May 26, 2021, the Board rejected the application because it failed to include all required information. *See Decision No. 3.* Several parties submitted filings in response to the two original applications but not the Revised Application. To the extent that these filings address the merits of the proposed Merger and Related Transactions, the Board will consider the filings as part of its final decision on the merits.

Massachusetts Bay Transportation Authority (MBTA) (MassDOT/MBTA); the Massachusetts Water Resources Authority; the State of Vermont (acting through its Agency of Transportation (VTrans)); Vermont Rail System (VRS); Canadian Pacific Railway; the National Railroad Passenger Corporation (Amtrak); the Northern New England Passenger Rail Authority; Republic Services, Inc., ECDC Environmental, L.C. and Devens Recycling Center, LLC (collectively, Republic); the American Chemistry Council; The Chlorine Institute; the New Hampshire Department of Transportation; Housatonic Railroad Company, Inc.; Pioneer Valley Railroad Company, Inc., U.S. Senator Susan Collins (Maine); New Hampshire Governor Christopher T. Sununu; U.S. Representative Chris Pappas (New Hampshire); U.S. Representatives Pappas and Ann McLane Kuster (New Hampshire); U.S. Representative Richard Neal (Massachusetts); various state senators and representatives; local governmental officials; railroad unions; [3] and local community interests.[4] Applicants have also submitted letters of support from nearly 100 shippers; [5] U.S. Senator Angus S. King, Jr. (Maine); Maine Governor Janet Mills; additional state and local representatives; the Northern New England Passenger Rail Authority; One SouthCoast Chamber; and the Greater Worcester Regional Chamber of Commerce, among others. In the replies, several parties have raised concerns about the impact of the Merger and Related Transactions on competition and passenger service. CSX, NSR, and B&E filed separate rebuttals, in which they dispute these assertions.

Section 11324(a) requires the Board to ''hold a public hearing unless the Board determines that a public hearing is not necessary in the public interest.'' In *Decision No. 4,* the Board stated that it would decide whether to conduct a public hearing in a later decision, after the record had been more fully developed. *Decision No. 4,* slip op. at 30 n.43. Based on the comments that have been submitted, the Board finds that a public hearing, which will provide Board Members an opportunity to directly question the Applicants and the other interested persons about the issues that have been raised, is in the public interest.

In *Decision No. 4,* the Board stated that, if it were to hold a public hearing, it would be scheduled between the filing of rebuttals and final briefs. *Decision No. 4,* slip op. at 2. Under the procedural schedule, rebuttals in support of the Revised Application and Related Transactions were due on October 18, 2021,[6] and final briefs are due by January 3, 2022. However, the Board finds that it would be more beneficial to hold the public hearing after the final briefs are submitted. Accordingly, the hearing will be held on January 13, 2022, and will continue on January 14, 2022, if necessary. As such, the Board expects that January 13, 2022, or January 14, 2022, will be considered the close of the record (depending on whether the hearing is one or two days long). In accordance with 49 CFR 1180.4(e)(3), the Board's decision would be issued no later than 90 days after the close of the record. The Board recognizes that the date of the hearing will extend the procedural schedule, including the effective date for a final Board decision, by 10 or 11 days (depending on whether the hearing lasts one or two days). However, even with this extension, Applicants would still have a reasonable amount of time to complete the transaction in accordance with their own schedule if approval is granted.

The Board will issue, prior to the hearing date, a decision setting a schedule of appearances for speakers, with specific allotments of time for presentations. Such allotments may be limited, and persons wishing to speak at the hearing should be prepared to keep their comments as succinct as possible, to ensure an opportunity for all interested persons to be heard. The schedule will also provide, among other things, that Applicants will speak first, and that they may reserve part of their time for a closing statement after all other persons have spoken, if they so choose.

Persons speaking at the hearing are encouraged to use their time to call attention to the points they believe to be particularly important. The purpose of the hearing is not to restate the written comments previously submitted, but to summarize and emphasize the key points of a party's case or the speaker's positions, and to provide an opportunity for questions that the Board may have regarding the matters at issue in this proceeding.

Lastly, the Board will set the limit for final briefs at 20 pages.[7] The Board notes that, like the hearing testimony, final briefs are not intended to serve as an opportunity for parties to raise new evidence or arguments, but to provide a concise summary of the parties' positions. The Board has determined that 20 pages is a sufficient length for this purpose.

Board Releases and Transcript Availability: Decisions and notices of the Board, including this notice, are available on the Board's website at *www.stb.gov.* The Board will issue a separate notice containing the schedule of appearances, as well as instructions for participating in and observing the hearing. A recording of the hearing and a transcript will be posted on the Board's website when they become available.

It is ordered:

1. A public hearing will be held online using video conferencing on January 13, 2022. The hearing will resume on January 14, 2022, if necessary.

2. By December 20, 2021, any person wishing to speak at the hearing shall file with the Board a notice of intent to participate identifying the entity, if any, the person represents, the proposed speaker, the amount of time requested, and summarizing the key points that the speaker intends to address.

3. Notices of intent to participate will be posted to the Board's website and need not be served on parties of record, any hearing participants, or other commenters.

4. Final briefs are limited to no more than 20 pages.

5. The procedural schedule is revised as follows:

Service date of final decision: No later than April 13 or 14, 2022.

Effective date of final decision: No later than May 13 or 14, 2022.

6. This decision is effective on its service date.

7. This decision will be published in the **Federal Register**.

Decided: December 10, 2021.

[3] The Brotherhood of Maintenance of Way Employees Division/IBT, Brotherhood of Railroad Signalmen, International Association of Sheet Metal, Air, Rail and Transportation Workers-Mechanical Division, and National Conference of Firemen and Oilers, 32BJ/SEIU (filing jointly as Allied Rail Unions); American Train Dispatchers Association; Brotherhood of Locomotive Engineers and Trainmen National Division and the Brotherhood of Locomotive Engineers and Trainmen General Committee of Adjustment 120; International Brotherhood of Electrical Workers, AFL–CIO; International Federation of Professional and Technical Engineers, Local 202; and the Transportation Division of the Sheet Metal, Air, Rail, and Transportation Workers.

[4] Village of Voorheesville, N.Y.; the Altamont Free Library; the neighborhood of Islington Creek, N.H.; and Friends of the Souhegan Valley Rail Trail.

[5] *See* Revised Appl., Ex. 23.

[6] Rebuttals in support of responsive (including inconsistent) applications were due on November 17, 2021, but no responsive applications were filed.

[7] The Board stated in *Decision No. 4* that it would determine the page limits for final briefs in a later decision, after the record had been more fully developed.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–27161 Filed 12–14–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Naples Municipal Airport, Naples, Florida

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by the Naples Airport Authority for the Naples Municipal Airport under the provisions of *the* Aviation Safety and Noise Abatement Act and are in compliance with applicable requirements.

DATES: The effective date of the FAA's determination on the Noise Exposure Maps is December 9, 2021.

FOR FURTHER INFORMATION CONTACT: Peter Green, Federal Aviation Administration, Southern Region/Orlando Airports District Office, 8427 SouthPark Circle, Orlando, Florida 32819, (407) 487–7296.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for the Naples Municipal Airport are in compliance with applicable requirements of Title 14 Code of Federal Regulations (CFR) Part 150, effective December 9, 2021. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (''the Act''), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of 14 CFR part 150, promulgated pursuant to the Act, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the airport operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the Noise Exposure Maps and accompanying documentation submitted by the Naples Airport Authority. The documentation that constitutes the ''Noise Exposure Maps'' as defined in 14 CFR 150.7 includes: 2021 Existing Conditions Noise Exposure Map (Map 1 of 5); 2026 Future Conditions Noise Exposure Map (Map 2 of 5); Modeled Fixed Wing Flight Tracks, Runway 5–23 (Map 3 of 5); Modeled Fixed Wing Flight Tracks, Runway 14–32 (Map 4 of 5); Modeled Helicopter Flight Tracks, All Runways (Map 5 of 5); and the Final Noise Exposure Map Report and its appendices. The FAA has determined that these Noise Exposure Maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on December 9, 2021.

FAA's determination on the airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of 14 CFR part 150. Such determination does not constitute approval of the airport operator's data, information or plans, or a commitment to approve a Noise Compatibility Program or to fund the implementation of that Program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a Noise Exposure Map submitted under Section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise exposure contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under 14 CFR part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 47503 of the Act. The FAA has relied on the certification by the airport operator, under 14 CFR 150.21, that the statutorily required consultation has been accomplished.

Copies of the full Noise Exposure Maps documentation and of the FAA's evaluation of the maps are available for examination by appointment at the following location: Federal Aviation Administration, Orlando Airports District Office, 8427 SouthPark Circle, 5th Floor, Orlando, Florida 32819.

To arrange an appointment to review the Noise Exposure Maps documentation, contact Peter Green, Federal Aviation Administration, Southern Region/Orlando Airports District Office, 8427 SouthPark Circle, Orlando, FL, 32819, (407) 487–7296. Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando Airports District Office, Orlando, FL, on December 9, 2021.

Bartholomew Vernace,

Manager, FAA/Orlando Airports District Office.

[FR Doc. 2021–27051 Filed 12–14–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0051]

Caltrain's Request for Approval To Test Crossing Optimization on Its Positive Train Control Network

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on December 2, 2021, the Peninsula Corridor Joint Powers Board (Caltrain) submitted a document entitled, ''Crossing Optimization Project: Test Request,'' Revision 1, dated November 29, 2021, to FRA. Caltrain asks FRA to approve its request so that Caltrain may field test its Crossing Optimization on track that has been equipped with positive train control (PTC) technology.

DATES: FRA will consider comments received by February 14, 2022. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES: All comments should identify the agency name and Docket Number FRA–2010–0051, and may be submitted on *https://*

www.regulations.gov. Follow the online instructions for submitting comments. All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2020, FRA certified Caltrain's Interoperable Electronic Train Management System (I–ETMS) PTC system under Title 49 Code of Federal Regulations (CFR) Section 236.1015 and Title 49 United States Code (U.S.C.) 20157(h). Pursuant to 49 CFR 236.1035, a railroad must obtain FRA's approval before field testing an uncertified PTC system, or a product of an uncertified PTC system, or any regression testing of a certified PTC system on the general rail system. *See* 49 CFR 236.1035(a). Please see Caltrain's test request for the required information, including a complete description of both Caltrain's Crossing Optimization Project and its specific test procedures, including the measures that will be taken to ensure safety during testing.

Caltrain's test request is available for review online at *https://www.regulations.gov* (Docket No. FRA–2010–0051). Interested parties are invited to comment on the test request by submitting written comments or data. During its review of the test request, FRA will consider any comments or data submitted. However, FRA may elect not to respond to any particular comment and, under 49 CFR 236.1035, FRA maintains the authority to approve, approve with conditions, or deny the test request at its sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://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 *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2021–27125 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2021–0115]

Pipeline Safety: Information Collection Activities, Gas and Hazardous Liquid Pipeline Safety Program Performance Progress Report

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments from affected agencies and members of the public on the information collection detailed below. PHMSA is preparing to request Office of Management and Budget (OMB) approval for the renewal of the information collection covering the Gas Pipeline Safety Program Performance Progress Report and Hazardous Liquid Pipeline Safety Program Performance Progress Report currently approved under OMB control number 2137–0584.

DATES: Interested persons are invited to submit comments on or before February 14, 2022.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Website: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except federal holidays.

Instructions: Identify the docket number, PHMSA–2021–0115 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on: PHMSA–2021–0115'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

Privacy Act Statement: DOT may solicit comments from the public regarding certain general notices. 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.dot.gov/privacy.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the Agency by taking the following steps:

(1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Angela Hill, DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT: Angela Hill by telephone at 202–366–1246, by email at *Angela.Hill@dot.gov,* or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies the information collection request that PHMSA will submit to the OMB for approval.

The following information is provided below for the impacted information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection.

PHMSA requests comments on the following information collection:

Title: Gas Pipeline Safety Program Performance Progress Report and Hazardous Liquid Pipeline Safety Program Performance Progress Report.

OMB Control Number: 2137–0584.

Current Expiration Date: 03/31/2022.

Abstract: Section 60105 of 49 U.S.C. sets forth specific requirements a state must meet to qualify for certification status to assume regulatory and enforcement responsibility for intrastate pipelines. A state must submit an annual performance progress report to validate responsibility for regulating intrastate pipelines, and states who receive federal grant funding must also show the state has adequate damage prevention plans and associated records in place.

PHMSA uses this information to evaluate a state's eligibility for federal grants and to enforce regulatory compliance. This information collection request requires a participating state to annually submit a Gas Pipeline Safety Program Performance Progress Reports and/or a Hazardous Liquid Pipeline Safety Program Performance Progress Report to PHMSA's Office of Pipeline Safety showing compliance with the terms of the certification and to maintain records detailing a damage prevention plan. The purpose of the collection is to exercise oversight of the grant program and to ensure that states are compliant with federal pipeline safety regulations.

PHMSA intends to request renewal of this information collection and to make minor editorial changes to the instructions and definitions sections of the Gas Pipeline Safety Program Performance Progress Report and the Hazardous Liquid Pipeline Safety Program Performance Progress Report in order to update and clarify how participating state agencies should report the required information.

Affected Public: State and local governments.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 117.

Total Annual Burden Hours: 4,473.

Frequency of Collection: Annually.

Comments are invited on:

(a) The need for the proposed collection of information, including whether the information will have practical utility in helping the agency to achieve its pipeline safety goals;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on December 9, 2021, under authority delegated in 49 CFR 1.97.

John A. Gale,

Director, Standards and Rulemaking Division.

[FR Doc. 2021–27069 Filed 12–14–21; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Requirements; Proposed Information Collection; Comment Request; Community Reinvestment Act Qualifying Activities Confirmation Request Form

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revised information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment on the proposed revision of its form titled, ''Community Reinvestment Act Qualifying Activities Confirmation Request Form.''

DATES: You should submit written comments by February 14, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–NEW, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–NEW'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet. Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–NEW'' or ''Community Reinvestment Act Qualifying Activities Confirmation Request Form.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the collection of information set forth in this document.

Title: Community Reinvestment Act Qualifying Activities Confirmation Request Form.

OMB Control No.: 1557–NEW.

Abstract: The OCC is revising and requesting a new OMB control number for its form titled ''Community Reinvestment Act Qualifying Activities Confirmation Request Form,'' which is currently approved under OMB Control No. 1557–0160.

The form was created to address the need for a qualifying activities confirmation process that would allow banks and interested parties to ascertain whether an activity qualifies under the Community Reinvestment Act (CRA). The process was well-received and strongly supported by commenters on the OCC ANPR and NPR that resulted in the 2020 final rule. Commenters on the OCC's September 2021 CRA NPR expressed support for such a confirmation system and, thus, the OCC has determined that it is important to implement a better-designed system to more effectively and efficiently allow for the confirmation of CRA qualifying activities. The proposed revised form includes the following changes:

• The relocation of the regulation citation checklist of qualifying activities from the submitter portion of the form to the OCC portion of the form to reduce burden on the submitter and more accurately capture the qualifying basis of a CRA activity.

• The relocation of the activity title field from the submitter portion of the form to the OCC portion of the form to reduce burden on the submitter and permit the OCC to develop an appropriate and unique identifying title of the activity for the qualifying activities confirmation request decision list and the CRA Illustrative List of Qualifying Activities, when applicable.

• The relocation of the activity short description field from the submitter portion of the form to the OCC portion of the form to reduce burden on the submitter and permit the OCC to develop a unique, appropriate identifying short description of the activity for the qualifying activities confirmation request decision list and the CRA Illustrative List of Qualifying Activities, when applicable.

• The addition of a new field to the submitter portion of the form to provide for the identification of a contact's bank or organization, if applicable, as that entity may differ from the bank or organization conducting the activity.

• The elimination of the OCC portion of the form from the publicly-available submitter portion of the form consistent with the integration of the OCC portion of the form into a web-based platform that eliminates use of the Adobe Acrobat format in conducting the review of submitted activities.

• The revision of regulatory citations in the form.

• The addition of a field indicating whether the activity occurred between October 1, 2021, and December 31, 2021.

Type of Review: Regular.

Affected Public: Businesses or other for-profit; individuals.

Number of Respondents: 120.

Frequency of Response: On occasion.

Total Annual Burden: 2,280 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Patrick T. Tierney,

Assistant Director, Bank Advisory, Office of the Comptroller of the Currency.

[FR Doc. 2021–27160 Filed 12–14–21; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Requirements Related to Requests for Ruling and Determination Letters

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is

soliciting comments concerning the guidance for taxpayers regarding information collection requirements related to requests for ruling and determination letters.

DATES: Written comments should be received on or before February 14, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 60 days of publication of this notice to *omb.unit@irs.gov*. Please include, ''OMB Number: 1545–1522—Public Comment Request Notice'' in the Subject line. Requests for additional information or copies of this collection can be directed to Ronald J. Durbala, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Rulings and determination letters.

OMB Number: 1545–1522.

Regulation Project Number: Rev. Proc. 2021–1.

Abstract: This revenue procedure explains how the Service provides advice to taxpayers on issues under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (International), the Associate Chief Counsel (Passthroughs and Special Industries), and the Associate Chief Counsel (Procedure and Administration). It explains the forms of advice and the way advice is requested by taxpayers and provided by the Service.

Current Actions: The previous approval was inadvertently discontinued. This submission is being made to request OMB approval on an existing collection in use without an OMB Control Number.

Type of Review: Existing collection in use without an OMB Control Number.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 3,956.

Estimated Time per Respondent: 79.88 hrs.

Estimated Total Annual Burden Hours: 316,020.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: December 9, 2021.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2021–27105 Filed 12–14–21; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2021–0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–02; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2022–02. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

RULES LISTED IN FAC 2022–02

Item	Subject	FAR case	Analyst
I	Update to Certain Online References in the FAR	2021–003	Glover.
II	Technical Amendments.		

ADDRESSES: The FAC, including the SECG, is available via the internet at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2022–02 amends the FAR as follows:

Item I—Update to Certain Online References in the FAR (FAR Case 2021–003)

This final rule amends the FAR to replace FAR references to Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) websites with references to the System for Award Management (*SAM.gov*) website because of their integration with and the increased functionality of *SAM.gov*. The rule is administrative in nature as it simply replaces website references.

