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Title 3—

The President

Proclamation 10357 of March 31, 2022

Month of the Military Child, 2022

By the President of the United States of America

A Proclamation

Each April, the Month of the Military Child provides a chance for us to recognize and thank the children of our service members and veterans. I have always believed that America has a sacred obligation to prepare our troops when we send them into harm's way and to support them and their families both while they are deployed and after they return home. The First Lady and I recognize that it is not only those who wear the uniform that serve our country—it is also their loved ones, and especially their children. In the timeless words of the poet John Milton, ''They also serve who only stand and wait.''

Military-connected children shoulder the burdens of service, facing unique challenges from a young age. They move frequently with their families—leaving friends, schools, and communities behind. They say goodbye to deploying family members, not knowing when they will see them again. Some of these young people endure deployments and separations, spending months or even years away from their beloved parent. Birthdays, holidays, graduations, and other important milestones are celebrated with just a phone call or virtual hug. The First Lady and I witnessed these sacrifices firsthand, when our grandchildren experienced their father's deployment to Iraq.

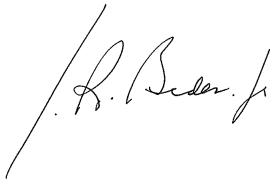
Even after their parent has left the military, children can continue to face challenges as their parent transitions to civilian life and they may be called on to care for wounds or injuries their parent suffered during their service. Too many live with the pain and loss of a parent or family member who made the ultimate sacrifice in service to our country.

This month—and every month—we share our gratitude for these children. We recognize the hardships they face and commit to supporting the physical, social, and emotional health and safety of their families. That is why the White House's Joining Forces initiative, guided by the First Lady, is focused on supporting the military and veteran families, caregivers, and survivors.

As a symbol of our support and gratitude to our military children, during the Month of the Military Child, the Department of Defense uses the color purple—representing all services in the military community. I encourage Americans everywhere to find ways to support our military-connected children, including by wearing purple to honor their service. Let us recommit ourselves to our sacred obligation to provide our military children and their families with the full support of our communities and our Government.

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 laws of the United States, do hereby proclaim April 2022 as the Month of the Military Child. I call upon the people of the United States to honor military children with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



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Presidential Documents

Proclamation 10358 of March 31, 2022

National Cancer Control Month, 2022

By the President of the United States of America

A Proclamation

Since the Congress passed the landmark National Cancer Act in 1971, our Nation has made tremendous strides in preventing, detecting, and treating cancer. But nearly all families—including my own and that of the Vice President's—still know the pain a cancer diagnosis brings. Despite our Nation's progress over the last 50 years, cancer in its many forms is still the second leading cause of death in the United States, with more than 600,000 deaths and nearly 1.9 million new cancer diagnoses each year. A cancer diagnosis remains a crushing blow to those diagnosed, as well as their loved ones. In the name of all those we have lost and for all those still fighting, I believe we can end cancer as we know it.

During National Cancer Control Month, we renew our commitments to improve cancer prevention, promote early detection, enhance treatment, and support the needs of cancer patients, survivors, and caregivers. We recognize that while the fight against cancer is often personal, the desire to make cancer more preventable, detectable, and treatable is one that has the potential to unite us as a Nation, inspiring us to stand together and work together.

In 2016, as Vice President, I led the Cancer Moonshot to accelerate our progress against cancer and take advantage of 21st century science and technology—an effort that has catalyzed change across the cancer community. As President, I have reignited the Cancer Moonshot and set ambitious new goals to reduce the death rate from cancer by 50 percent over the next 25 years and to improve the experience of people and their families living with and surviving cancer. We are creating the Advanced Research Projects Agency for Health (ARPA–H), with the singular purpose of expediting breakthroughs in the prevention, detection, and treatment of cancer and other deadly diseases.

As part of a recommitment to the Cancer Moonshot, the First Lady and I announced a call to action on cancer screening and early detection. Our goal is to drive progress on potentially life-saving screenings that so many Americans have missed as a result of the pandemic and to help ensure that everyone in the United States benefits equitably from the technology we have to detect, diagnose, and treat cancer. We urge every American to get back on track with their recommended screenings, and we implore the public and private sectors to increase access to early detection for individuals and communities. To learn more about which cancer screenings are appropriate for you, talk to your healthcare provider, visit cdc.gov/cancerscreening or cancer.gov/screeningtests, or call 1–800–4–CANCER.

We also encourage Americans to take the proven steps to lower their risk for many forms of cancer. Experts agree that reducing tobacco use, eating healthily, engaging in regular physical activity and exercise, limiting alcohol consumption, and reducing exposure to the sun when it is at its peak can help reduce the risk of a cancer diagnosis. Given that cigarette smoking is responsible for 30 percent of all cancer deaths, helping people quit smoking and limiting exposure to secondhand smoke can save lives. Resources are available at SmokeFree.gov, by calling 1–800–QUIT–NOW, or by texting QUITNOW to 333888.

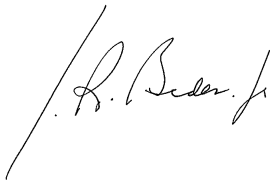
Access to health coverage is critical to the fight against cancer, and we were proud to expand access to quality, affordable coverage through the American Rescue Plan. Most health insurance plans are required to cover recommended cancer screenings with no out-of-pocket costs. But for millions of Americans, the care they need is not within reach. That is why I am committed to reducing prescription drug costs and health insurance premiums for millions of Americans and closing the Medicaid coverage gap in States that refuse to expand Medicaid. This would allow millions more of our fellow Americans to access cancer screenings and tobacco cessation services.

We also thank the doctors, nurses, researchers, caregivers, and advocates who are dedicated to finding treatments and cures and reducing the pain and burden of cancer. Our Nation's health care workers continued to provide care and support to cancer patients and their loved ones, even as a global pandemic made their jobs more difficult and demanding, and our Nation is forever grateful.

During Cancer Control Month, we reaffirm our national commitment to meet the scourge of cancer with urgency and with all the tools and talent we can bring to bear. For survivors and caregivers who carry the physical and mental scars of cancer treatment and recovery, for those who we have lost, and for those who we can save—let us end cancer as we know it.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim April 2022 as National Cancer Control Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that will increase awareness of what Americans can do to prevent, detect, treat, and control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



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Presidential Documents

Proclamation 10359 of March 31, 2022

National Child Abuse Prevention Month, 2022

By the President of the United States of America

A Proclamation

Every child deserves to live in a safe and loving household; yet, for hundreds of thousands of children across our Nation, abuse and neglect are a tragic reality. During National Child Abuse Prevention Month, our country stands as one to condemn and combat child abuse in all of its forms—including physical, emotional, and sexual abuse, as well as online sexual exploitation; we raise awareness about the risk factors that can lead to child abuse and neglect; and we highlight the importance of supporting families to prevent child maltreatment. As a Nation, we must work together to prevent and address child abuse and ensure that every child can grow up in a safe environment and live a happy, prosperous life.

Child abuse crosses all socioeconomic and educational levels, religions, and ethnic and cultural backgrounds. We know that abuse and neglect negatively impact every aspect and stage of a child's life. Child abuse impacts the ability of students to succeed in school and often hinders their ability to forge healthy relationships with their loved ones and peers. It is associated with involvement in the juvenile justice system, especially for girls who have experienced sexual abuse. One of the most important tools to break the cycle and eliminate the tragedy of child abuse and neglect is prevention. This requires that we support and uplift our communities, families, and individuals so that our children can be raised in safe, loving, and healthy environments. For those children and adolescents who do experience abuse, it is important to ensure access to trauma-informed services and healing.

In order to help prevent child abuse and neglect, my Administration is committed to providing high-quality and equitable support to all families that need it. The American Rescue Plan provided cash assistance to millions of working families and expanded the Child Tax Credit—which lifted millions of children and families out of poverty. It supplied critical funding to support State and community child abuse prevention and response efforts and authorized an additional $250 million for community-based child abuse prevention programs. This additional funding has allowed communities to address the complex structural issues that contribute to families becoming involved in the child welfare system. At a time when families are experiencing elevated hardships, especially vulnerable families that have been disproportionately affected by COVID–19, this extra support is more important than ever. Also, I was proud to sign into law a bill to help sustain the Crime Victims Fund, which provides assistance for child advocacy centers and other programs to address child abuse.