Item II—Technical Amendments

Editorial changes are made at FAR 52.216–5, 52.216–6, 52.216–16, and 52.216–17.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2022–02 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2022–02 is effective December 15, 2021 except for Items I and II, which are effective January 14, 2022.

John M. Tenaglia,
Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses,
Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Karla Smith Jackson,
Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2021–26801 Filed 12–14–21; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2022–02; Item II; Docket No. FAR–2021–0052; Sequence No. 4]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make needed editorial changes.

DATES: Effective: January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2022–02, Technical Amendments.

SUPPLEMENTARY INFORMATION: This document makes editorial changes to 48 CFR part 52.

List of Subjects in 48 CFR Part 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 amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 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.

■ 2. Amend section 52.216–5 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (h)(3) the phrase ''by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and''.

The revision reads as follows:

52.216–5 Price Redetermination—Prospective.

* * * * *

Price Redetermination—Prospective (Jan 2022)

* * * * *

■ 3. Amend section 52.216–6 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (g)(2) the phrase ''by the amount of any applicable tax credits due the contractor under 26 U.S.C. 1481 and''.

The revision reads as follows:

52.216–6 Price Redetermination—Retroactive.

* * * * *

Price Redetermination—Retroactive (Jan 2022)

* * * * *

■ 4. Amend section 52.216–16 by—
■ a. Revising the date of clause; and
■ b. Removing from paragraph (g)(2) the phrase ''by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and''.

The revision reads as follows:

52.216–16 Incentive Price Revision—Firm Target.

* * * * *

Incentive Price Revision—Firm Target (Jan 2022)

* * * * *

■ 5. Amend section 52.216–17 by—
■ a. Revising the date of clause; and
■ b. Removing from paragraph (i)(2) the phrase ''by the amount of any applicable tax credits due the Contractor under 26 U.S.C. 1481 and''.

The revision reads as follows:

52.216–17 Incentive Price Revision—Successive Targets.

* * * * *

Incentive Price Revision—Successive Targets (Jan 2022)

* * * * *

[FR Doc. 2021–26803 Filed 12–14–21; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2021–0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2022–02; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide (SECG).

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2022–02, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2022–02, which precedes this document.

DATES: December 15, 2021.

ADDRESSES: The FAC, including the SECG, is available via the internet at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2022–02 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

RULES LISTED IN FAC 2022–02

Item	Subject	FAR case	Analyst
I	Update to Certain Online References in the FAR	2021–003	Glover.
II	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2022–02 amends the FAR as follows: Item I—Update to Certain Online References in the FAR (FAR Case 2021–003)

This final rule amends the FAR to replace FAR references to Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) websites with references to the System for Award Management (*SAM.gov*) website because of their integration with and the increased functionality of *SAM.gov.* The rule is administrative in nature as it simply replaces website references. Item II—Technical Amendments

Editorial changes are made at FAR 52.216–5, 52.216–6, 52.216–16, and 52.216–17.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2021–26804 Filed 12–14–21; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 5, 6, 7, 8, 16, 22, 47, and 52

[FAC 2022–02; FAR Case 2021–003; Item I; Docket No. FAR–2021–0003; Sequence No. 1]

RIN 9000–AO21

Federal Acquisition Regulation: Update to Certain Online References in the FAR

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to replace FAR references to Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) websites with the System for Award Management (*SAM.gov*) website because of their integration with and the increased functionality of *SAM.gov.*

DATES: Effective January 14, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 or by email at *curtis.glover@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 FAC 2022–02, FAR Case 2021–003.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to replace references to Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) websites with the System for Award Management (*SAM.gov*) website because of their integration with and the increased functionality of *SAM.gov.*

The System for Award Management (SAM) is a Federal website that consolidates the capabilities of Central Contractor Registration (CCR), Online Representations and Certifications Applications (ORCA), and the Excluded Parties List System (EPLS) and continues to evolve to incorporate the capabilities of other systems used in Federal procurement processes.

On April 26, 2021, legacy *SAM.gov* functionality was integrated with *beta.SAM.gov* and renamed to *SAM.gov.* As a result of the integration, *SAM.gov* now includes the site for users to execute actions formerly accomplished on Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*). In response, the FAR needs to be updated to remove obsolete names and URL references and incorporate in their place the new *SAM.gov* website.

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. Subsection (a)(1) of 41 U.S.C. 1707 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 does not have a significant effect or impose any new requirements on contractors or offerors. The rule simply replaces FAR references to Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) with the System for Award Management (*SAM.gov*).

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products, Including Commercially Available Off-the-Shelf (COTS) Items, or for Commercial Services

This rule simply replaces references to Federal Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) with the System for Award Management (*SAM.gov*). This rule does not impose any new requirements on contracts at or below the SAT, or to acquisitions for commercial products (including COTS items) or for commercial services.

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**. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this is not a major rule under 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to this rule, because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III. of this preamble). Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VII. Paperwork Reduction Act

The 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 2, 5, 6, 7, 8, 16, 22, 47, 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 amend 48 CFR parts 2, 5, 6, 7, 8, 16, 22, 47, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 5, 6, 7, 8, 16, 22, 47, 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 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

■ 2. Amend section 2.101 in paragraph (b)(2), in the definition ''Governmentwide point of entry (GPE)'' by removing ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.102 [Amended]

■ 3. Amend section 5.102 by removing from paragraph (a)(1) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

5.201 [Amended]

■ 4. Amend section 5.201 by removing from paragraph (d) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

5.207 [Amended]

■ 5. Amend section 5.207 by—

■ a. Removing from paragraphs (b) and (c)(19) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in their places, respectively; and

■ b. Removing from paragraph (e) ''*https://www.fbo.gov/*'' and adding ''*https://www.sam.gov*'' in its place.

5.704 [Amended]

■ 6. Amend section 5.704 by removing from paragraph (b) introductory text ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

5.705 [Amended]

■ 7. Amend section 5.705 by removing from paragraphs (a)(2) introductory text and (c) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in their places, respectively.

PART 6—COMPETITION REQUIREMENTS

6.305 [Amended]

■ 8. Amend section 6.305 by removing from paragraph (d)(1) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

PART 7—ACQUISITION PLANNING

7.105 [Amended]

■ 9. Amend section 7.105 by removing from paragraph (b)(16) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.405–6 [Amended]

■ 10. Amend section 8.405–6 by removing from paragraph (a)(2)(i)(B)(*1*) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

8.602 [Amended]

■ 11. Amend section 8.602 by removing from paragraphs (a)(4)(ii)(A) and (B) ''FedBizOpps, also known as FBO'' and adding ''Contract Opportunities at *SAM.gov*'' in its place.

PART 16—TYPES OF CONTRACTS

16.505 [Amended]

■ 12. Amend section 16.505 by removing from paragraph (b)(2)(ii)(D)(*2*)(*i*) ''*https://www.fbo.gov*'' and adding ''*https://www.sam.gov*'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 13. Amend section 22.001 by—

■ a. In the definition ''*e98*'' removing ''*http://www.wdol.gov*'' and adding ''*https://www.sam.gov*'' in its place; and

■ b. Removing the definition of ''*Wage Determinations OnLine (WDOL)*'' and adding a definition for ''*Wage Determinations at SAM.gov*'' in its places.

The addition reads as follows:

22.001 Definitions.

* * * * *

Wage Determinations at SAM.gov means the Government internet website for both Construction Wage Rate Requirements statute and Service Contract Labor Standards statute wage determinations available at *https://www.sam.gov.*

■ 14. Amend section 22.404–1 by revising paragraph (a)(2) to read as follows:

22.404–1 Types of wage determinations.

(a) * * *

(2) General wage determinations are published on the Wage Determinations at *SAM.gov* website. General wage determinations are effective on the publication date of the wage determination or upon receipt of the wage determination by the contracting agency, whichever occurs first. ''Publication'' within the meaning of this section shall occur on the first date the wage determination is published on the Wage Determinations at *SAM.gov*. Archived Construction Wage Rate Requirements statute general wage determinations that are no longer current may be accessed in the ''Archived DB WD'' database on Wage Determinations at *SAM.gov* website for information purposes only. Contracting officers may not use an archived wage determination in a contract action without obtaining prior approval of the Department of Labor. To obtain prior approval, contact the Department of Labor, Wage and Hour Division, using *https://www.sam.gov,* or contact the procurement agency labor advisor listed on *https://www.sam.gov.*

* * * * *

22.404–3 [Amended]

■ 15. Amend section 22.404–3 by removing from paragraph (a) and paragraph (b) introductory text ''WDOL'' and adding ''Wage Determinations at *SAM.gov*'' in its place.

22.404–6 [Amended]

■ 16. Amend section 22.404–6 by removing from paragraphs (a)(3), (b)(1)(i) and (ii), (b)(2) and (6), (c)(1), and (d)(1)(ii), ''WDOL'' and adding ''Wage Determinations at *SAM.gov*'' in its place, wherever it appears.

22.1008–1 [Amended]

■ 17. Amend section 22.1008–1 by removing from paragraphs (a), (c), (d), and (e)(1), ''WDOL'' and adding ''Wage Determinations at *SAM.gov*'' in its place, wherever it appears.

22.1008–2 [Amended]

■ 18. Amend section 22.1008–2 by removing from paragraphs (d)(2) and (3) and (g) introductory text ''WDOL'' and adding ''Wage Determinations at *SAM.gov*'' in its place.

22.1012–1 [Amended]

■ 19. Amend section 22.1012–1 by removing from paragraphs (a)(1)(i) and (a)(2) ''WDOL'' and adding ''Wage Determinations at *SAM.gov*'' in its place.

22.1012–2 [Amended]

■ 20. Amend section 22.1012–2 by removing from paragraph (d) ''WDOL'' and adding ''Wage Determinations at *SAM.gov*'' in its place.

22.1903 [Amended]

■ 21. Amend section 22.1903 by removing from paragraph (c) ''*http://www.wdol.gov*'' and adding ''*https://www.sam.gov*'' in its place.

22.1904 [Amended]

■ 22. Amend section 22.1904 by removing from paragraph (a)(2) ''Wage Determinations OnLine (WDOL), *http://www.wdol.gov*'' and adding ''Wage Determinations at *SAM.gov, https://www.sam.gov*'' in its place.

PART 47—TRANSPORTATION

■ 23. Amend section 47.202 by revising paragraph (a) to read as follows:

47.202 Presolicitation planning.

* * * * *

(a) The Service Contract Labor Standards statute requirement to obtain a wage determination by accessing the Wage Determinations at *SAM.gov* website (*https://www.sam.gov*) using the Wage Determinations at *SAM.gov* process or by submitting a request directly to the Department of Labor on this website using the e98 process before the issuance of an invitation for bid, request for proposal, or commencement of negotiations for any contract exceeding $2,500 that may be subject to the Service Contract Labor Standards statute (see subpart 22.10);

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 24. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (c)(7) ''(NOV 2020)'' and adding ''(JAN 2022)'' in its place;

■ c. Removing from paragraph (e)(1)(xvii) ''(NOV 2020)'' and adding ''(JAN 2022)'' in its place; and

■ d. In Alternate II—

■ i. Revising the date of the Alternate; and

■ ii. Removing from paragraph (e)(1)(ii)(P) ''(NOV 2020)'' and adding ''(JAN 2022)'' in its place.

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (JAN 2022)

* * * * *

Alternate II (JAN 2022). * * *

* * * * *

■ 25. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (a)(2)(viii); and

■ c. Removing from paragraph (b)(1)(ix) ''(NOV 2020)'' and adding ''(JAN 2022)'' in its place.

The revisions read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other than Commercial Products and Commercial Services).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2022)

(a) * * *

(2) * * *

(viii) 52.244–6 Subcontracts for Commercial Products and Commercial Items (JAN 2022).

* * * * *

■ 26. Amend section 52.222–55 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (b)(2) ''*www.wdol.gov*'' and adding ''*https://www.sam.gov*'' in its place.

The revision reads as follows:

52.222–55 Minimum Wages Under Executive Order 13658.

* * * * *

Minimum Wages Under Executive Order 13658 (JAN 2022)

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■ 27. Amend section 52.244–6 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (c)(1)(xv) ''(NOV 2020)'' and adding ''(JAN 2022)'' in its place.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Products and Commercial Services.

* * * * *

Subcontracts for Commercial Products and Commercial Services (JAN 2022)

* * * * *

[FR Doc. 2021–26802 Filed 12–14–21; 8:45 am]

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Part III

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Part 25

Community Reinvestment Act Regulations; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket No. OCC–2021–0014]

RIN 1557–AF12

Community Reinvestment Act Regulations

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Comptroller of the Currency is adopting a final Community Reinvestment Act (CRA) rule that is based largely on the 1995 CRA rules, as revised, that were issued by the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC). This final rule applies to national banks and savings associations. This action rescinds the CRA final rule published by the OCC on June 5, 2020, and facilitates the OCC's planned future issuance of updated interagency CRA rules with the Board and FDIC.

DATES: This final rule is effective on January 1, 2022. The compliance date for §§ 25.43 and 25.44 is April 1, 2022. The compliance date for the remainder of the rule is January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Emily Boyes, Counsel, Karen McSweeney, Special Counsel, Heidi Thomas, Special Counsel, or Kevin Behne, Senior Attorney, Chief Counsel's Office, (202) 649–5490; or Vonda Eanes, Director for CRA and Fair Lending Policy, or Karen Bellesi, Director for Community Development, Bank Supervision Policy, (202) 649–5470, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted the Community Reinvestment Act (CRA) [1] in 1977 to encourage insured depository institutions (IDI) [2] to help meet the credit needs of their entire communities, including low- and moderate-income (LMI) neighborhoods, consistent with the safe and sound operation of the IDIs.[3] Specifically, Congress found that ''(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business; (2) the convenience and needs of communities include the need for credit services as well as deposit services; and (3) regulated financial institutions have continuing and affirmative obligation[s] to help meet the credit needs of the local communities in which they are chartered.'' [4]

The Office of the Comptroller of the Currency (OCC or Agency),[5] Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC) (collectively, Agencies),[6] along with the Federal Home Loan Bank Board, first issued rules to implement the CRA in 1978.[7] The Agencies, along with the Office of Thrift Supervision (OTS), significantly revised and clarified the CRA rules in 1995 (1995 Rules).[8] On September 5, 2018, the OCC published an Advance Notice of Proposed Rulemaking (ANPR) as part of its renewed efforts to update the CRA regulatory framework.[9] On January 9, 2020, the OCC and FDIC published a joint CRA Notice of Proposed Rulemaking,[10] and on June 5, 2020, the OCC adopted the rule in final form (June 2020 Rule).[11] The June 2020 Rule applied to national banks, Federal savings associations, and State savings associations (collectively, banks).[12]

The June 2020 Rule took effect October 1, 2020, although several of its more material components had compliance dates of either January 1, 2023, or January 1, 2024.[13] To implement certain provisions of the June 2020 Rule with a compliance date of January 1, 2023, the OCC published a Notice of Proposed Rulemaking on December 4, 2020, (December 2020 NPR), which proposed an approach to determine the benchmarks, thresholds, and minimums in the June 2020 Rule's performance standards.[14] In connection with the December 2020 NPR, the OCC also published a CRA information collection survey (Information Collection) [15] to obtain the data necessary to calibrate the June 2020 Rule's performance standards.

On May 18, 2021, the OCC announced that it was reconsidering the June 2020 Rule.[16] At the same time, the OCC announced that it did not plan to finalize the December 2020 NPR and was discontinuing the Information Collection.[17] Collectively, these actions have enabled an orderly reconsideration of the June 2020 Rule and provided banks with the flexibility to deploy resources in response to the COVID–19 pandemic.

Although the OCC issued the June 2020 Rule independently, the Agencies' joint CRA regulatory reform efforts have spanned the past decade.[18] In 2018, the

[1] Public Law 95–128, 91 Stat. 1147 (1977) (codified at 12 U.S.C. 2901 *et seq.* (as amended)).

[2] The CRA uses the term ''regulated financial institution,'' which it defines to mean an ''insured depository institution'' as defined in 12 U.S.C. 1813(c)(2). *See* 12 U.S.C. 2902(2).

[3] 12 U.S.C. 2903(a)(1). Congress enacted the CRA to promote access to credit by encouraging IDIs to serve their entire communities. During this period, Congress also enacted fair lending laws to address fairness and access to housing and credit. For example, in 1968, Congress passed a law that later became known as the Fair Housing Act to prohibit discrimination in renting or buying a home. *See* 42 U.S.C. 3601 *et seq.* (as amended). In 1974, Congress passed the Equal Credit Opportunity Act to prohibit creditors from discriminating against an applicant on the basis of race, color, religion, national origin, sex, marital status, or age. *See* 15 U.S.C. 1691 *et seq.* (as amended). These fair lending laws provide a legal basis for prohibiting discriminatory lending practices, such as redlining. *See* Interagency Fair Lending Examination Procedures, p. iv (Aug. 2009), available at *https://www.ffiec.gov/PDF/fairlend.pdf.*

[4] 12 U.S.C. 2901(a).

[5] The OCC is the primary regulator for national banks and Federal savings associations.

[6] In addition to the Agencies, Congress also charged the Office of Thrift Supervision (OTS) and its predecessor agency, the Federal Home Loan Bank Board, with implementing the CRA. The OTS had CRA rulemaking and examination authority for all savings associations. The OTS's rulemaking authority for CRA transferred to the OCC in Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1522 (2010) (Dodd-Frank Act). *See also* 12 U.S.C. 2905. With respect to CRA examination authority, the OCC examines Federal savings associations, and the FDIC examines State savings associations. *See* Sec. 312(b) of the Dodd-Frank Act.

[7] 43 FR 47144 (Oct. 12, 1978).

[8] 60 FR 22156 (May 4, 1995). As used herein, the term ''1995 Rules'' refers to the regulatory framework adopted by the Agencies and the OTS in 1995 and any revisions the Agencies and OTS made to that regulatory framework (*e.g.,* 70 FR 44256 (Aug. 2, 2005) and 75 FR 61035 (Oct. 4, 2010)), except for the changes made by the OCC in the June 2020 Rule. The 1995 Rules were codified in 12 CFR parts 25, 563e (recodified as 195), 228, and 345.

[9] The OCC worked with the Board and FDIC on this ANPR. 83 FR 45053.

[10] 85 FR 1204.