I was raised to believe that one of the greatest sins is the abuse of power, and there is no greater abuse of power than the abuse of a child. National Child Abuse Prevention Month is an opportunity to take bold action to better support parents and caregivers with access to resources to cope during challenging times. It is also a time to identify and take the necessary steps to address inequities experienced by those who have been historically underserved and adversely affected by continuous poverty and inequality. Reducing child poverty is critical to reducing the disproportional representation of

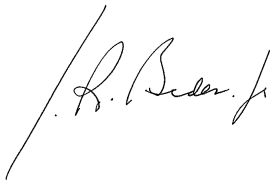
low-income children and families—especially communities of color—in the child welfare system and foster care.

Our Nation is also witnessing a cynical and dangerous campaign waged by some elected leaders who are attempting to weaponize the child welfare system against families just because they love and affirm their transgender children. These leaders have sought to direct child abuse investigations into families simply because they have provided access to affirming care for their children. These discriminatory actions threaten to hurt our Nation's children and must stop. Affirming a transgender child's identity is one of the best things that a parent, teacher, or doctor can do to keep children from harm. My Administration will continue to take actions to keep transgender children and their families safe. That is why the Department of Health and Human Services recently released new guidance to State child welfare agencies on how they can support and affirm LGBTQI+ children who are in foster care.

During National Child Abuse Prevention Month and throughout the year, I call upon everyone to stand together against child abuse and neglect and show our appreciation of the hardworking child-welfare workforce and allies who are steadfast in their commitment to strengthening families, protecting children, and combating systemic inequities. For more information on how professionals and communities are supporting families and to learn strategies to advance equity in child abuse prevention programs, please view the 2021/2022 Prevention Resource Guide, available at childwelfare.gov.

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 April 2022 as National Child Abuse Prevention Month. I call upon all Americans to observe this month by joining together as a Nation to promote the safety and well-being of all children and families and to recognize the child-welfare workforce and allies who work tirelessly to protect our children. And we honor the strength and resilience of adult survivors of child abuse.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



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Proclamation 10360 of March 31, 2022

National Donate Life Month, 2022

By the President of the United States of America

A Proclamation

Today, more than 100,000 men, women, and children in the United States need a life-saving organ transplant. In many cases, an organ donation provides another chance to live a full life. For those waiting for that gift of life—the uncertainty can be excruciating, exacting a physical and emotional toll on the potential recipient and their loved ones. During National Donate Life Month, we give thanks to the families and friends of donors who have supported their loved one's decision to save lives by donating; we show our appreciation for the professionals who serve the transplantation community; and we encourage Americans who can to become organ, eye, tissue, marrow, and blood donors. In so doing, we honor those who have given this most extraordinary of gifts.

Last year, because of the charity and generosity of the American people, our Nation's transplant experts performed more than 41,000 organ transplants—a record number. We saw organ donations from deceased donors set an annual record for the 11th consecutive year. Living donor transplants, which decreased significantly in 2020 due to the COVID–19 pandemic, increased with over 6,500 living donor transplants performed.

Despite our progress, our Nation continues to face a critical shortage of organ donors, and the number of people in need of a transplant is high, with 17 people dying every day while waiting for a transplant. Today's transplant waitlist also includes more than 1,900 children under the age of 18 awaiting the gift of life. That is why during National Donate Life Month, we also recognize National Pediatric Transplant Week from April 24–30, a period dedicated to ending the pediatric transplant waiting list.

Waitlist data shows that people of color make up nearly 60 percent of individuals awaiting an organ transplant. To increase access to transplantation for everyone, we recommit to promoting greater diversity in organ donation, as we continue to advance health equity for all communities, including those that have gone underserved, across our Nation.

Every year, nearly 18,000 people in America are diagnosed with life-threatening blood cancers or other diseases for which a blood stem cell transplant may be their best or only hope for a cure. Approximately 70 percent of these individuals need donors from outside their families. Although nearly 23 million adults in the United States are currently registered as blood stem cell donors, we need more registrants to help the many individuals who still have difficulty finding a suitably matched donor.

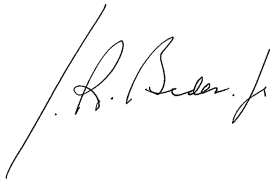
During National Donate Life Month, we thank the millions of individuals across America who are living or registered organ donors. We recognize and commend the researchers, advocates, volunteers, and medical professionals working to reduce the number of people awaiting vital organ transplants. Our Nation applauds the therapeutic innovations that have decreased rates of organ rejection and have extended the lifespan of transplanted organs.