[11] 85 FR 34734.

[12] As used herein, the term ''bank'' or ''banks'' also includes uninsured Federal branches that result from an acquisition described in section 5(a)(8) of the International Banking Act of 1978. 12 U.S.C. 3103(a)(8).

[13] 12 CFR 25.01(c)(4).

[14] 85 FR 78258.

[15] 85 FR 81270 (Dec. 15, 2020).

[16] *See* OCC Bulletin 2021–24, Community Reinvestment Act: Implementation of the June 2020 Final Rule, available at *https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-24.html.*

[17] *Id.*

[18] For example, in 2014, pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the Agencies began a decennial review of all of their rules, with input from the public, to identify outdated, unnecessary, or unduly burdensome rules and to consider how to reduce regulatory burden on IDIs, while at the same time ensuring the safety and soundness of these institutions and the financial

Agencies engaged with stakeholders, including civil rights organizations, community groups, members of Congress, academics, and IDIs, to obtain their perspectives and feedback on the CRA and potential improvements to the CRA regulatory framework. Separately, the Board explored ways to modernize the CRA regulatory framework to address changes in the banking industry, which culminated with the Board's publication of an ANPR on October 19, 2020 (Board ANPR).[19]

Throughout all of the Agencies' CRA modernization efforts, stakeholders have repeatedly stressed the importance of the Agencies issuing a single set of CRA rules applicable to all IDIs. On July 20, 2021, after considering (1) the disproportionate impacts of the pandemic on LMI communities, (2) the comments provided on the Board ANPR, and (3) the OCC's experience with implementation of the June 2020 Rule, the OCC announced it would propose to rescind the June 2020 Rule.[20] On the same day, the Agencies announced that they are working together to strengthen and modernize the rules implementing the CRA.[21] This final rule is an important step in this interagency process because it reestablishes generally uniform rules that apply to all IDIs. Thus, it better positions the Agencies to identify joint solutions to the common issues affecting IDIs and the communities they serve.

II. Proposed Rule

On September 8, 2021, the OCC issued its proposal to rescind the June 2020 Rule and replace it with rules for banks largely based on the 1995 Rules (Proposal or Proposed Rule).[22] The Proposal would have aligned the OCC's CRA rules with the Board's and FDIC's CRA rules, thereby reinstituting the regulatory uniformity for IDIs that existed prior to the June 2020 Rule and facilitating the ongoing interagency work to modernize the CRA rules. The OCC explained in the Proposal that any future interagency CRA rules would replace any final rule(s) the Agency issues pursuant to the Proposal.[23]

The purpose of the Proposed Rule was to (1) create consistent and transparent CRA rules for banks; (2) limit CRA-related burden on banks, banks' communities, and examiners; and (3) ensure that the OCC continues to encourage banks to help meet the credit needs of their entire communities, including LMI neighborhoods, consistent with safe and sound operations. A description of the Proposal and the comments the OCC received is set forth below.

A. Overview

The Proposed Rule would have provided different performance tests and standards for banks of different sizes, structures, and operations. Specifically, the Proposed Rule would have provided an assessment method for (1) small banks that would be streamlined and would emphasize lending performance; (2) intermediate small banks (ISB) that would consider lending and community development (CD) activities (*i.e.,* loans, investments, and services); (3) large, retail banks that would focus on lending, investment, and service performance; and (4) wholesale and limited purpose banks that would be based on CD activities. The Proposed Rule also would have given any bank, regardless of its size or business strategy, the option for the appropriate Federal banking agency to evaluate it under a strategic plan.[24]

Under the proposed performance tests and standards, the appropriate Federal banking agency would have considered a bank's performance context in assessing its CRA performance. Specifically, the Agency would have reviewed (1) demographic and economic data about the bank's assessment area(s) and information about its local economic conditions; (2) the bank's major business products and strategies; and (3) its financial condition, including its capacity and ability to lend or invest in its community. The Agency also would have reviewed any information a bank chose to provide about lending, investment, and service opportunities in its assessment area(s). Performance context also would have included any other information the appropriate Federal banking agency deemed relevant.

The Proposed Rule would have required a bank to identify one or more assessment area(s) where the appropriate Federal banking agency would evaluate its CRA performance. In most cases, the Proposed Rule would have required a bank to delineate as its assessment area(s) the town, city, county, or other political subdivision or a metropolitan statistical area (MSA) where (1) its main office, branch(es), and deposit-taking automated teller machines (ATMs) are located and (2) a substantial portion of its loans are made. A bank's assessment area(s) would not have needed to coincide with the boundaries of one or more political subdivisions or MSAs so long as the assessment area(s) was one that (1) the bank reasonably could have served; (2) satisfied applicable regulatory requirements; (3) did not reflect illegal discrimination; and (4) did not arbitrarily exclude LMI geographies (*i.e.,* census tracts).

Under the Proposed Rule, large banks[25] (and in some circumstances, other banks) would have needed to collect, maintain, and report certain data related to the proposed performance tests and standards. The OCC would have made this data available through individual and aggregate disclosure statements. In addition, banks would have made CRA-related information available in their public files and posted CRA notices in specified locations.

For a more detailed description of the 1995 Rules, on which the Proposed Rule was largely based, see the **SUPPLEMENTAL INFORMATION** sections of the **Federal Register** documents in which the 1995 Rules were issued.[26]

B. Summary of Key Provisions

The following is a summary of key provisions of the Proposed Rule.

1. Performance Tests and Standards.[27]

system. Public Law 104–208, 110 Stat. 3009 (1996) (codified at 12 U.S.C. 3311). In 2017, the Agencies issued a report to Congress that included a summary of the public comments and recommendations received during the EGRPRA review, including those that addressed the CRA regulatory framework. *See* Federal Financial Institutions Examination Council, Joint Report to Congress. Economic Growth and Regulatory Paperwork Reduction Act, pp. 41–48 (Mar. 3, 2017), available at *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

[19] 85 FR 66410.

[20] NR 2021–76, OCC Statement on Rescinding its 2020 Community Reinvestment Act Rule, available at *https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-76.html.*

[21] NR 2021–77, Interagency Statement on Community Reinvestment Act Joint Agency Action, available at *https://www.occ.gov/news-issuances/news-releases/2021/nr-ia-2021-77.html.*

[22] NR 2021–94, OCC Issues Proposal to Rescind its 2020 Community Reinvestment Act Rule (Sept. 8, 2021), available at *https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-94.html. See also* 86 FR 52026 (Sept. 17, 2021).

[23] 86 FR 52026, 52027.

[24] As noted previously, the OCC has CRA examination authority for Federal savings associations, and the FDIC has CRA examination authority for State savings associations. *See supra* note 6. References in this final rule to ''appropriate Federal banking agency'' are intended to reflect this distinction.

[25] The term ''large banks'' is used in CRA guidance related to the 1995 Rules to describe banks that exceed the ISB asset-size threshold.

[26] *See supra* note 8.

[27] The proposed performance tests and standards applicable to a bank would have been based on the bank's asset size. The proposed asset-size thresholds for determining whether a bank would be a large bank, ISB, or small bank under the Proposed Rule would have been adjusted annually and aligned with the current asset-size thresholds

Continued

○ Small bank[28] performance standards would have included a retail lending test for assessing CRA performance. The small bank lending test could also have included consideration of CD loans. Qualified investments and CD services could have been considered at the bank's option for an ''outstanding'' rating, but only if the bank met or exceeded the lending test criteria in the small bank performance standards.

○ The ISB[29] performance standards would have included an assessment of CRA performance under the small bank retail lending test and a CD test. Under the ISB CD test, the appropriate Federal banking agency would have evaluated all CD activities together.

○ Large bank (*i.e.,* banks that exceed the ISB asset-size threshold)[30] lending and service tests would have considered both retail and CD activity, while the large bank investment test would have focused on qualified investments as defined in the Proposed Rule.

○ The appropriate Federal banking agency would have evaluated wholesale and limited purpose banks under a CD test that considered activities (1) within a bank's broader statewide or regional area(s) that includes a bank's assessment area(s) as activities that benefit the bank's assessment area(s) and (2) outside of the bank's broader statewide or regional area that includes a bank's assessment area(s) if the bank had been responsive to needs in its assessment area(s).

○ Any bank could have elected to be evaluated under a strategic plan that set out measurable goals for lending, investment, and services, as applicable, to achieve a ''satisfactory'' or ''outstanding'' rating. The bank would have developed its strategic plan with community input, and the appropriate Federal banking agency would have needed to approve the bank's plan.

2. *Discriminatory or Other Illegal Credit Practices (DOICP).* Under the Proposal, the appropriate Federal banking agency's evaluation of a bank's CRA performance would have been adversely affected by evidence of DOICPs, including violations of the Equal Credit Opportunity Act;[31] Fair Housing Act;[32] Homeownership and Equity Protection Act;[33] the prohibition against unfair or deceptive acts or practices in section 5 of the Federal Trade Commission Act;[34] section 8 of the Real Estate Settlement Procedures Act;[35] and the Truth in Lending Act.[36] The list of discriminatory or other illegal credit practices in the Proposal was not exhaustive, and the OCC also would have considered credit-related violations of the Military Lending Act (MLA) and Servicemembers Civil Relief Act (SCRA)[37] based on guidance that predates the June 2020 Rule.[38]

3. *Retail and CD Activities.* The appropriate Federal banking agency would have evaluated banks' CRA performance based on (1) retail lending (*i.e.,* home mortgage loans, small business loans, small farm loans, and consumer loans, as applicable) and CD loans; (2) qualified investments; and (3) CD services, as each of these terms would have been defined in the Proposed Rule and considered in the applicable performance tests and standards.

4. *Assessment Area(s).*

○ A bank would have delineated assessment area(s) that generally—

- Included the geographies where the bank has its main office, branch(es), and deposit-taking ATMs (as applicable), as well as any surrounding geographies where the bank has originated or purchased a substantial portion of its loans; and
- Consisted of one or more MSAs, metropolitan divisions, or political subdivisions with a bank permitted to adjust the boundaries of its assessment area(s) to include only the portion of the political subdivision that the bank could reasonably be expected to serve.

○ Assessment area(s) would have been required to:

- Consist of whole geographies;
- Not reflect illegal discrimination;
- Not arbitrarily exclude LMI geographies; and
- Not extend substantially beyond an MSA or State boundary unless the bank's assessment area(s) was in a multistate MSA.

5. *Data Collection, Recordkeeping, and Reporting.*

○ Banks, other than small banks, would have collected, maintained, and reported certain data related to small business loans, small farm loans, CD loans, and assessment areas. Banks, other than small banks, that are subject to the Home Mortgage Disclosure Act of 1975 (HMDA) reporting requirements[39] also would have reported certain information related to home mortgage lending outside of the MSA(s) where a bank has a home or branch office (or outside any MSA). The Proposed Rule also would have included certain optional data collection and reporting provisions.

○ The Proposed Rule would have reinstated requirements regarding the content and location of the public file and public notices that were revised or eliminated in the June 2020 Rule.

6. *Ratings.* The appropriate Federal banking agency would have determined a bank's CRA rating as provided in proposed appendix A.

7. *Integration of National Bank and Savings Association Rules.* The Proposed Rule would have reinstated separate rules for national banks (at 12 CFR part 25, subparts A through E and appendices A and B) and savings associations (at 12 CFR part 195, subparts A through C and appendices A and B). The June 2020 Rule integrated these rules in 12 CFR part 25.

8. *Transition Period.* The Proposed Rule would have required banks to comply with the final rule as of the effective date with no option to follow any provisions in the June 2020 Rule during the period between when the OCC would adopt the Proposed Rule in final form and the Agencies would adopt updated interagency CRA rules in final form.[40] The Proposal discussed whether the OCC should address certain transition considerations in the final rule.

III. Comments on the Proposed Rule

The OCC received 62 comment letters on the Proposed Rule, the majority of which generally supported rescinding the June 2020 Rule and the ongoing interagency effort to issue updated CRA rules. These comments addressed a wide range of issues and came from a variety of stakeholders and interested parties, including the banking industry, community and other advocacy groups, State and local governments, and the general public. The discussion below

in the Board's and FDIC's rules. *See* 12 CFR parts 228 and 345.

[28] Under the Proposed Rule, ''small bank'' means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.322 billion. ''ISB'' means a small bank with assets of at least $330 million as of December 31 of both of the prior two calendar years and less than $1.322 billion as of December 31 of either of the prior two calendar years. *See* 12 CFR 25.12(u), of the Proposed Rule.

[29] *Id.*

[30] *Id.*

[31] 15 U.S.C. 1691 *et seq.*

[32] 42 U.S.C. 3601 *et seq.*

[33] Public Law 103–325, 108 Stat. 2190 (1994) (codified at 15 U.S.C. 1601–02; 15 U.S.C. 1639–41).

[34] 15 U.S.C. 45.

[35] 12 U.S.C. 2607.

[36] 15 U.S.C. 1601–1667f (as amended).

[37] *See* 10 U.S.C. 987 and 50 U.S.C. 3901 *et seq.,* respectively.

[38] *See* OCC PPM 5000–43, Impact of Evidence of Discriminatory or Other Illegal Credit Practices on Community Reinvestment Act Ratings (Aug. 15, 2018).

[39] 12 U.S.C. 2801 *et seq.*

[40] The period of time between the effective date of this final rule and the effective date of final updated interagency CRA rules is referred to herein as the ''interim period.''

identifies the significant issues raised by these commenters and explains how the OCC addresses these issues in the final rule. This final rule will provide certainty to stakeholders, eliminate burden associated with continuing to transition to the June 2020 Rule, and better position the OCC to engage in an interagency rulemaking process to update and modernize the CRA rules.

Transition Provisions. The OCC proposed to replace the June 2020 Rule with rules for banks based on the 1995 Rules. The Proposed Rule included a description of several transition considerations that the OCC was contemplating to provide for a smooth transition from the June 2020 Rule. Although commenters generally supported rescission of the June 2020 Rule, they expressed opposing views on replacing the June 2020 Rule with rules based on the 1995 Rules. Community groups and other commenters generally supported the Proposal for reasons including (1) the OCC should not have independently promulgated the June 2020 Rule; (2) there would be confusion and inconsistent CRA evaluations if there were different CRA regulatory regimes applicable to different types of IDIs; (3) the June 2020 Rule is not yet fully effective, which lessens the impact of its rescission; (4) uniformity of CRA rules for all IDIs during the interim period would facilitate the ongoing interagency rulemaking process; and (5) the June 2020 Rule both failed to ensure that banks meet their local communities' banking needs and disincentivized investment in LMI communities and communities of color. One commenter suggested that the final rule should return banks to the 1995 Rules but include certain innovations from the June 2020 Rule, including deposit-based assessment areas and the list of qualifying activities.

In contrast, industry and trade associations generally opposed transitioning back to the 1995 Rules. Some of these commenters stated that banks have already changed their CRA programs to comply with the June 2020 Rule and another transition would be burdensome. They requested that the OCC balance the benefits of interagency uniformity with the need to minimize the disruption—for both banks and their CRA reinvestment partners—that will result if the OCC adopts the Proposed Rule. Similarly, others asserted that implementing the Proposed Rule would be disruptive, wasteful, and confusing. They recommended that the OCC minimize the number of regulatory transitions, the burden, and the confusion that would result from multiple rule changes.[41]

Several of these commenters requested that, during the interim period, the OCC (1) retain the provisions of the June 2020 Rule with a compliance date of October 1, 2020, and (2) revert to the 1995 Rules only for provisions of the June 2020 Rule with a compliance date of January 1, 2023, or January 1, 2024. Several commenters also requested that the OCC provide banks with flexibility to continue to utilize aspects of the June 2020 Rule or the 1995 Rules during the interim period, including by (1) providing consideration for all activities that qualify under either the June 2020 Rule or the 1995 Rules and (2) allowing banks that were in the process of transitioning to the June 2020 Rule to retain the CRA programs they have in place as long as their programs comply with either the 1995 Rules or the June 2020 Rule.

After considering the comments on transition issues, the OCC is adopting the final rule largely without modification from the Proposed Rule and with a delayed compliance date for two provisions: All banks will need to comply with the rule by January 1, 2022, with the exception of the public file and public notice provisions (§§ 25.43 and 25.44 of the final rule). As discussed below, banks will need to comply with §§ 25.43 and 25.44 by April 1, 2022. Notwithstanding commenters' concerns regarding the burden for banks to transition back to a rule based on the 1995 Rules, it is the view of the OCC that this burden will be limited because the June 2020 Rule has only been partially implemented. Further, the alternatives suggested by the commenters would create confusion. For example, allowing banks the flexibility to elect to operate under either the June 2020 Rule or the 1995 Rules would create confusion for stakeholders regarding which regulatory framework applied during banks' CRA evaluations. It also would undermine the goal of a consistent set of rules for all IDIs and could delay the issuance of the Agencies' updated interagency CRA rule. For example, creating a hybrid regulatory framework that leverages aspects of both the June 2020 Rule and the 1995 Rules could increase the supervisory burden and draw OCC resources away from the interagency CRA rulemaking efforts.

By finalizing this rule with an effective date of January 1, 2022, and a compliance date of April 1, 2022, for §§ 25.43 and 25.44, all IDIs will be subject to the same general regulatory framework at the earliest reasonable date, which will facilitate the Agencies' issuance of updated interagency CRA rules. To address concerns regarding the burden associated with this decision, the OCC will afford banks the implementation flexibility permitted by the transition provisions of the final rule and the Interagency Questions and Answers Regarding Community Reinvestment (Q&As) for the 1995 Rules[42] and other CRA guidance, including the application of performance context. For example, in evaluating a bank's performance from October 1, 2020, through the interim period, the OCC will consider the impact that regulatory changes had on the bank's ability to engage in qualifying activities as part of its performance context. In addition, the final rule's delayed compliance date of April 1, 2022, for the public file and public notice provisions will ease burden associated with this final rule.

Qualifying Activities. The Proposed Rule would have replaced the qualifying activities criteria in the June 2020 Rule with the 1995 Rules' home mortgage loan, small business loan, small farm loan, consumer loan, and CD definitions. The Proposed Rule also would have replaced the definitions related to the qualifying activities criteria in the June 2020 Rule with the applicable definitions under the 1995 Rules. The Proposed Rule would have eliminated June 2020 Rule definitions that did not exist in the 1995 Rules.