While transplantation continues to increase substantially and meet the needs of many people with organ failure, we must continue our efforts to shorten

the waiting list and encourage organ donation. If you have not signed up as an organ donor, we can use your help. I encourage every American to help people in need by visiting organdonor.gov for organ, eye, and tissue donation, and bloodstemcell.hrsa.gov for marrow and blood donation.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2022 as National Donate Life Month. I call upon every person who can to share the gift of life and hope by becoming organ, eye, tissue, marrow, and blood donors.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2022–07274
Filed 4–4–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10361 of March 31, 2022

National Sexual Assault Awareness and Prevention Month, 2022

By the President of the United States of America

A Proclamation

I was raised to believe that one of the greatest sins is the abuse of power—whether it is economic, psychological, or physical. The cruel fact is that people of every age, ability, race, sex, gender identity, sexual orientation, national origin, socioeconomic background, and religion suffer the pain and trauma of the abuse of power that is sexual assault. Sexual violence can occur anywhere—and millions of assaults occur each year at the workplace, in the home, at school, and online. These assaults are an intolerable affront to our shared humanity. During National Sexual Assault Awareness and Prevention Month, we renew our commitment to ensuring that every person can live a life free from sexual violence. We continue in our commitment to stand with survivors, hold perpetrators accountable, and dismantle a culture that is complicit in allowing sexual violence to continue.

Sexual assault is also a public health crisis. According to the Centers for Disease Control and Prevention, nearly 1 in 5 women in America experiences a rape or attempted rape, and nearly 44 percent of women and about 25 percent of all men experience some form of sexual violence in their lifetime. Tragically, many of those assaulted are young, and research shows that these assaults can have lifelong effects on health and are linked to chronic illnesses. Too often, this trauma is compounded by lost productivity, the challenge of seeking accountability, and the ensuing costs of medical and mental health care.

My Administration is committed to supporting survivors and alleviating the public health crisis of sexual assault. That is why we included $450 million in the American Rescue Plan to provide funding for domestic violence and sexual assault services, including rape crisis centers. We also included a historic commitment to funding culturally-specific community-based organizations to address the needs of survivors who face systemic barriers to accessing support and resources, including survivors of color, survivors with disabilities, and LGBTQI+ survivors. My Administration continues to fund innovative programs to support sexual assault survivors in rural and remote communities.

I am committed to addressing sexual violence wherever it occurs. Last year, I issued an Executive Order directing the Department of Education to review Title IX regulations and other agency actions to ensure that all students have an educational environment that is free from discrimination on the basis of sex. Because 1 in 3 women under the age of 35 has experienced sexual harassment online, I have made addressing online forms of sexual violence, harassment, and abuse a priority, and my Administration recently launched a new Global Partnership for Action on Gender-Based Online Harassment and Abuse.

Sexual violence is also a matter of national security and military readiness. To advance the goal of eliminating sexual assault in our Armed Forces, I signed the 2022 National Defense Authorization Act, which includes the historic shift of legal decisions in cases of sexual assault from commanders to independent, specialized military prosecutors. To implement the I Am

Vanessa Guillén Act, I also issued an Executive Order to add sexual harassment as a specific offense under the Uniform Code of Military Justice.

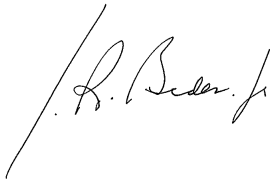
I was proud to support and sign into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021. This law advances efforts to prevent and address sexual harassment and sexual assault and promotes access to justice by guaranteeing that people who have experienced sexual assault and sexual harassment in the workplace are not forced into binding arbitration and are instead allowed to choose whether to go to court.

Ending violence against women and eliminating sexual assault has been a priority for me throughout my life. It is why I wrote and championed the original Violence Against Women Act (VAWA), a law that has transformed how we respond to sexual assault and which I count as one of my proudest legislative accomplishments. I am proud to have recently signed into law the reauthorization of VAWA, which expands prevention efforts and protections for survivors of sexual assault and other forms of gender-based violence. The law will provide increased resources and training so that our law enforcement and our judicial systems are better able to appropriately handle these cases. It includes a new focus on addressing technology-facilitated abuse and establishes a Federal civil cause of action for victims of non-consensual distribution of intimate images. The Act will strengthen rape prevention and education efforts, support rape crisis centers, improve the training of sexual assault forensic examiners, reduce the backlog of untested DNA kits, and broaden access to legal services for all survivors. It will also expand recognition of the special criminal jurisdiction of Tribal courts to cover non-Native perpetrators of sexual assault, sex trafficking, child abuse, and stalking.