The Proposal also explained that banks would receive consideration in their CRA examinations for activities that met the qualifying activities criteria or definitions in effect at the time that the banks conducted the activities.[43] Under the final rule, as was also the case under the June 2020 Rule, a CRA activity may include a legally binding

[41] One commenter also expressed concern that reinstatement of the 1995 Rules could lead to regressive financial policies in low-income communities and suggested that the OCC consider lessons from the financial crisis and solicit feedback from the most affected communities.

[42] 81 FR 48506 (July 25, 2016).

[43] For example, if a bank originated a loan or entered into a legally binding commitment to lend on December 20, 2021, to build a charter school in which 40 percent of the students received free or reduced price school lunch, that loan would receive consideration in a bank's CRA examination even if the CRA examination took place after the effective date of the final rule (January 1, 2022) because this activity is a qualifying activity under the June 2020 Rule. *See* June 2020 Rule, 12 CFR 25.04(c)(5)(i). However, if the bank made the same loan or entered into the same legally binding commitment to lend on January 20, 2022, that loan or commitment would not qualify under the CD definitions in the final rule, and, therefore, would not receive consideration in a future CRA examination. *See* 12 CFR 25.12(g) and (h) of this final rule.

commitment to lend or invest. A legally binding commitment will be considered to have been conducted on the date that the commitment is legally binding on the bank. This practice is consistent with the OCC's longstanding treatment under the 1995 Rules of legally binding commitments.[44] Therefore, under the final rule, a legally binding commitment to lend or invest will be considered under the CRA regulatory framework that was in effect at the time the commitment became legally binding on the bank.

The OCC asked whether its proposal to consider activities based on whether they qualified at the time the bank (1) conducted the activities or (2) entered into a legally binding commitment to conduct the activities was a reasonable approach to address the proposed changes to the activities that would receive consideration in CRA examinations.

Many commenters supported the elimination of the June 2020 Rule's qualifying activities criteria in the final rule and returning to the definitions in the 1995 Rules.[45] Other commenters advocated retaining the June 2020 Rule's qualifying activities criteria, asserting that their elimination would negatively affect banks' communities. For example, one commenter asserted that the broader definition of qualifying activities in the June 2020 Rule provides an incentive for banks to engage in activities that benefit communities, including LMI and underserved persons, and that this result is consistent with the CRA's intent.[46] Another commenter suggested that retaining the June 2020 Rule's approach for qualifying activities would minimize disruptions in ongoing investment decisions. Other commenters supported retaining the current framework because of the burdens associated with changing regulatory regimes. One commenter suggested that the OCC give CRA consideration to any activity that qualifies under either the 1995 Rules or June 2020 Rule.

Many commenters expressed support for the proposal to provide consideration for activities based on whether they qualified at the time the activities were conducted or subject to a legally binding commitment, with some commenters describing this approach as both reasonable and appropriate. One community group stated that it would be unfair to revoke consideration for activities that qualified at the time that the activities were conducted.

After considering the comments, the OCC is adopting the retail lending, CD, and related definitions as proposed and adopts the proposed treatment of consideration for activities under the CRA. This outcome ensures that, going forward, (1) banks will receive consideration for activities that the Agencies have collectively recognized help to meet community credit needs; (2) consistent rules will apply to all IDIs; (3) banks will receive credit for dollars that are already legally committed; and (4) the OCC is likely to be able to more effectively work with the Board and the FDIC to determine the types of activities that should receive consideration under an updated interagency CRA rule. The final rule includes a provision in subpart D that explains when activities qualify for CRA consideration in CRA examinations based on the rule in effect at the time that the activities were conducted.

Confirmation Process. The June 2020 Rule included a confirmation process for qualifying activities that permits banks and other interested parties to request OCC confirmation that a loan, investment, or service is consistent with that rule's qualifying activities criteria prior to engaging in the activity. Under the Proposed Rule, the OCC would have removed the qualifying activities confirmation process from the rule and replaced it with OCC procedures that would be operationally similar to the June 2020 Rule's confirmation process, but the OCC would have adapted the substance to conform to the 1995 Rules. The OCC requested comment on this approach.

Both industry and community group commenters expressed support for retaining a confirmation process. One industry commenter noted that, regardless of whether the process is included in the final rule, retaining a confirmation process would be the least disruptive outcome for banks and interested parties. A community organization noted that any confirmation process should be equally accessible to community-based organizations and banks. Another community group stated that any OCC delay in issuing guidance on the final rule's confirmation process should not affect banks' responsibilities to comply with the rule as of its effective date.

Given the broad support for a confirmation process in general and the clarity provided by the June 2020 Rule's confirmation process, the OCC is adopting the proposed approach and will provide guidance on the scope and mechanics of this CD activity confirmation process.[47]

Illustrative List. The June 2020 Rule provided an illustrative list of examples of CRA qualifying activities. The OCC indicated in the Proposal that it would maintain this list on its website to help banks determine whether activities conducted while the June 2020 Rule was in effect are eligible for CRA consideration. While the OCC received few comments on this topic, all of those who commented supported the proposed approach of continuing to maintain the list of examples.[48] The OCC believes that it may be useful to banks and other interested parties to continue to have access to the June 2020 Rule's illustrative list; therefore, the OCC will continue to make the list available on the Agency's website. After January 1, 2022, banks that newly engage in the activities on the illustrative list will only receive CRA consideration if the activities also meet the retail or CD definitions in the final rule.

Bank Asset-Size Thresholds. The June 2020 Rule increased the bank asset-size thresholds for determining small, intermediate, and general performance standards banks from the thresholds for determining small, ISB, and large banks under the 1995 Rules.[49] This increase

[44] *See* 12 CFR 25.21–27 of this final rule. *See also* Q&A § ____.23(e); Q&A § ____.26(b)–4.

[45] One commenter suggested that, if legally permissible, the OCC should retroactively discount the expanded activities under the June 2020 Rule, particularly if done in the normal course of business, and all expanded activities should be re-evaluated to assess whether they benefitted the intended beneficiaries of the CRA.

[46] One of these commenters specifically objected to reinstating the 1995 Rules' CD services definition, asserting that there are many CRA volunteer services that provide tremendous benefits to banks' communities but do not focus on providing financial services to these communities.

[47] As of January 1, 2022, confirmation letters issued under the June 2020 Rule for qualifying activities that a bank has not yet engaged in, or entered into a legally binding commitment for, would no longer serve as OCC confirmation that an activity qualifies for CRA consideration. Nonetheless, the activity may still receive CRA consideration if it meets the CD definitions and other requirements of the final rule.

[48] One commenter requested that the OCC preserve the four illustrative examples of qualifying activities that involve access to digital services as part of any amended guidance on CRA qualifying activities. These examples will remain on the illustrative list; however, new activities consistent with these examples that are conducted after January 1, 2022 will only receive consideration to the extent that they also are consistent with the retail or CD definitions in the final rule.

[49] Prior to the enactment of the June 2020 Rule, (1) small banks were banks with less than $326 million in assets; (2) ISBs were banks with assets between $326 million but less than $1.305 billion; and (3) large banks were banks with assets of $1.305 billion and above. Under the June 2020 Rule, (1) small banks are banks with assets up to $600 million; (2) intermediate banks are banks with assets of greater than $600 million and up to $2.5 billion; and (3) general performance banks (referred to as large banks under the 1995 Rules' framework) are banks with greater than $2.5 billion in assets. As proposed, (1) small banks would have been

changed some banks' asset-size categories (*e.g.,* certain banks that were ISBs under the 1995 Rules are small banks under the 2020 Rule, and certain banks that were large banks under the 1995 Rules became intermediate banks under the June 2020 Rule). Under the Proposed Rule, the OCC would have reinstated the bank asset-size thresholds of the 1995 Rules.[50] For banks that would have transitioned from small banks to ISBs as a result of this, under the Proposal, the OCC would have considered this change in assessing the bank's performance context. Although the proposed reinstatement of bank asset-size thresholds would have applied as of January 1, 2022, the Proposal described a transition period for the new data collection, recordkeeping, and reporting requirements for intermediate banks that would return to being designated as large banks or newly become designated as large banks, which is addressed in more detail below.

The OCC received several comments on the proposed changes to the bank asset-size thresholds. Generally, industry commenters did not support the proposed changes, noting that banks recently adjusted their CRA programs to satisfy the June 2020 Rule and that the Proposed Rule would require another set of adjustments and associated burden (*e.g.,* small banks that become ISBs would be subject to a CD test; intermediate banks that become large banks would be subject to separate lending, investment, and service tests and to new or reinstated data collection, recordkeeping, and reporting requirements).

Commenters also noted that reinstating the 1995 Rules' bank asset-size thresholds and then revising them again in a future interagency rulemaking would both be wasteful and burdensome, in part due to institutions' limited staff. One commenter also asserted that the asset-size thresholds under the 1995 Rules were too low, do not reflect the current banking industry, and should not be reinstated. Another commenter noted that the proposed asset-size thresholds are problematic because many banks now have inflated balance sheets due to government programs related to the COVID–19 pandemic.

Other commenters stated that an immediate effective date for the reinstated asset-size thresholds would require banks to quickly modify their current procedures and processes (*e.g.,* purchasing CRA software; educating specific lines of business about the new requirements; updating job aids; and implementing new requirements and testing processes). Several commenters suggested that banks that would have to comply with new standards or tests under a final rule (*e.g.,* the ISB performance standards or large bank lending, investment, and services tests) should be provided with additional time to comply. One commenter supported a transition period for banks that were below the 1995 Rules' large bank asset-size threshold prior to the June 2020 Rule's effective date but now exceed the proposed large bank asset-size threshold. This commenter suggested a one-year transition, a two-year transition, or retaining the June 2020 Rule's bank asset-size thresholds for the duration of the interim period.

Community groups and other commenters generally supported the Proposal to revert to the 1995 Rules' asset-size thresholds. These commenters suggested that it should not be overly burdensome for banks to transition back to their former bank types because many banks likely retained their reporting infrastructure and software programs.

After considering these comments, the OCC is adopting the Proposed Rule's bank asset-size thresholds without modification. Therefore, any shift by banks to a new bank type (*i.e.,* small bank, ISB, or large bank) will be based on the final rule's definitions and effective January 1, 2022. Reinstating the 1995 Rules' asset-size thresholds is one way that the final rule establishes a consistent rule applicable to all IDIs, which, as discussed elsewhere in this preamble, will likely facilitate the interagency CRA rulemaking process. The final rule's consideration of performance context should provide sufficient flexibility to address commenters' concerns about the burden associated with being evaluated under new tests and standards. For example, the OCC will consider a bank's need to change its CRA procedures and processes (*e.g.,* reallocating staff and other resources; initiating or increasing its CD activities; or purchasing new software) when evaluating the bank under the final rule's applicable performance tests and standards. Furthermore, as discussed below, the OCC will provide banks that will be large banks for the first time under the final rule with additional time to comply with the rule's data requirements.

Data Collection, Recordkeeping, and Reporting Requirements for Banks Transitioning from Intermediate Banks to Large Banks. Under the June 2020 Rule, banks with assets between $1.305 billion and $2.5 billion changed bank type from large bank (their classification under the 1995 Rules) to intermediate bank. As a result, these banks were no longer subject to large bank data collection and recordkeeping requirements starting in 2021, and, under the June 2020 Rule, they would not have been subject to large bank data reporting requirements in 2022.

Under the Proposed Rule, the OCC would have (1) treated banks that exceeded the ISB asset-size threshold[51] as large banks and (2) applied the large bank data requirements to banks that were designated as intermediate banks under the June 2020 Rule beginning one year from the final rule's effective date (one-year proposed grace period).[52] This treatment is consistent with the OCC's general practice under the 1995 Rules.

As discussed above, industry commenters generally objected to the proposed changes to the bank asset-size thresholds largely because of the burden associated with the data requirements for the banks subject to new data requirements (*e.g.,* purchasing new software to comply with the applicable data requirements). Several commenters recommended that the OCC retain the June 2020 Rule's bank asset-size thresholds for the interim period. Others requested additional transition time to comply with the Proposed Rule's data requirements, or flexibility from the OCC when assessing an affected bank's data integrity. For example, one commenter suggested that the OCC apply a ''good faith'' standard in evaluating CRA performance during the interim period, including by (1) not issuing a ''Needs to Improve'' rating based on inaccuracies or deficiencies in

banks of less than $330 million in assets; (2) ISBs would have been banks with assets between $330 million and less than $1.322 billion; and (3) large banks would have been banks with assets of $1.322 billion and above.

[50] The bank asset-size thresholds in this final rule reflect the adjusted thresholds issued by the Board and FDIC on December 17, 2020, effective January 1, 2021. *See, e.g.,* FDIC PR 140–2020, Agencies Release Annual CRA Asset-Size Threshold Adjustments for Small and Intermediate Small Institutions, available at *https://www.fdic.gov/news/press-releases/2020/pr20140.html.* The Agencies make annual adjustments to the bank asset-size thresholds based on the change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), not seasonally adjusted, for each 12-month period ending in November. The adjusted thresholds are typically available mid- to late-December and are effective January 1 of the following year. Once the Agencies determine the annual adjustment for calendar year 2022, the OCC will publicize the updated bank asset-size thresholds.

[51] *See supra* note 28.

[52] Under the June 2020 Rule, banks that exceeded the intermediate bank threshold remained subject to the 1995 Rules' data collection, recordkeeping, and reporting requirements, and, therefore, the Proposed Rule would not have imposed new requirements on these banks.

an affected bank's data if the bank demonstrates its program was developed and administered in good faith and (2) giving the bank a reasonable period of time to correct inaccuracies or deficiencies prior to issuing the bank's final performance evaluation rating.

Conversely, community groups generally supported the immediate reinstatement of the 1995 Rules' large bank data requirements for all large banks as of the effective date of the final rule. One commenter noted that this data is critical for assessing whether the bank is meeting community needs, and there should be no delay in providing it to the public. The OCC also received a comment suggesting different treatment for those banks that were large banks prior to the June 2020 Rule (redesignated large banks) and those banks that would, under the Proposal, be large banks for the first time (newly designated large banks).[53]

Because redesignated large banks have prior experience with the data requirements in the 1995 Rules, it does not appear to be necessary to provide them with a grace period for compliance with the large bank data collection, recordkeeping, and reporting requirements. The OCC notes that, although the final rule requires redesignated large banks to report calendar year 2022 data by March 1, 2023—a period of 14 months from the final rule's effective date—it contains no specific date during 2022 by which redesignated large banks must actually commence the applicable data collection and recordkeeping. Therefore, a redesignated large bank does not need to have its data collection and recordkeeping systems in place by January 1, 2022, to be in compliance with the final rule.[54]

In addition, the OCC intends to work with these redesignated large banks over the next year to ensure they are on track to report calendar year 2022 data by March 1, 2023, and to provide them with any necessary flexibility in terms of missing information or other limited error tolerances for calendar year 2022 data. However, the error tolerances afforded these banks will only last one year and the data collection, recordkeeping, and reporting systems and processes of redesignated large banks must be fully functional by January 1, 2023, including with respect to data integrity. This approach should provide a sufficient transition period to appropriately balance the need for CRA data from redesignated large banks under the final rule with the practical challenges these banks may encounter.

In contrast, the OCC has determined it is appropriate to apply the proposed grace period approach to newly designated large banks. These banks do not have the same prior experience with the data collection, recordkeeping, and reporting requirements under the 1995 Rules, and it is reasonable to provide them with additional time to establish the systems and processes necessary to comply with the final rule's data requirements. Therefore, the OCC is providing these banks with a one-year grace period during which they will not be subject to the final rule's data requirements. Specifically, the OCC will require these banks to comply with the large bank data collection and recordkeeping requirements beginning on January 1, 2023, and report calendar year 2023 data consistent with the large bank reporting requirements by March 1, 2024. Additionally, the OCC will evaluate these banks under the final rule's ISB lending and CD tests until they report the data necessary to evaluate them under the rule's large bank lending, investment, and service tests.

Affiliate Activities. The June 2020 Rule does not specifically address how the CRA activities of bank affiliates are treated but states that only activities conducted by a bank qualify for CRA consideration. In January 2021, the OCC issued an interpretive letter that limited the consideration of affiliate activities (IL 1177).[55] Under the Proposed Rule, the OCC would have considered a bank's affiliate's CRA activities consistent with the affiliate treatment provisions in the 1995 Rules, which permitted banks to elect to include affiliate activities in their CRA evaluations, subject to certain limitations.[56] As explained in the Proposal, the OCC also would have rescinded IL 1177.

Commenters that addressed affiliate activities generally supported the OCC's proposed treatment of these activities, and the OCC adopts the Proposed Rule as final on this issue. This decision should be generally nondisruptive relative to the alternatives because it (1) enables banks to retain their existing business models for engaging in CRA activities; (2) ensures that banks receive consideration for CRA-qualifying activities; and (3) promotes banks' continued efforts to serve their communities. Consequently, as of January 1, 2022, this final rule supersedes IL 1177, and banks may receive consideration for affiliate activities as provided for in the final rule.[57]

Strategic Plans. As explained in the Proposal, the June 2020 Rule revised the requirements for strategic plans by, among other things, permitting banks to include target market assessment areas in their strategic plans. The OCC proposed to allow banks to maintain strategic plans that the Agency had approved under the June 2020 Rule, including plans that contained target market assessment areas.[58] Although not addressed in the Proposal, the OCC

[53] As of September 30, 2021, approximately 36 OCC-regulated redesignated large banks and 31 OCC-regulated newly designated large banks would exceed the ISB threshold of the final rule and, therefore, be considered large banks under the final rule.

[54] The OCC is not requiring data reporting for calendar year 2021 for any redesignated or newly designated large banks. OCC guidance provided that intermediate banks under the June 2020 Rule that were formerly large banks under the 1995 Rules were exempt from data collection and recording requirements for calendar year 2021 and reporting requirements for calendar year 2022. *See* OCC Bulletin 2020–99, Community Reinvestment Act: Key Provisions of the June 2020 CRA Rule and Frequently Asked Questions (Nov. 9, 2020), available at *https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-99.html.* Therefore, although one commenter expressed an interest in having redesignated large banks report 2021 data, it would be unreasonable for banks expressly exempt from data collection and recordkeeping requirements in calendar year 2021 to be expected to report that data by March 1, 2022. This approach is consistent with the 1995 Rules, which did not require banks that were small banks or ISBs in the prior calendar year to report data.

[55] The policy announced in that interpretive letter was set to take effect April 1, 2022, and provided that a bank would not have received CRA consideration for affiliate activities (including activities conducted by the nonbank parent and sister companies of the bank) unless the bank could demonstrate that it provided financing for or otherwise supported the qualifying activities of the affiliates. *See* IL 1177, OCC Senior Deputy Comptroller and Chief Counsel's Interpretation: Community Reinvestment Act Qualifying (CRA) Activities Conducted by a National Bank's or Savings Association's Subsidiaries and Affiliates, Including Nonbank Parent and Sister Companies of a National Bank or Savings Association Under Certain Circumstances, Can Receive CRA Credit Under the June 2020 CRA Final Rule (Jan. 4, 2021), available at *https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2021/int1177.pdf.*

[56] *See* §§ 25.22(c), 25.23(c), 25.24(c), 25.25(d), and 25.27(c)(3) of the Proposed Rule. *See also* Q&A § ____.22(c)(2)(i)–1; Q&A § ____.22(c)(2)(ii)–1; Q&A § ____.22(c)(2)(ii)–2; Q&A § ____.24(e)–1; and Q&A § ____.26–1.

[57] Consistent with this statement, the OCC will officially rescind IL 1177 as of January 1, 2022.

[58] The OCC stated in the Proposal that permitting strategic plan banks to maintain their target market assessment areas was not inconsistent with proposed 12 CFR 25.41 and would cause the least disruption during the transition from the OCC's June 2020 Rule to any future interagency final rules. The OCC notes that there are currently no banks with strategic plans, or strategic plans pending OCC approval by December 31, 2021, that include goals established for target market assessment areas. As a result, the remaining discussion of strategic plan transition issues focuses on issues other than target market assessment areas.

had provided in guidance regarding the June 2020 Rule that banks could establish goals for CRA-qualifying activities conducted outside of their assessment areas.[59]

Several commenters supported maintaining strategic plans approved under the June 2020 Rule with one commenter generally advocating for maintaining the status quo for portions of the June 2020 Rule. One commenter supported maintaining these plans but only if the strategic plan period is already in effect. A few commenters expressed concern about how these strategic plans would be affected if the final rule rescinds the June 2020 Rule's qualifying activities criteria, with some recommending that affected banks be permitted to continue to rely on those criteria while the plan is in effect.[60] In contrast, a community group commenter suggested that the OCC work with banks to modify strategic plans including target market assessment areas. The commenter noted that although this would put additional burden on the OCC and banks, it would not be unreasonable considering the circumstances and that it is not wholly sensible that banks would utilize strategic plans based on a rule that no longer applies.

Under the final rule, strategic plans approved under the June 2020 Rule may remain in effect but these plans must comply with the provisions of the final rule, as applicable.[61] This application of the final rule to strategic plans would put all banks—those with strategic plans and those without—on a level playing field. Because banks will be subject to the applicable aspects of the final rule, the guidance that permitted banks to develop outside of assessment areas goals is no longer applicable.[62] Specifically, for strategic plans, the final rule provides that the OCC will consider a bank's record of helping to meet the credit needs of its assessment area(s). Therefore, provisions in strategic plans that include goals for activities outside a bank's assessment area(s) will no longer be applicable, and the OCC will no longer evaluate these activities when assessing the bank's performance. Because the final rule does not address assessing performance outside of a bank's assessment area(s), the OCC will not rate a bank ''Needs to Improve'' or ''Substantial Noncompliance'' solely for failure to meet goals established under the June 2020 Rule for any area(s) outside of its assessment area(s).

In addition, the OCC is committed to minimizing burden on banks transitioning to the final rule by giving them the appropriate flexibility permitted under the final rule, Q&As and other CRA guidance, and longstanding OCC policy in evaluating their performance relative to the goals outlined in strategic plans approved under the June 2020 Rule. Therefore, the OCC will continue to consider a bank's activities in the broader statewide or regional area(s) that include a bank's assessment area(s), consistent with the guidance in the Q&As.[63]

Nonetheless, if a bank is concerned that it will not be able to meet the measurable goals specified in its strategic plan due to the regulatory changes in the final rule, the bank may request to amend its strategic plan based on the process outlined in § 25.27(h) of the final rule. While the OCC will not require any bank to amend its strategic plan, the OCC will work expeditiously with banks that request amendments. This approach will enable the OCC to balance its interest in reestablishing consistency with respect to the CRA rules with banks' individual circumstances.

CRA Activities Outside of a Bank's Assessment Area(s). The June 2020 Rule provides for nationwide consideration of qualifying activities for banks evaluated under the general performance standards. As explained in guidance addressing implementation of the June 2020 Rule, if certain conditions are met during the period transitioning from the 1995 Rules to the June 2020 Rule, an OCC-regulated bank could receive consideration for qualifying activities conducted outside of its assessment area(s), even if those activities do not directly or indirectly serve its assessment area(s).[64]

Under the Proposed Rule, the OCC would have considered a bank's activities outside of its assessment area(s) in limited circumstances and generally not on a nationwide basis, consistent with the 1995 Rules and the Q&As. The OCC requested comment, however, on whether it should continue to consider bank activities that do not directly or indirectly serve either a bank's assessment area(s) or the broader statewide or regional area(s) that include the bank's assessment area(s). For commenters who supported consideration for those activities, the OCC also requested comment on what conditions, if any, should apply.

Several community group commenters supported limiting consideration for activities that do not directly or indirectly serve either a bank's assessment area(s) or the broader statewide or regional area(s) that include a bank's assessment area(s). The commenters noted that the Agencies should have the same rules and apply the same standards to activities conducted outside of the assessment areas of the IDIs they supervise. One community group commenter also stated that consideration of these activities should end on the effective date of the final rule. In contrast, some industry commenters asserted that the OCC should continue to consider activities conducted outside of banks' assessment areas.

The final rule does not provide for consideration of activities that do not directly or indirectly serve either a bank's assessment area(s) or the broader statewide or regional area(s) that include a bank's assessment area(s). This approach is more consistent with the approach taken by the 1995 Rules and likely will enable the OCC to work more effectively with the Board and the FDIC in the interagency rulemaking process on a consistent approach for the geographic consideration of CD activities.[65]

Public File. The June 2020 Rule included requirements for the content and location of a bank's public file that differed from those in the 1995 Rules. The Proposed Rule would have restored the public file content and location requirements in the 1995 Rules. As such, the Proposed Rule would have required banks to (1) include additional information in their public files; (2) make all the information in their public file available at their main offices and, if an interstate bank, at one branch office in each State; and (3) make more limited information available at each

[59] Pursuant to OCC Bulletin 2020–99, a bank operating under an approved strategic plan could receive consideration for qualifying activities conducted outside of its assessment area(s) by establishing a separate goal for those activities. The OCC would judge the goal for outside qualifying activities independently of the goals established for delineated assessment area(s). These outside activities could elevate bank performance from satisfactory to outstanding but could not compensate for less than satisfactory overall performance inside a bank's assessment area(s). Poor performance in one area could not be offset by performance that exceeds plan goals in another area.

[60] The challenges associated with meeting strategic plan goals was one reason commenters requested that, during the interim period, the OCC retain either (1) the provisions of the June 2020 Rule with an October 1, 2020, compliance date or (2) the qualifying activities criteria and related definitions.

[61] Approved strategic plans will remain in effect for the duration of the term set out in the plan, unless otherwise amended.

[62] *See supra* note 59.

[63] Q&A § ____.12(h)–6.

[64] *See* OCC Bulletin 2020–99.

[65] Under the final rule, banks may receive consideration for investments in nationwide funds consistent with the guidance in Q&A § ____.23(a)–2.

branch. Because the Proposed Rule would have imposed these additional public file content and location requirements, the OCC requested comment on whether banks would need additional time to comply and, if so, whether three months after the final rule's effective date would be sufficient time.

Some industry commenters suggested that, under the final rule, banks should be given the flexibility to comply with the public file requirements of either the 1995 Rules or June 2020 Rule. They argued that this flexibility would reduce the burden for banks that very recently transitioned to the June 2020 Rule's public file requirements. One industry commenter suggested that banks should have four months to comply if the rules are finalized as proposed. In contrast, other commenters suggested that three months was sufficient for banks to make these changes, with some noting that the proposed approach was to revert to a well understood and established process.

The final rule adopts the three-month transition provision for compliance with the final rule's public file requirements as proposed. Therefore, banks will be required to comply with the final rule's public file requirements by April 1, 2022. This transition period should strike an appropriate balance between providing community groups and other interested parties with access to the information that banks will have to provide in their public files under the final rule and ensuring that banks have adequate time to update their public files in accordance with the requirements of the final rule.

Public Notice. The June 2020 Rule's public notice requirements differed from the 1995 Rules' requirements. Under the Proposed Rule, the 1995 Rules' public notice content and location requirements would have been restored, requiring each bank to provide the public notice content set out in appendix B of the Proposed Rule and place the notice in (1) the public lobby of its main office and (2) each branch, if any. Although the Proposed Rule would not have provided a transition period for complying with this provision, the OCC requested comment on this issue.

Some industry commenters suggested that the OCC should permit banks to comply with the public notice requirements under either the 1995 Rules or June 2020 Rule because it would be burdensome for banks that already transitioned to the June 2020 Rule's public notice requirement. One commenter requested four months for banks to make necessary changes, to the extent the OCC does not permit banks to use either the June 2020 Rule's or 1995 Rules' requirements as requested. In contrast, one commenter opposed any transition period.

The OCC agrees that it would be unduly burdensome to require banks to comply with the public notice requirements as of the January 1, 2022, effective date. Therefore, banks will be required to comply with the public notice requirements three months after the effective date of the final rule, April 1, 2022. The three-month delayed compliance date for the final rule's public notice provisions will mitigate burden associated with the revised content and location requirements while ensuring that interested parties are appropriately provided with the requisite notice.

DOICP. Prior to issuing the June 2020 Rule, OCC policy provided that the Agency would consider a bank's violation of the MLA or SCRA in its CRA examination of that bank.[66] The June 2020 Rule codified this policy by including MLA and SCRA violations in the non-exhaustive, enumerated list of DOICPs included in the rule that the OCC considers in evaluating a bank's CRA performance.

Under the Proposed Rule, the codification of this policy would be rescinded. The OCC did not intend, however, for this change to have a substantive effect. Because the list of violations included in the Proposed Rule is non-exhaustive, the OCC would have continued to consider violations of the MLA and SCRA consistent with its longstanding policy.[67]

The OCC received only one comment on this issue that opposed the change. This commenter stated that MLA and SCRA are designed to create a national standard of conduct and CRA evaluations should assess banks' compliance with these laws. As noted above, the OCC would have continued to consider MLA and SCRA violations under the Proposed Rule. Because one of the OCC's primary goals in issuing the Proposed Rule was to re-establish consistent rules for all IDIs, and because it is not necessary to include MLA and SCRA violations in the rule for the appropriate Federal banking agency to consider them in CRA examinations, the OCC adopts the Proposed Rule as final on this issue.

Publication of CRA Performance Evaluations. One community group commenter suggested that the OCC should instruct banks to make CRA exams more prominent on their websites and that all applications for new charters or for a change in control include publicly released CRA plans available from the banks and the regulatory agencies. The OCC has elected not to make this change at this time given the interest in reestablishing consistent requirements for all IDIs.

Integration of National Bank and Savings Association Rules. Under the June 2020 Rule, there is currently a single CRA rule that applies to both national banks and savings associations, located at 12 CFR part 25. The Proposed Rule would have reverted back to separate CRA rules for national banks and savings associations, 12 CFR part 25 and 12 CFR part 195, respectively, as was the case under the 1995 Rules. These separate rules, originally issued on an interagency basis, are materially the same, with only a few differences, described below.

The OCC sought input from commenters on whether it should retain the integrated rule or reinstate separate rules. Commenters did not provide significant input on this issue. One industry commenter opposed integration if it would prevent or deter the Agency from implementing a final rule that would allow OCC-regulated banks to continue to operate under the June 2020 Rule, and a member of the public expressed general support for separate rules. The OCC notes that integrating the national bank and savings association CRA rules will not affect the timing of the final rule's implementation.

As a general matter, the OCC has integrated many of its national bank and savings association rules for a variety of reasons, including to reduce regulatory duplication and clarify when the same substantive rule applies to both types of entities.[68] For these same reasons, the final rule maintains the integration of the national bank and savings association CRA rules in a single CRA rule. Furthermore, keeping an integrated rule will cause less confusion for stakeholders. The OCC also notes that integrating the CRA rules in this final rule will simplify the process of amending the OCC's CRA rule during the interagency rulemaking process and negate the need for OCC-specific integration provisions in the updated interagency rulemaking. Therefore, the OCC is not adopting the proposed separate rules for national banks and savings associations but is instead adopting an integrated CRA rule. Specifically, the final rule sets out, in 12

[66] *See supra* note 38.

[67] *Id.*

[68] *See, e.g.,* 79 FR 28393 (May 16, 2014); 80 FR 43240 (July 21, 2015).

CFR part 25, subparts A through E[69] and appendices A and B, the CRA rule applicable to both national banks and savings associations. This integration should not have a material impact on any bank or any other person or entity.

Parts 25 and 195 under the 1995 Rules contained two substantive differences that were retained in the Proposed Rule. First, the Proposed Rule contained a small difference with respect to the effect of a national bank's CRA performance on an application for a deposit facility compared to a savings association's application. Under the CRA statute, the Agencies must take into account an institution's CRA performance record when evaluating an ''application for a deposit facility.''[70] The statute defines an ''application for a deposit facility'' to include the ''establishment of a domestic branch or other facility with the ability to accept deposits.''[71] Consistent with the 1995 Rules, proposed § 25.29(a)(1) stated that the OCC would take into account an applicant bank's CRA performance record in considering an application to establish a ''domestic branch,'' while proposed § 195.29(a)(1) would have permitted the appropriate Federal banking agency to consider this record in a savings association's application to establish a ''domestic branch or other facility that would be authorized to take deposits.'' Second, proposed § 25.29(b) would have required an application for a national bank charter filed by an applicant other than an IDI to include a description of the how the applicant will meet its CRA objectives and the OCC to take into account this description in considering the application. The Proposed Rule did not include a similar requirement for an IDI applicant for a national bank charter. The Proposed Rule for savings associations, § 195.29(b), differed from the Proposed Rule for national banks by including this requirement for every applicant for a savings association charter, not just non-IDI applicants. The OCC is including in the final rule separate provisions to reflect these differences for national banks and savings associations.

The final rule also includes a number of non-substantive or technical changes to proposed part 25 and its appendices to reflect the integration of the national bank and savings association rules. For example, § 25.11(c)(1)(ii) of the final rule explains that the OCC has the authority to prescribe these rules for national banks, Federal savings associations, and State savings associations and to enforce these rules for national banks and Federal savings associations. It further explains that the FDIC has the authority to enforce these rules for State savings associations. Section 25.11(c)(1)(iii) of the final rule explains that the phrase ''appropriate Federal banking agency'' will mean the OCC when the institution is a national bank or Federal savings association and the FDIC when the institution is a State savings association. This allows a single rule to apply to different institutions.

The final rule also revises the proposed definition of ''bank'' in § 25.12(e) to include a definition of ''banks or savings associations'' and a definition of ''banks and savings associations.'' Revising the proposed definition of the term ''bank,'' as opposed to adding a separate definition for ''savings associations,'' preserves in the final rule the numbering convention that is used in the Q&As. However, because ''bank'' and ''savings association'' are not separately defined, the final rule also revises §§ 25.29 and 25.44 to use the terms ''insured national bank'' and ''savings association'' in the parts of those section that apply to only one type of institution. Lastly, the final rule does not include proposed 12 CFR part 195.

Interagency Rulemaking. The OCC received a number of comments on the June 2020 Rule and recommendations and ideas for the Agencies' efforts to develop updated interagency CRA rules. Such comments are outside the scope of the current rulemaking. The OCC will share these comments with the Board and FDIC, as they are more relevant to the interagency rulemaking process.

Technical Changes. The OCC proposed a technical correction to an error in the 1995 Rules' cross-reference to the definition of ''foreign bank'' at 12 CFR 25.62(a)(2) by replacing ''12 CFR 28.11(j)'' with ''12 CFR 28.11(i).'' The Agency received no comments on this change and adopts the correction as proposed.

The final rule also includes three other technical corrections. First, the final rule corrects the 1995 Rules' cross-reference to the definition of ''Federal branch'' in 12 CFR 25.62(c) by replacing ''12 CFR 28.11(i)'' with ''12 CFR 28.11(h).'' Second, the final rule corrects the 1995 Rules' cross-reference to the definition of the ''home State of the foreign bank'' in 12 CFR 25.62(d)(4)(i) by replacing ''12 CFR 28.11(o)'' with ''12 CFR 28.11(n).'' Third, in appendix B, the final rule replaces (1) the reference to ''Comptroller of the Currency'' with ''Office of the Comptroller of the Currency (OCC)'' and (2) references to the ''Comptroller'' and ''Deputy Comptroller'' with ''OCC.''

IV. The Final Rule

For the reasons discussed above, the OCC finalizes the rule as proposed, except as discussed above.[72]

V. Regulatory Analyses

A. Paperwork Reduction Act

Certain provisions of the final rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995.[73] In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC submitted the information collection requirements to OMB in connection with the Proposed Rule and received pre-approval under OMB Control No. 1557–0160.

Under the final rule:

- 12 CFR 25.25(b)—Requests for designation as a wholesale or limited-purpose bank shall be made in writing with the OCC at least three months prior to the proposed effective date of the designation.
- 12 CFR 25.27—Strategic plans shall be submitted at least three months prior to proposed effective dates. Plans shall include measurable goals and address all the performance categories. Plans shall include a description of informal efforts to solicit public suggestions, any written public comments received, and if revised pursuant to public comment, a copy of the initial plan. Amendments to plans shall be submitted in the case of a change in material circumstances.
- 12 CFR 25.42(a)—Large banks shall collect and maintain certain small business and small farm loan data in a machine-readable form and report it annually pursuant to 12 CFR 25.42(b)(1).
- 12 CFR 25.42(b)(2)—Large banks shall report annually in machine readable form the aggregate number and aggregate amount of community development loans originated or purchased.
- 12 CFR 25.42(b)(3)—A large bank, if subject to reporting under HMDA, shall report the location of each home mortgage loan application, origination,

[69] Subpart E, Prohibition Against Use of Interstate Branches Primarily for Deposit Production, only applies to national banks.