This month, we honor the bravery and leadership of survivors by rededicating ourselves to eliminating sexual violence. It will require care and commitment from each of us to realize an America where everyone is free from the threat and impact of sexual violence.

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 laws of the United States, do hereby proclaim April 2022 as National Sexual Assault Awareness and Prevention Month. I urge all Americans to support sexual assault survivors including when survivors reach out and disclose abuse.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2022–07275
Filed 4–4–22; 8:45 am]
Billing code 3395–F2–P

Presidential Documents

Proclamation 10362 of March 31, 2022

Second Chance Month, 2022

By the President of the United States of America

A Proclamation

April marks Second Chance Month, when we reaffirm the importance of helping people who were formerly incarcerated reenter society. America is a Nation of second chances, and it is critical that our criminal and juvenile justice systems provide meaningful opportunities for rehabilitation and redemption. It is also vital that we address both the root causes of crime and the underlying needs of returning citizens using resources devoted to prevention, diversion, reentry, trauma-informed care, culturally-specific services, and social support. By supporting people who are committed to rectifying their mistakes, redefining themselves, and making meaningful contributions to society, we help reduce recidivism and build safer communities.

Every year, over 640,000 people are released from State and Federal prisons. More than 70 million Americans have a criminal record that creates significant barriers to employment, economic stability, and successful reentry into society. Thousands of legal and regulatory restrictions prevent these individuals from accessing employment, housing, voting, education, business licensing, and other basic opportunities. Because of these barriers, nearly 75 percent of people who were formerly incarcerated are still unemployed a year after being released.

We must rethink the existing criminal justice system and whom we send to prison and for how long; how unaddressed trauma and abuse create pipelines to incarceration; how people are treated while incarcerated; how prepared they are to reenter society once they have served their time; and how the racial inequities that lead to disproportionate numbers of incarcerated people of color and other underserved groups.

My Administration recognizes that making the criminal and juvenile justice systems more equitable, just, and effective requires a holistic approach. It requires eliminating exceedingly long sentences and mandatory minimums that keep people incarcerated longer than they should be. It requires quality job training and educational opportunities during incarceration. It requires providing formerly incarcerated individuals with opportunities to enter the workforce, reunite with their families, find stable and safe homes, and access health care. It requires expunging and sealing certain criminal records so that people's futures are not defined by their past.

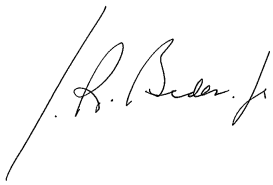
That is why my Administration is working across Federal agencies to eliminate barriers to reentry. We are expanding avenues for employment, housing, education, health services, civic engagement, and other benefits. Last fall, the Department of Justice convened the Reentry Coordination Council in collaboration with the Departments of Housing and Urban Development, Agriculture, Education, Health and Human Services, Veterans Affairs, and Labor. I am confident that our collective efforts will help make our communities safer and stronger by reducing crime, recidivism, mass incarceration, and elements of the justice system that foster harmful disparate impacts on people of color and other historically disadvantaged communities.

But despite our progress, much more work remains. Our Federal, State, local, territorial, and Tribal governments, private employers, philanthropies,

and community leaders play a significant role in preparing individuals returning to our communities for success. Together, let us recommit to empower Americans who have paid their debt to society and to provide them with a second chance to participate, contribute, and succeed.

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 April 2022 as Second Chance Month. I call upon all government officials, educators, volunteers, and all the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of March, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-sixth.



[FR Doc. 2022–07276
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Rules and Regulations

Federal Register

Vol. 87, No. 65

Tuesday, April 5, 2022

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

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF ENERGY

10 CFR Part 435

[EERE–2022–BT–STD–0013]

RIN 1904–AD56

Energy Efficiency Standards for the Design and Construction of New Federal Low-Rise Residential Buildings Baseline Standards Update

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this final rule to implement provisions in the Energy Conservation and Production Act (ECPA) that require DOE to update the baseline Federal energy efficiency performance standards for the construction of new Federal low-rise residential buildings. This final rule updates the baseline Federal residential standard to the International Code Council (ICC) 2021 International Energy Conservation Code (IECC).