[70] 12 U.S.C. 2903(a)(2).

[71] 12 U.S.C. 2902(3).

[72] As referenced throughout this preamble, the final rule incorporates the guidance in the Q&As and any other applicable guidance related to the 1995 Rules.

[73] 44 U.S.C. 3501 *et seq.*

or purchase outside the MSAs where the bank has a home or branch office.

• 12 CFR 25.42(c)(1)—Each bank shall collect and maintain in machine readable form certain data for consumer loans originated or purchased by the bank for consideration under the lending test. Under 12 CFR 25.42(c)(2)–(4), other information shall be included concerning a bank's lending performance, including additional loan distribution data.

• 12 CFR 25.42(d)—A bank that elects to have the OCC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report the data that the bank would have collected, maintained, and reported pursuant to 12 CFR 25.42(a)–(c), had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under HMDA by the affiliate.

• 12 CFR 25.42(e)—A bank that elects to have the OCC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under 12 CFR 25.42(b)(2), had the loans been originated or purchased by the bank.

• 12 CFR 25.42(f)—Small banks that qualify for evaluation under the small bank performance standards but elect evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks under 12 CFR 25.42(a) and 25.42(b).

• 12 CFR 25.42(g)—A bank, except a bank that was a small bank during the prior calendar year, shall collect and report to the OCC by March 1 of each year a list for each assessment area showing the geographies within the area.

• 12 CFR 25.43(a)—A bank shall maintain a public file that contains certain specified details: All written comments and responses; a copy of the public section of the bank's most recent CRA performance evaluation; a list of the bank's branches; a list of the branches opened or closed; a list of services offered; and a map of each assessment area delineated by the bank.

• 12 CFR 25.43(b)—A large bank shall include in its public files certain information pertaining to the institution and its affiliates, if applicable, for each of the prior two calendar years. If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, it shall include the number and amount of loans: To low-, moderate-, middle-, and upper-income individuals; located in low-, moderate-, middle-, and upper-income census tracts; and located inside and outside the bank's assessment area(s); and its CRA Disclosure Statement. A bank required to report home mortgage loan data pursuant to 12 CFR part 1003 shall include a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website. A bank that elected to have the OCC consider the mortgage lending of an affiliate shall include the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. A small bank or a bank that was a small bank during the prior calendar year shall include: Its loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and the information required for other banks by 12 CFR 24.43(b)(1), if it has elected to be evaluated under the lending, investment, and service tests. A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank that received a less than ''Satisfactory'' rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.

• 12 CFR 25.43(c)–(e)—A bank shall make available to the public for inspection upon request and at no cost to the public the information required in these provisions at the main office or branch as specified. Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. A bank shall ensure that this information is current as of April 1 of each year.

OCC Title of Information Collection: Community Reinvestment Act.

Frequency: On Occasion.

Affected Public: Businesses or other for-profit.

Total estimated annual burden: 113,351 hours.

Comments continue to be invited on:

a. Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

b. The accuracy or the estimate of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [74] requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the rule on small entities (defined by the Small Business Administration for purposes of the RFA to include commercial banks and savings institutions with total assets of $600 million or less and trust companies with total assets of $41.5 million or less) or to certify that the rule will not have a significant economic impact on a substantial number of small entities. The RFA does not required this analysis, however, if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short explanatory statement in the **Federal Register**, along with its rule.

The final rule will impact approximately 669 small entities. The OCC estimates the annual cost for small entities to comply with the final rule will be approximately $1,824 per bank ($114 per hour × 16 hours). In general, the OCC classifies the economic impact on an individual small entity as significant if the total estimated impact in one year is greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense. Based on these thresholds, the OCC estimates that, if implemented, the final rule will have a significant economic impact on zero small entities, which is not a substantial number. Therefore, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995,[75] the OCC considers whether a final rule includes

[74] 5 U.S.C. 601 *et seq.*

[75] 2 U.S.C. 1532.

a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation). The OCC estimates that expenditures associated with the mandates in the final rule will be roughly $6.2 million and, therefore, concludes the rule will not result in an expenditure of $100 million or more annually (adjusted for inflation) by State, local, and tribal governments, or by the private sector.

D. Administrative Procedure Act

Pursuant to section 553(b)(3)(B) of the Administrative Procedure Act (APA),[76] general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''[77] As described in the final rule's **SUPPLEMENTARY INFORMATION** section, the final rule includes a few technical amendments that the OCC did not include in its Proposed Rule. Because these amendments are not substantive and merely correct cross-references and a reference to the OCC, the OCC believes that public notice of these changes is unnecessary and, therefore, that it has good cause to adopt these changes without notice and comment.

Under the APA, an agency is required to provide a 30-day delayed effective date when publishing a substantive rule, with certain exceptions including for good cause.[78] The OCC believes it has good cause to issue this final rule without a 30-day delayed effective date for several reasons.

First, the OCC's CRA evaluations for banks consider CRA activities in full calendar year increments (*i.e.,* January 1–December 31). A 30-day delayed effective date would cause the final rule to take effect after the start of the 2022 calendar year. This would cause a bank to be subject to two different regulatory regimes during any three-year examination period that includes 2022, including different approaches to the activities that receive consideration in CRA evaluations and different data collection, recordkeeping, and reporting requirements. As was the OCC's experience with the June 2020 Rule, this would result in more complicated written CRA performance evaluations, create confusion for banks and other stakeholders reviewing CRA performance evaluations, and make it more difficult to compare CRA performance across the banking industry.[79] Second, data collected on a calendar-year basis is more useful to stakeholders than data collected for a partial year. Finally, banks currently are required to comply with many of the provisions in the 1995 Rules, which this final rule reinstates, because the June 2020 Rule is only partially in effect. Therefore, banks will not have to make changes to adjust to these provisions of the final rule.

For these reasons, the OCC finds that there is good cause to publish this rule without a 30-day delayed effective date.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Under the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA), in determining the effective date and administrative compliance requirements for new rules that impose additional reporting, disclosure, or other requirements on IDIs, the OCC must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such rules will place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such rules.[80] In addition, the RCDRIA requires new rules and amendments to rules that impose additional reporting, disclosure, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the rules are published in final form.[81] The OCC has determined that this final rule will impose additional reporting, disclosure, or other new requirements on IDIs and considered the rule's burdens and benefits in determining its effective date and the administrative compliance requirements. The final rule's effective date provisions are consistent with the requirements of the RCDRIA.

F. Congressional Review Act

The Congressional Review Act provides that if the OMB makes a determination that a final rule constitutes a ''major rule,'' the rule may not take effect until at least 60 days following its publication.[82] The Congressional Review Act defines ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic and export markets.[83] The OCC has submitted the final rule to the OMB for this major rule determination. As required by the Congressional Review Act, the OCC will also submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.[84]

List of Subjects in 12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

■ For the reasons discussed in the preamble, and under the authority of 12 U.S.C. 93a, the Office of the Comptroller of the Currency revises 12 CFR part 25 as follows:

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

Subpart A—General

Sec.

25.11 Authority, purposes, and scope.
25.12 Definitions.

Subpart B—Standards for Assessing Performance

25.21 Performance tests, standards, and ratings, in general.
25.22 Lending test.
25.23 Investment test.
25.24 Service test.
25.25 Community development test for wholesale or limited purpose banks and savings associations.
25.26 Small bank and savings association performance standards.
25.27 Strategic plan.
25.28 Assigned ratings.
25.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

25.41 Assessment area delineation.

[76] 5 U.S.C. 551 *et seq.*

[77] 5 U.S.C. 553(b)(3)(B).

[78] 5 U.S.C. 553(d).

[79] The June 2020 Rule had an effective date of October 1, 2020, which resulted in two regulatory regimes applying during calendar year 2020.

[80] 12 U.S.C. 4802(a).

[81] 12 U.S.C. 4802(b).

[82] 5 U.S.C. 801.

[83] 5 U.S.C. 804(2).

[84] 5 U.S.C. 801.

25.42 Data collection, reporting, and disclosure.
25.43 Content and availability of public file.
25.44 Public notice by banks and savings associations.
25.45 Publication of planned examination schedule.

Subpart D—Transition Provisions

25.51 Consideration of Bank Activities.
25.52 Strategic Plan Retention.

Subpart E—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

25.61 Purpose and scope.
25.62 Definitions.
25.63 Loan-to-deposit ratio screen.
25.64 Credit needs determination.
25.65 Sanctions.

Appendix A to Part 25—Ratings

Appendix B to Part 25—CRA Notice

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

Subpart A—General

§ 25.11 Authority, purposes, and scope.

(a) *Authority and OMB control number*—(1) *Authority.* The authority for subparts A, B, C, D, and E is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 1557–0160.

(b) *Purposes.* In enacting the Community Reinvestment Act (CRA), the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Office of the Comptroller of the Currency (OCC) or the Federal deposit Insurance Corporation (FDIC), as appropriate, assesses a bank's or savings association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank or savings association; and

(2) Providing that the OCC takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* (i) Subparts A, B, C, and D, and Appendices A and B, apply to all banks and savings associations except as provided in paragraphs (c)(2) and (3) of this section. Subpart E only applies to banks.

(ii) With respect to subparts A, B, C, and D, and Appendices A and B—

(A) The OCC has the authority to prescribe these regulations for national banks, Federal savings associations, and State savings associations and has the authority to enforce these regulations for national banks and Federal savings associations.

(B) The FDIC has the authority to enforce these regulations for State savings associations.

(iii) With respect to subparts A, B, C, and D, and appendix A, references to appropriate Federal banking agency will mean the OCC when the institution is a national bank or Federal savings association and the FDIC when the institution is a State savings association.

(2) *Federal branches and agencies.* (i) This part applies to all insured Federal branches and to any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(ii) Except as provided in paragraph (c)(2)(i) of this section, this part does not apply to Federal branches that are uninsured, limited Federal branches, or Federal agencies, as those terms are defined in part 28 of this chapter.

(3) *Certain special purpose banks and savings associations.* This part does not apply to special purpose banks or special purpose savings associations that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks or savings associations include banker's banks, as defined in 12 U.S.C. 24 (Seventh), and banks or savings associations that engage only in one or more of the following activities: Providing cash management controlled disbursement services or serving as correspondent banks or savings associations, trust companies, or clearing agents.

§ 25.12 Definitions.

For purposes of subparts A, B, C, and D, and Appendices A and B, of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term ''control'' has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 25.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank or savings association at which deposits are received, cash dispersed, or money lent.

(e)(1) *Bank or savings association* means, except as provided in § 25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits or a savings association;

(2) *Bank and savings association* means, except as provided in § 25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits and a savings association.

(f) *Branch* means a staffed banking facility authorized as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(g) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of $1 million or less; or

(4) Activities that revitalize or stabilize—

(i) Low-or moderate-income geographies;

(ii) Designated disaster areas; or

(iii) Distressed or underserved nonmetropolitan middle-income

geographies designated by the Board of Governors of the Federal Reserve System, FDIC, and the OCC, based on—

(A) Rates of poverty, unemployment, and population loss; or

(B) Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.

(h) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose bank or savings association:

(i) Has not been reported or collected by the bank or savings association or an affiliate for consideration in the bank's or savings association's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title); and

(ii) Benefits the bank's or savings association's assessment area(s) or a broader statewide or regional area(s) that includes the bank's or savings association's assessment area(s).

(i) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the bank's or savings association's retail banking services under § 25.24(d).

(j) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan,* which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan,* which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a ''credit card,'' as this term is defined in § 1026.2 of this title;

(3) *Other secured consumer loan,* which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(4) *Other unsecured consumer loan,* which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(k) *Geography* means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(l) *Home mortgage loan* means a closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title, and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title.

(m) *Income level* includes:

(1) *Low-income,* which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

(2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

(3) *Middle-income,* which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.

(4) *Upper-income,* which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a geography.

(n) *Limited purpose bank* or savings association means a bank or savings association that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank or savings association is in effect, in accordance with § 25.25(b).

(o) *Loan location.* A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(p) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(q) *Metropolitan division* means a metropolitan division as defined by the Director of the Office of Management and Budget.

(r) *MSA* means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Nonmetropolitan area* means any area that is not located in an MSA.

(t) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(u) *Small bank or savings association*—(1) *Definition. Small bank or savings association* means a bank or savings association that, as of December 31 of either of the prior two calendar years, had assets of less than $1.322 billion. *Intermediate small bank or savings association* means a small bank or savings association with assets of at least $330 million as of December 31 of both of the prior two calendar years and less than $1.322 billion as of December 31 of either of the prior two calendar years.

(2) *Adjustment.* The dollar figures in paragraph (u)(1) of this section shall be adjusted annually and published by the appropriate Federal banking agency, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

(v) *Small business loan* means a loan included in ''loans to small businesses'' as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Small farm loan* means a loan included in ''loans to small farms'' as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(x) *Wholesale bank or savings association* means a bank or savings association that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank or savings association is in effect, in accordance with § 25.25(b).

Subpart B—Standards for Assessing Performance

§ 25.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The appropriate Federal banking agency assesses the CRA performance of a bank or savings association in an examination as follows:

(1) *Lending, investment, and service tests.* The appropriate Federal banking agency applies the lending, investment, and service tests, as provided in §§ 25.22 through 25.24, in evaluating the performance of a bank or savings association, except as provided in

paragraphs (a)(2), (3), and (4) of this section.

(2) *Community development test for wholesale or limited purpose banks and savings associations.* The appropriate Federal banking agency applies the community development test for a wholesale or limited purpose bank or savings association, as provided in § 25.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank and savings association performance standards.* The appropriate Federal banking agency applies the small bank or savings association performance standards as provided in § 25.26 in evaluating the performance of a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, unless the bank or savings association elects to be assessed as provided in paragraphs (a)(1), (2), or (4) of this section. The bank or savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks or savings associations under § 25.42.

(4) *Strategic plan.* The appropriate Federal banking agency evaluates the performance of a bank or savings association under a strategic plan if the bank or savings association submits, and the appropriate Federal banking agency approves, a strategic plan as provided in § 25.27.

(b) *Performance context.* The appropriate Federal banking agency applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of:

(1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's or savings association's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the bank's or savings association's assessment area(s) maintained by the bank or savings association or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The bank's or savings association's product offerings and business strategy as determined from data provided by the bank or savings association;

(4) Institutional capacity and constraints, including the size and financial condition of the bank or savings association, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's or savings association's ability to provide lending, investments, or services in its assessment area(s);

(5) The bank's or savings association's past performance and the performance of similarly situated lenders;

(6) The bank's or savings association's public file, as described in § 25.43, and any written comments about the bank's or savings association's CRA performance submitted to the bank or savings association or the appropriate Federal banking agency; and

(7) Any other information deemed relevant by the appropriate Federal banking agency.

(c) *Assigned ratings.* The appropriate Federal banking agency assigns to a bank or savings association one of the following four ratings pursuant to § 25.28 and appendix A of this part: ''outstanding''; ''satisfactory''; ''needs to improve''; or ''substantial noncompliance'' as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the appropriate Federal banking agency reflects the bank's or savings association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank or savings association.

(d) *Safe and sound operations.* This part and the CRA do not require a bank or savings association to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the appropriate Federal banking agency anticipates banks and savings associations can meet the standards of this part with safe and sound loans, investments, and services on which the banks and savings associations expect to make a profit. Banks and savings associations are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

(e) *Low-cost education loans provided to low-income borrowers.* In assessing and taking into account the record of a bank or savings association under this part, the appropriate Federal banking agency considers, as a factor, low-cost education loans originated by the bank or savings association to borrowers, particularly in its assessment area(s), who have an individual income that is less than 50 percent of the area median income. For purposes of this paragraph, ''low-cost education loans'' means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a State or local education loan program), originated by the bank or savings association for a student at an ''institution of higher education,'' as that term is generally defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

(f) *Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions.* In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank or savings association under this part, the appropriate Federal banking agency considers as a factor capital investment, loan participation, and other ventures undertaken by the bank or savings association in cooperation with minority- and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's or savings association's assessment area(s) or the broader statewide or regional area(s) that includes the bank's or savings association's assessment area(s).

§ 25.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a bank's or savings association's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's or savings association's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's or savings association's business, the appropriate Federal banking agency will evaluate the bank's or savings association's consumer lending in one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans. In addition, at a bank's or savings association's option, the appropriate Federal banking agency will evaluate one or more categories of consumer lending, if the bank or savings association has collected and maintained, as required in § 25.42(c)(1),

the data for each category that the bank or savings association elects to have the appropriate Federal banking agency evaluate.

(2) The appropriate Federal banking agency considers originations and purchases of loans. The appropriate Federal banking agency will also consider any other loan data the bank or savings association may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A bank or savings association may ask the appropriate Federal banking agency to consider loans originated or purchased by consortia in which the bank or savings association participates or by third parties in which the bank or savings association has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The appropriate Federal banking agency will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The appropriate Federal banking agency evaluates a bank's or savings association's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the bank's or savings association's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's or savings association's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's or savings association's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(i) The proportion of the bank's or savings association's lending in the bank's or savings association's assessment area(s);

(ii) The dispersion of lending in the bank's or savings association's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's or savings association's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the bank's or savings association's assessment area(s), of the bank's or savings association's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and

(iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The bank's or savings association's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The bank's or savings association's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending.* (1) At a bank's or savings association's option, the appropriate Federal banking agency will consider loans by an affiliate of the bank or savings association, if the bank or savings association provides data on the affiliate's loans pursuant to § 25.42.

(2) The appropriate Federal banking agency considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank or savings association elects to have the appropriate Federal banking agency consider loans within a particular lending category made by one or more of the bank's or savings association's affiliates in a particular assessment area, the bank or savings association shall elect to have the appropriate Federal banking agency consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's or savings association's affiliates.

(3) The appropriate Federal banking agency does not consider affiliate lending in assessing a bank's or savings association's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank or savings association participates or by a third party in which the bank or savings association has invested:

(1) Will be considered, at the bank's or savings association's option, if the bank or savings association reports the data pertaining to these loans under § 25.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The appropriate Federal banking agency rates a bank's or savings association's lending performance as provided in appendix A of this part.

§ 25.23 Investment test.

(a) *Scope of test.* The investment test evaluates a bank's or savings association's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's or savings association's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's or savings association's option, the appropriate Federal banking agency will consider, in its assessment of a bank's or savings association's investment performance, a qualified investment made by an affiliate of the bank or savings association, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank or savings association that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The appropriate Federal banking agency evaluates the investment performance of a bank or savings association pursuant to the following criteria:

(1) The dollar amount of qualified investments;

(2) The innovativeness or complexity of qualified investments;

(3) The responsiveness of qualified investments to credit and community development needs; and

(4) The degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment performance rating.* The appropriate Federal banking agency

rates a bank's or savings association's investment performance as provided in appendix A of this part.

§ 25.24 Service test.

(a) *Scope of test.* The service test evaluates a bank's or savings association's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's or savings association's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefitted.* Community development services must benefit a bank's or savings association's assessment area(s) or a broader statewide or regional area that includes the bank's or savings association's assessment area(s).

(c) *Affiliate service.* At a bank's or savings association's option, the appropriate Federal banking agency will consider, in its assessment of a bank's or savings association's service performance, a community development service provided by an affiliate of the bank or savings association, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The appropriate Federal banking agency evaluates the availability and effectiveness of a bank's or savings association's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's or savings association's branches among low-, moderate-, middle-, and upper-income geographies;

(2) In the context of its current distribution of the bank's or savings association's branches, the bank's or savings association's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.,* ATMs, ATMs not owned or operated by or exclusively for the bank or savings association, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and

(4) The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The appropriate Federal banking agency evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank or savings association provides community development services; and

(2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The appropriate Federal banking agency rates a bank's or savings association's service performance as provided in appendix A of this part.

§ 25.25 Community development test for wholesale or limited purpose banks and savings associations.

(a) *Scope of test.* The appropriate Federal banking agency assesses a wholesale or limited purpose bank's or savings association's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited purpose bank or savings association.* In order to receive a designation as a wholesale or limited purpose bank or savings association, a bank or savings association shall file a request, in writing, with the appropriate Federal banking agency, at least three months prior to the proposed effective date of the designation. If the appropriate Federal banking agency approves the designation, it remains in effect until the bank or savings association requests revocation of the designation or until one year after the appropriate Federal banking agency notifies the bank or savings association that the it has revoked the designation on its own initiative.

(c) *Performance criteria.* The appropriate Federal banking agency evaluates the community development performance of a wholesale or limited purpose bank or savings association pursuant to the following criteria:

(1) The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank or savings association, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;

(2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and

(3) The bank's or savings association's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's or savings association's option, the appropriate Federal banking agency will consider in its community development performance assessment:

(1) Qualified investments or community development services provided by an affiliate of the bank or savings association, if the investments or services are not claimed by any other institution; and

(2) Community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in § 25.22(c) and (d).

(e) *Benefit to assessment area(s)*—(1) *Benefit inside assessment area(s).* The appropriate Federal banking agency considers all qualified investments, community development loans, and community development services that benefit areas within the bank's or savings association's assessment area(s) or a broader statewide or regional area that includes the bank's or savings association's assessment area(s).

(2) *Benefit outside assessment area(s).* The appropriate Federal banking agency considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's or savings association's assessment area(s), if the bank or savings association has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The appropriate Federal banking agency rates a bank's or savings association's community development performance as provided in appendix A of this part.

§ 25.26 Small bank and savings association performance standards.

(a) *Performance criteria*—(1) *Small banks and savings associations that are not intermediate small banks or savings associations.* The appropriate Federal banking agency evaluates the record of a small bank or savings association that is not, or that was not during the prior calendar year, an intermediate small bank or savings association, of helping to meet the credit needs of its assessment area(s) pursuant to the criteria set forth in paragraph (b) of this section.

(2) *Intermediate small banks and savings associations.* The appropriate Federal banking agency evaluates the record of a small bank or savings association that is, or that was during the prior calendar year, an intermediate small bank or savings association, of helping to meet the credit needs of its

assessment area(s) pursuant to the criteria set forth in paragraphs (b) and (c) of this section.

(b) *Lending test.* A small bank's or savings association's lending performance is evaluated pursuant to the following criteria:

(1) The bank's or savings association's loan-to-deposit ratio, adjusted for seasonal variation, and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) The percentage of loans and, as appropriate, other lending-related activities located in the bank's or savings association's assessment area(s);

(3) The bank's or savings association's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) The geographic distribution of the bank's or savings association's loans; and

(5) The bank's or savings association's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(c) *Community development test.* An intermediate small bank's or savings association's community development performance also is evaluated pursuant to the following criteria:

(1) The number and amount of community development loans;

(2) The number and amount of qualified investments;

(3) The extent to which the bank or savings association provides community development services; and

(4) The bank's or savings association's responsiveness through such activities to community development lending, investment, and services needs.

(d) *Small bank or savings association performance rating.* The appropriate Federal banking agency rates the performance of a bank or savings association evaluated under this section as provided in appendix A of this part.

§ 25.27 Strategic plan.

(a) *Alternative election.* The appropriate Federal banking agency will assess a bank's or savings association's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The bank or savings association has submitted the plan to the appropriate Federal banking agency as provided for in this section;

(2) The appropriate Federal banking agency has approved the plan;

(3) The plan is in effect; and

(4) The bank or savings association has been operating under an approved plan for at least one year.

(b) *Data reporting.* The appropriate Federal banking agency 's approval of a plan does not affect the bank's or savings association's obligation, if any, to report data as required by § 25.42.

(c) *Plans in general*—(1) *Term.* A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the appropriate Federal banking agency will evaluate the bank's or savings association's performance.

(2) *Multiple assessment areas.* A bank or savings association with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development.* Before submitting a plan to the appropriate Federal banking agency for approval, a bank or savings association shall:

(1) Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) Once the bank or savings association has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank or savings association in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan.* The bank or savings association shall submit its plan to the appropriate Federal banking agency at least three months prior to the proposed effective date of the plan. The bank or savings association shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content*—(1) *Measurable goals.* (i) A bank or savings association shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A bank or savings association shall address in its plan all three performance categories and, unless the bank or savings association has been designated as a wholesale or limited purpose bank or savings association, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's or savings association's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank or savings association may submit additional information to the appropriate Federal banking agency on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the appropriate Federal banking agency to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank or savings association shall specify in its plan measurable goals that constitute ''satisfactory'' performance. A plan may specify measurable goals that constitute ''outstanding'' performance. If a bank or savings association submits, and the appropriate Federal banking agency approves, both ''satisfactory'' and ''outstanding'' performance goals, the appropriate Federal banking agency will consider the bank or savings association eligible for an ''outstanding'' performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank or savings association may elect in its plan that, if the bank or savings association fails to meet substantially its plan goals for a satisfactory rating, the appropriate Federal banking agency will evaluate the bank's or savings association's performance under the lending, investment, and service tests, the community development test, or the small bank or savings association performance standards, as appropriate.

(g) *Plan approval*—(1) *Timing.* The appropriate Federal banking agency will act upon a plan within 60 calendar days after the appropriate Federal banking agency receives the complete plan and other material required under paragraph

(e) of this section. If the appropriate Federal banking agency fails to act within this time period, the plan shall be deemed approved unless the appropriate Federal banking agency extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the appropriate Federal banking agency considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank or savings association to public comment on the plan.

(3) *Criteria for evaluating plan.* The appropriate Federal banking agency evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) The amount and innovativeness, complexity, and responsiveness of the bank's or savings association's qualified investments; and

(iii) The availability and effectiveness of the bank's or savings association's systems for delivering retail banking services and the extent and innovativeness of the bank's or savings association's community development services.

(h) *Plan amendment.* During the term of a plan, a bank or savings association may request the appropriate Federal banking agency to approve an amendment to the plan on grounds that there has been a material change in circumstances. The bank or savings association shall develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (d) of this section.

(i) *Plan assessment.* The appropriate Federal banking agency approves the goals and assesses performance under a plan as provided for in appendix A of this part.

§ 25.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the appropriate Federal banking agency assigns to a bank or savings association a rating of ''outstanding,'' ''satisfactory,'' ''needs to improve,'' or ''substantial noncompliance'' based on the bank's or savings association's performance under the lending, investment and service tests, the community development test, the small bank or savings association performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The appropriate Federal banking agency assigns a rating for a bank or savings association assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank or savings association that receives an ''outstanding'' rating on the lending test receives an assigned rating of at least ''satisfactory'';

(2) A bank or savings association that receives an ''outstanding'' rating on both the service test and the investment test and a rating of at least ''high satisfactory'' on the lending test receives an assigned rating of ''outstanding''; and

(3) No bank or savings association may receive an assigned rating of ''satisfactory'' or higher unless it receives a rating of at least ''low satisfactory'' on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* (1) The appropriate Federal banking agency 's evaluation of a bank's or savings association's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the bank or savings association or in any assessment area by any affiliate whose loans have been considered as part of the bank's or savings association's lending performance. In connection with any type of lending activity described in § 25.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes, but is not limited to:

(i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Ownership and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act; and

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission.

(2) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's or savings association's assigned rating, the appropriate Federal banking agency considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the bank or savings association (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the bank or savings association (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

§ 25.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the appropriate Federal banking agency takes into account the record of performance under the CRA of each applicant bank or savings association, and for applications under 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)), of each proposed subsidiary savings association, in considering an application for:

(1) The establishment of:

(i) A domestic branch for insured national banks; or

(ii) A domestic branch or other facility that would be authorized to take deposits for savings associations;

(2) The relocation of the main office or a branch;

(3) The merger or consolidation with or the acquisition of assets or assumption of liabilities of an insured depository institution requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)); and

(4) The conversion of an insured depository institution to a national bank or Federal savings association charter; and

(5) Acquisitions subject to section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)).

(b) *Charter application.* (1) An applicant (other than an insured depository institution) for a national bank charter shall submit with its application a description of how it will meet its CRA objectives. The OCC takes the description into account in considering the application and may deny or condition approval on that basis.

(2) An applicant for a Federal savings association charter shall submit with its application a description of how it will meet its CRA objectives. The appropriate Federal banking agency takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The appropriate Federal banking agency takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's or savings association's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(e) *Insured depository institution.* For purposes of this section, the term ''insured depository institution'' has the meaning given to that term in 12 U.S.C. 1813.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 25.41 Assessment area delineation.

(a) *In general.* A bank or savings association shall delineate one or more assessment areas within which the appropriate Federal banking agency evaluates the bank's or savings association's record of helping to meet the credit needs of its community. The appropriate Federal banking agency does not evaluate the bank's or savings association's delineation of its assessment area(s) as a separate performance criterion, but the appropriate Federal banking agency reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks or savings associations.* The assessment area(s) for a wholesale or limited purpose bank or savings association must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank or savings association has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other banks and savings association.* The assessment area(s) for a bank or savings association other than a wholesale or limited purpose bank or savings association must:

(1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the bank or savings association has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank or savings association has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank or savings association chooses, such as those consumer loans on which the bank or savings association elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank or savings association may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's or savings associations assessment area(s):

(1) Must consist only of whole geographies;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's or savings association's size and financial condition; and

(4) May not extend substantially beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank or savings association serves a geographic area that extends substantially beyond a state boundary, the bank or savings association shall delineate separate assessment areas for the areas in each state. If a bank or savings association serves a geographic area that extends substantially beyond an MSA boundary, the bank or savings association shall delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Banks and savings association serving military personnel.* Notwithstanding the requirements of this section, a bank or savings association whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

(g) *Use of assessment area(s).* The appropriate Federal banking agency uses the assessment area(s) delineated by a bank or savings association in its evaluation of the bank's or savings association's CRA performance unless the appropriate Federal banking agency determines that the assessment area(s) do not comply with the requirements of this section.

§ 25.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A bank or savings association, except a small bank or savings association, shall collect, and maintain in machine readable form (as prescribed by the appropriate Federal banking agency) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank or savings association:

(1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(2) The loan amount at origination;

(3) The loan location; and

(4) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(b) *Loan information required to be reported.* A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, shall report annually by March 1 to the appropriate Federal banking agency in machine readable form (as prescribed by the appropriate Federal banking agency) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank or savings association originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of $100,000 or less;

(ii) With amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With an amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank or savings association considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community development loans originated or purchased; and

(3) *Home mortgage loans.* If the bank or savings association is subject to reporting under part 1003 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank or savings association has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this title.

(c) *Optional data collection and maintenance*—(1) *Consumer loans.* A bank or savings association may collect

and maintain in machine readable form (as prescribed by the appropriate Federal banking agency) data for consumer loans originated or purchased by the bank or savings association for consideration under the lending test. A bank or savings association may maintain data for one or more of the following categories of consumer loans: Motor vehicle, credit card, other secured, and other unsecured. If the bank or savings association maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank or savings association shall maintain data separately for each category, including for each loan:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The loan amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank or savings association considered in making its credit decision.

(2) *Other loan data.* At its option, a bank or savings association may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank or savings association that elects to have the appropriate Federal banking agency consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank or savings association would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association shall also be prepared to identify the home mortgage loans reported under part 1003 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank or savings association that elects to have the appropriate Federal banking agency consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank or savings association would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank or savings association.

(f) *Small banks and savings associations electing evaluation under the lending, investment, and service tests.* A bank or savings association that qualifies for evaluation under the small bank or savings association performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks or savings association pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, shall collect and report to the appropriate Federal banking agency by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The appropriate Federal banking agency prepares annually for each bank or savings association that reports data pursuant to this section a CRA Disclosure Statement that contains, on a state-by-state basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank or savings association reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) A list showing each geography in which the bank or savings association reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank or savings association reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each geography in which the bank or savings association reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and amount of small business and small farm loans located inside each assessment area reported by the bank or savings association and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank or savings association; and

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The OCC, in conjunction with the Board of Governors of the Federal Reserve System and the FDIC, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a state boundary) and the nonmetropolitan portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 228 or 345 of this title. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the appropriate Federal banking agency may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The appropriate Federal banking agency makes the aggregate disclosure statements, described in paragraph (i) of

this section, and the individual bank or savings association CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The appropriate Federal banking agency publishes a list of the depositories at which the statements are available.

§ 25.43 Content and availability of public file.

(a) *Information available to the public.* A bank or savings association shall maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's or savings association's performance in helping to meet community credit needs, and any response to the comments by the bank or savings association, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or savings association or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's or savings association's most recent CRA Performance Evaluation prepared by the appropriate Federal banking agency. The bank or savings association shall place this copy in the public file within 30 business days after its receipt from the appropriate Federal banking agency;

(3) A list of the bank's or savings association's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the bank or savings association during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's or savings association's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank or savings association may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.,* ATMs, ATMs not owned or operated by or exclusively for the bank or savings association, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) Any other information the bank or savings association chooses.

(b) *Additional information available to the public*—(1) *Banks and savings associations other than small banks or savings associations.* A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, shall include in its public file the following information pertaining to the bank or savings association and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank or savings association has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's or savings association's assessment area(s) and outside the bank's or savings association's assessment area(s); and

(ii) The bank's or savings association's CRA Disclosure Statement. The bank or savings association shall place the statement in the public file within three business days of its receipt from the appropriate Federal banking agency.

(2) *Banks and savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A bank or savings association required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at *www.consumerfinance.gov/hmda.* In addition, a bank or savings association that elected to have the appropriate Federal banking agency consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank or savings association shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

(3) *Small banks and savings associations.* A small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year shall include in its public file:

(i) The bank's or savings association's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks or savings associations by paragraph (b)(1) of this section, if the bank or savings association has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks and savings associations with strategic plans.* A bank or savings association that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank or savings association need not include information submitted to the appropriate Federal banking agency on a confidential basis in conjunction with the plan.

(5) *Banks and savings associations with less than satisfactory ratings.* A bank or savings association that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank or savings association shall update the description quarterly.

(c) *Location of public information.* A bank or savings association shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) At the main office and, if an interstate bank or savings association, at one branch office in each state, all information in the public file; and

(2) At each branch:

(i) A copy of the public section of the bank's or savings association's most recent CRA Performance Evaluation and a list of services provided by the branch; and

(ii) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank or savings association shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank or savings association may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a bank or savings association shall ensure that the information required by this section is current as of April 1 of each year.

§ 25.44 Public notice by banks and savings associations.

A bank or savings association shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in appendix B of this part. Only a branch of a bank or savings association having more than one assessment area shall include the bracketed material in the notice for branch offices. Only an insured national bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. An insured national bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks. Only a savings association that is an affiliate of a holding company shall include the last two sentences of the notices.

§ 25.45 Publication of planned examination schedule.

The appropriate Federal banking agency publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks and savings associations scheduled for CRA examinations in that quarter.

Subpart D—Transition Provisions

§ 25.51 Consideration of Bank Activities.

(a) In assessing a bank's CRA performance, the appropriate Federal banking agency will consider any loan, investment, or service that was eligible for CRA consideration at the time the bank conducted the activity.

(b) Notwithstanding paragraph (a), in assessing a bank's CRA performance, the appropriate Federal banking agency will consider any loan or investment that was eligible for CRA consideration at the time the bank entered into a legally binding commitment to make the loan or investment.

§ 25.52 Strategic Plan Retention.

A bank or savings association strategic plan approved by the appropriate Federal banking agency and in effect as of December 31, 2021, remains in effect, except that provisions of the plan that are not consistent with this part in effect as of January 1, 2022, are void, unless amended pursuant to § 25.27.

Subpart E—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

§ 25.61 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

(b) *Scope.* (1) This subpart applies to any national bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch that is a Federal branch for a period of at least one year.

(2) This subpart describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the OCC, the Board of Governors of the Federal Reserve System, and the FDIC) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 25.62 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Bank* means, unless the context indicates otherwise:

(1) A national bank; and

(2) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(i).

(b) *Covered interstate branch* means:

(1) Any branch of a national bank, and any Federal branch of a foreign bank, that:

(i) Is established or acquired outside the bank's home State pursuant to the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's home State but for the establishment or acquisition of a branch described in paragraph (b)(1)(i) of this section; and

(2) Any bank or branch of a bank controlled by an out-of-State bank holding company.

(c) *Federal branch* means Federal branch as that term is defined in 12 U.S.C. 3101(6) and 12 CFR 28.11(h).

(d) *Home State* means:

(1) With respect to a State bank, the State that chartered the bank;

(2) With respect to a national bank, the State in which the main office of the bank is located;

(3) With respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of:

(i) July 1, 1966; or

(ii) The date on which the company becomes a bank holding company under the Bank Holding Company Act;

(4) With respect to a foreign bank:

(i) For purposes of determining whether a U.S. branch of a foreign bank is a covered interstate branch, the home State of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 28.11(n); and

(ii) For purposes of determining whether a branch of a U.S. bank controlled by a foreign bank is a covered interstate branch, the State in which the total deposits of all banking subsidiaries of such foreign bank are the largest on the later of:

(A) July 1, 1966; or

(B) The date on which the foreign bank becomes a bank holding company under the Bank Holding Company Act.

(e) *Host State* means a State in which a covered interstate branch is established or acquired.

(f) *Host state loan-to-deposit ratio* generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including institutions covered under the definition of ''bank'' in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(g) *Out-of-State bank holding company* means, with respect to any State, a bank holding company whose home State is another State.

(h) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(i) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank's loans to its deposits in a state in which the bank has one or more covered interstate branches, as determined by the OCC.

§ 25.63 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the OCC will consider whether the bank's statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the OCC will make a credit needs determination for the bank as provided in § 25.64.

§ 25.64 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank, if any;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The OCC's CRA regulations (subparts A through D of this part) and interpretations of those regulations.

§ 25.65 Sanctions.

(a) *In general.* If the OCC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the OCC's authority to order the bank to close a covered interstate branch, the OCC will issue to the bank a notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The OCC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

Appendix A to Part 25—Ratings

(a) *Ratings in general.* (1) In assigning a rating, the appropriate Federal banking agency evaluates a bank's or savings association's performance under the applicable performance criteria in this part, in accordance with §§ 25.21 and 25.28. This includes consideration of low-cost education loans provided to low-income borrowers and activities in cooperation with minority- or women-owned financial institutions and low-income credit unions, as well as adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's or savings association's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's or savings association's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks and savings associations evaluated under the lending, investment, and service tests*—(1) *Lending performance rating.* The appropriate Federal banking agency assigns each bank's or savings association's lending performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal banking agency rates a bank's or savings association's lending performance ''outstanding'' if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank or savings association;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The appropriate Federal banking agency rates a bank's or savings association's lending performance ''high satisfactory'' if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank or savings association;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The appropriate Federal banking agency rates a bank's or savings association's lending performance ''low satisfactory'' if, in general, it demonstrates:

(A) Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) An adequate percentage of its loans are made in its assessment area(s);

(C) An adequate geographic distribution of loans in its assessment area(s);

(D) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank or savings association;

(E) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The appropriate Federal banking agency rates a bank's or

savings association's lending performance ''needs to improve'' if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank or savings association;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The appropriate Federal banking agency rates a bank's or savings association's lending performance as being in ''substantial noncompliance'' if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank or savings association;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The appropriate Federal banking agency assigns each bank's or savings association's investment performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal banking agency rates a bank's or savings association's investment performance ''outstanding'' if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The appropriate Federal banking agency rates a bank's or savings association's investment performance ''high satisfactory'' if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The appropriate Federal banking agency rates a bank's or savings association's investment performance ''low satisfactory'' if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The appropriate Federal banking agency rates a bank's or savings association's investment performance ''needs to improve'' if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The appropriate Federal banking agency rates a bank's or savings association's investment performance as being in ''substantial noncompliance'' if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The appropriate Federal banking agency assigns each bank's or savings association's service performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal banking agency rates a bank's or savings association's service performance ''outstanding'' if, in general, the bank or savings association demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The appropriate Federal banking agency rates a bank's or savings association's service performance ''high satisfactory'' if, in general, the bank or savings association demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The appropriate Federal banking agency rates a bank's or savings association's service performance ''low satisfactory'' if, in general, the bank or savings association demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The appropriate Federal banking agency rates a bank's or savings association's service performance ''needs to improve'' if, in general, the bank or savings association demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way

that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides a limited level of community development services.

(v) *Substantial noncompliance.* The appropriate Federal banking agency rates a bank's or savings association's service performance as being in ''substantial noncompliance'' if, in general, the bank or savings association demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose banks.* The appropriate Federal banking agency assigns each wholesale or limited purpose bank's or savings association's community development performance one of the four following ratings.

(1) *Outstanding.* The appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association's community development performance ''outstanding'' if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association's community development performance ''satisfactory'' if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association's community development performance as ''needs to improve'' if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association's community development performance in ''substantial noncompliance'' if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks and savings associations evaluated under the small bank and savings association performance standards*—(1) *Lending test ratings.* (i) *Eligibility for a satisfactory lending test rating.* The appropriate Federal banking agency rates a small bank's or savings association's lending performance ''satisfactory'' if, in general, the bank or savings association demonstrates:

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's or savings association's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, other lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(B) A majority of its loans and, as appropriate, other lending-related activities, are in its assessment area;

(C) A distribution of loans to and, as appropriate, other lending-related activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's or savings association's assessment area(s);

(D) A record of taking appropriate action, when warranted, in response to written complaints, if any, about the bank's or savings association's performance in helping to meet the credit needs of its assessment area(s); and

(E) A reasonable geographic distribution of loans given the bank's or savings association's assessment area(s).

(ii) *Eligibility for an ''outstanding'' lending test rating.* A small bank or savings association that meets each of the standards for a ''satisfactory'' rating under this paragraph and exceeds some or all of those standards may warrant consideration for a lending test rating of ''outstanding.''

(iii) *Needs to improve or substantial noncompliance ratings.* A small bank or savings association may also receive a lending test rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standard for a ''satisfactory'' rating.

(2) *Community development test ratings for intermediate small banks and savings associations*—(i) *Eligibility for a satisfactory community development test rating.* The appropriate Federal banking agency rates an intermediate small bank's or savings association's community development performance ''satisfactory'' if the bank or savings association demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development loans, qualified investments, and community development services. The adequacy of the bank's or savings association's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the bank's or savings association's assessment area(s).

(ii) *Eligibility for an outstanding community development test rating.* The appropriate Federal banking agency rates an intermediate small bank's or savings association's community development performance ''outstanding'' if the bank or savings association demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development loans, qualified investments, and community development services, as appropriate, considering the bank's or savings association's capacity and the need and availability of such opportunities for community development in the bank's or savings association's assessment area(s).

(iii) *Needs to improve or substantial noncompliance ratings.* An intermediate small bank or savings association may also receive a community development test rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standards for a ''satisfactory'' rating.

(3) *Overall rating*—(i) *Eligibility for a satisfactory overall rating.* No intermediate small bank or savings association may receive an assigned overall rating of ''satisfactory'' unless it receives a rating of at least ''satisfactory'' on both the lending test and the community development test.

(ii) *Eligibility for an outstanding overall rating.* (A) An intermediate small bank or savings association that receives an ''outstanding'' rating on one test and at least ''satisfactory'' on the other test may receive an assigned overall rating of ''outstanding.''

(B) A small bank or savings association that is not an intermediate small bank or savings association that meets each of the standards for a ''satisfactory'' rating under the lending test and exceeds some or all of those

standards may warrant consideration for an overall rating of ''outstanding.'' In assessing whether a bank's or savings association's performance is ''outstanding,'' the appropriate Federal banking agency considers the extent to which the bank or savings association exceeds each of the performance standards for a ''satisfactory'' rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(iii) *Needs to improve or substantial noncompliance overall ratings.* A small bank or savings association may also receive a rating of ''needs to improve'' or ''substantial noncompliance'' depending on the degree to which its performance has failed to meet the standards for a ''satisfactory'' rating.

(e) *Strategic plan assessment and rating*—(1) *Satisfactory goals.* The appropriate Federal banking agency approves as ''satisfactory'' measurable goals that adequately help to meet the credit needs of the bank's or savings association's assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as ''satisfactory,'' the appropriate Federal banking agency will approve those goals as ''outstanding.''

(3) *Rating.* The appropriate Federal banking agency assesses the performance of a bank or savings association operating under an approved plan to determine if the bank or savings association has met its plan goals:

(i) If the bank or savings association substantially achieves its plan goals for a satisfactory rating, the appropriate Federal banking agency will rate the bank's or savings association's performance under the plan as ''satisfactory.''

(ii) If the bank or savings association exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the appropriate Federal banking agency will rate the bank's or savings association's performance under the plan as ''outstanding.''

(iii) If the bank or savings association fails to meet substantially its plan goals for a satisfactory rating, the appropriate Federal banking agency will rate the bank or savings association as either ''needs to improve'' or ''substantial noncompliance,'' depending on the extent to which it falls short of its plan goals, unless the bank or savings association elected in its plan to be rated otherwise, as provided in § 25.27(f)(4).

Appendix B to Part 25—CRA Notice

(a) *Notice for main offices and, if an interstate bank and savings association, one branch office in each state.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the [Office of the Comptroller of the Currency (OCC) or Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The [OCC or FDIC, as appropriate] also takes this record into account when deciding on certain applications submitted by us.

Your Involvement is Encouraged

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the [OCC or FDIC, as appropriate]; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the [OCC or FDIC, as appropriate] publishes a nationwide list of the banks and savings associations that are scheduled for CRA examination in that quarter. This list is available from the [OCC or FDIC, as appropriate], at [address]. You may send written comments about our performance in helping to meet community credit needs to [name and address of official at bank or savings association] and to the [OCC or FDIC, as appropriate], at [address]. Your letter, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC, as appropriate]. You may also request from the [OCC or FDIC, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. We are an affiliate of [name of holding company], a [bank holding company or savings and loan holding company, as appropriate]. You may request from the [title of responsible official], Federal Reserve Bank of [_] [address] an announcement of applications covered by the CRA filed by [bank holding companies or savings and loan holding companies, as appropriate].

(b) *Notice for branch offices.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the [Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The [OCC or FDIC, as appropriate] also takes this record into account when deciding on certain applications submitted by us.

Your Involvement is Encouraged

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the [OCC or FDIC, as appropriate], and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) A map showing the assessment area containing this branch, which is the area in which the [OCC or FDIC, as appropriate] evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire [bank or savings association, as appropriate] is available at [name of office located in state], located at [address].]

At least 30 days before the beginning of each quarter, the [OCC or FDIC, as appropriate] publishes a nationwide list of the banks and savings associations that are scheduled for CRA examination in that quarter. This list is available from the [OCC or FDIC, as appropriate] at [address]. You may send written comments about our performance in helping to meet community credit needs to [name and address of official at bank or savings association, as appropriate] and to the [OCC or FDIC, as appropriate] at [address]. Your letter, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC, as appropriate]. You may also request from the [OCC or FDIC, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. We are an affiliate of [name of holding company], a [bank holding company or savings and loan holding company, as appropriate]. You may request from the [title of responsible official], Federal Reserve Bank of [_], [address], an announcement of applications covered by the CRA filed by [bank holding companies or savings and loan holding companies, as appropriate].

Michael J. Hsu,

Acting Comptroller of the Currency.

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Federal Register

Vol. 86, No. 238

Wednesday, December 15, 2021

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

68103–68388 1
68389–68532 2
68533–68874 3
68875–69156 6
69157–69574 7
69575–69974 8
69975–70348 9
70349–70688 10
70689–70944 13
70945–71126 14
71127–71354 15

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

200 68533

3 CFR

Proclamations:
10314 68103
10315 68385
10316 68867
10317 68869
10318 69157
10319 69575
10320 69975
10321 71127
Executive Orders:
13803 (Superseded and revoked by EO 14056) 68871
13906 (Superseded and revoked by EO 14056) 68871
14056 68871
14057 70935

6 CFR

5 69977
Proposed Rules:
5 69587

7 CFR

756 70689
760 70689
915 69159
1410 70689
1421 70689
1425 70689
1427 70689
1430 70689
1434 70689
1435 70689
1471 68875
1484 68880
1485 68882
5001 70349
Proposed Rules:
983 68932
986 68934

8 CFR

1001 70708
1003 70708
1103 70708
1208 70708
1240 70708
1245 70708
1246 70708
1292 70708

9 CFR

2 68533
92 68834
93 68834
94 68834
95 68834
96 68834
98 68834
Proposed Rules:
11 70755

10 CFR

72 .....69978, 71129
429 68389
430 .....68389, 70892, 70945
431 70945
Proposed Rules:
53 70423
72 .....70056, 70059, 70060
429 .....69544, 70316, 70644
430 .....69544, 70755
431 .....70316, 70644

12 CFR

25 71328
204 69577
209 69578
614 68395
615 68395
620 68395
628 68395
1026 69716
Proposed Rules:
1002 70771

14 CFR

39 .....68105, 68107, 68109, 68884, 68887, 68889, 68892, 68894, 68897, 68899, 68902, 68905. 68907, 68910, 69161, 69163, 69165, 69579, 69984, 69987, 69990, 69992, 69996, 69998, 70000, 70358, 70361, 70364, 70367, 70725, 70962, 70964, 70966, 70969, 70972, 71129, 71131, 71134, 71135
71 .....68395, 68538, 68912, 69581, 70368, 70370
91 69167
97 .....68539, 68541, 71138, 71139
Proposed Rules:
25 71183
39 .....68166, 68168, 68171, 68937, 70987
71 .....68173, 68571, 69181, 70057, 70059, 70060, 70423, 70425, 70771, 70773, 70774, 70776, 70778, 70780, 70783, 70785, 70989, 70991, 70992, 71186

15 CFR

705 70003
740 70015
742 70015
744 70015

Proposed Rules:
30 71187

16 CFR
306 69582
313 70020
314 70272
Proposed Rules:
1 70062
314 70062

17 CFR
200 70027
202 70166
211 68111
229 70166
230 70166
232 ..... 70027, 70166
239 70166
240 ..... 68330, 70166
249 70027
270 70166
274 70166
Proposed Rules:
240 ..... 68300, 69802

19 CFR
12 ..... 68544, 68546
356 70045

20 CFR
404 70728
655 70729
656 70729
Proposed Rules:
655 68174

21 CFR
1 68728
11 68728
16 68728
129 68728
868 68396
876 ..... 68398, 70371, 70733, 71142, 71144
878 70373
882 ..... 68399, 68401, 70375, 70731
888 68403
890 69583
1141 70052
Proposed Rules:
112 69120
888 ..... 71191, 71197
1308 ..... 69182, 69187

22 CFR
42 70735
126 70053

23 CFR
645 68553

25 CFR
Proposed Rules:
514 68445
522 70067
537 68446
559 68200

26 CFR
Proposed Rules:
1 68939
301 68939

27 CFR
Proposed Rules:
1 68573
17 68573
19 68573
20 68573
22 68573
26 68573
27 68573
28 68573
31 68573

28 CFR
72 69856
85 70740
Proposed Rules:
5 70787

29 CFR
1910 ..... 68560, 69583
1915 ..... 68560, 69583
1917 ..... 68560, 69583
1918 ..... 68560, 69583
1926 ..... 68560, 69583
1928 ..... 68560, 69583
4044 ..... 68560, 71146
Proposed Rules:
1910 68594
1915 68594
1917 68594
1918 68594
1926 68594
1928 68594

31 CFR
Proposed Rules:
Ch. X 69589, 71201
1010 69920

32 CFR
233 70746
242 70748

33 CFR
100 68405
135 68123
138 68123
153 68123
165 ..... 68406, 68407, 68562, 68564, 68566, 68913, 70377, 70378, 70380, 70749, 70975, 71146
Proposed Rules:
100 69602
165 68948
328 69372

34 CFR
75 70612
Proposed Rules:
Ch. II 71207
Ch. VI 69607

36 CFR
7 71148
219 68149

37 CFR
380 68150
Proposed Rules:
1 ..... 69195, 71209
201 69890
220 69890
222 69890
225 69890
226 69890
227 69890
228 69890
229 69890
230 69890
231 69890
232 69890
233 69890

38 CFR
3 68409

39 CFR
20 70977
111 70382
Proposed Rules:
3065 68202

40 CFR
9 70385
52 ..... 68411, 68413, 68421, 68568, 69173, 70409
180 ..... 68150, 68915, 68918, 68921, 70978, 70980, 71152, 71155, 71158
272 68159
721 70385
Proposed Rules:
52 ..... 68447, 68449, 68954, 68957, 68960, 69198, 69200, 69207, 69210, 70070, 70994, 70996, 71213, 71214
80 ..... 70426, 70999
82 68962
120 69372
171 71000
271 70790
1090 70426

42 CFR
100 68423
413 70982
422 70412
431 70412
435 70412
438 70412
440 70412
457 70412
512 70982
Proposed Rules:
Ch. IV 68594

45 CFR
1117 69583
Proposed Rules:
1336 69215

47 CFR
1 68428
54 70983
63 68428
79 70749
90 70750
Proposed Rules:
1 68230
4 69609
64 70427
73 ..... 68203, 70793
74 70793

48 CFR
Ch. 1 ..... 71322, 71323
2 71323
5 71323
6 71323
7 71323
8 71323
16 71323
22 71323
47 71323
52 ..... 71322, 71323
502 68441
509 68441
511 68441
512 68441
514 68441
532 68441
536 68441
538 68441
552 68441
Proposed Rules:
Ch. 1 69218
Ch. 12 69452
4 70808
13 70808
18 70808
22 70808
25 70808
27 70808
52 70808
727 71216
742 71216
752 71216
3001 70429
3002 70429
3024 70429
3052 70429

49 CFR
1180 68926

50 CFR
217 71162
223 69178
300 70751
622 70985
648 ..... 68569, 70986, 71181
660 ..... 70413, 70420
679 ..... 70054, 70751, 71181
680 70751
Proposed Rules:
223 68452
224 68452
622 70078
648 68456
679 ..... 68608, 68982

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *https://www.archives.gov/federal-register/laws*.

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S. 610/P.L. 117–71
Protecting Medicare and American Farmers from Sequester Cuts Act (Dec. 10, 2021; 135 Stat. 1506)

Last List December 6, 2021

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