DATES: This rule is effective June 6, 2022. The incorporation by reference of certain material listed in this rule was approved by the Director of the Federal Register as of June 6, 2022. The incorporation by reference of other material listed in this rule was approved by the Director of the Federal Register as of March 13, 2017.

All Federal agencies shall design new Federal buildings that are low-rise residential buildings, for which design for construction began on or after April 5, 2023, using the 2021 IECC as the baseline standard for 10 CFR part 435.

ADDRESSES: The docket, which includes this **Federal Register** notice and other supporting documents and materials, is available for review at *www.regulations.gov*. All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available. The *www.regulations.gov* site contains simple instructions on how to access all documents, including public comments, in the docket.

A link to the docket web page can be found at *www.energy.gov/eere/femp/notices-and-rules-related-federal-energy-management*. This web page will contain a link to the docket for this notice on the *www.regulations.gov site*. The *www.regulations.gov* web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Mr. Nicolas Baker at (202) 586–8215 or by email: *nicolas.baker@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Nicolas Baker, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Federal Energy Management Program, Mailstop EE–5F, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–8215, email: *nicolas.baker@ee.doe.gov*.

Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *matthew.ring@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: DOE maintains previously-approved versions and incorporates by reference the following standard into 10 CFR part 435:

ICC International Energy Conservation Code (IECC), Redline Version, copyright 2021. (IECC 2021).

Copies of this standard is available from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478, 1–800–422–7233, *www.iccsafe.org/*.

For a further discussion of this standard see section VII.N of this document.

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IX. Approval of the Office of the Secretary

I. Summary

Section 305 of the Energy Conservation and Production Act (ECPA), as amended, requires DOE to determine whether the energy efficiency standards for new Federal buildings should be updated to reflect revisions to the IECC based on the cost-effectiveness of the revisions. (42 U.S.C. 6834(a)(3)(B)) In this rulemaking, DOE is updating the energy efficiency standards for new Federal low-rise residential buildings to IECC 2021 from IECC 2015. Accordingly, DOE conducted a cost-effectiveness analysis and determined that the 2021 IECC would be cost-effective if applied to new Federal low-rise residential buildings. DOE's assumptions and methodology for the cost-effectiveness of this rule are based on the cost-effectiveness analysis of the 2021 IECC

performed by DOE's state building codes program, as well as DOE's environmental assessment (EA) for this rulemaking.[1] Therefore, in this final rule, DOE updates the energy efficiency standards for new Federal buildings to the 2021 IECC for buildings for which design for construction begins on or after one year following publication of this final rule in the **Federal Register**. (42 U.S.C. 6834 (a)(3)(A))

II. Introduction

ECPA, as amended, requires DOE to establish building energy efficiency standards for all new Federal buildings. (42 U.S.C. 6834(a)(1)) The standards established under section 305(a)(1) of ECPA must contain energy efficiency measures that are technologically feasible, economically justified, and meet the energy efficiency levels in the applicable voluntary consensus energy codes specified in section 305. (42 U.S.C. 6834(a)(1)–(3))

Under section 305 of ECPA, the referenced voluntary consensus code for low-rise residential buildings is the International Code Council (ICC) International Energy Conservation Code (IECC). (42 U.S.C. 6834(a)(2)(A)) DOE codified this referenced code as the baseline Federal building standard in its existing energy efficiency standards found in 10 CFR part 435. Also pursuant to section 305 of ECPA, DOE must establish, by rule, revised Federal building energy efficiency performance standards for new Federal buildings that require such buildings to be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the referenced code (baseline Federal building standard), if life-cycle cost (LCC) effective. (42 U.S.C. 6834(a)(3)(A)(i)(I))

Under section 305 of ECPA, not later than one year after the date of approval of each subsequent revision of the ASHRAE Standard or the IECC, DOE must determine whether to amend the baseline Federal building standards with the revised voluntary standard based on the cost-effectiveness of the revised voluntary standard. (42 U.S.C. 6834(a)(3)(B)) It is this requirement that this rulemaking addresses. ICC has updated the IECC from the version currently referenced in DOE's regulations at 10 CFR part 435. In this final rule, DOE revises the latest baseline Federal building standard for 10 CFR part 435 from the 2015 IECC to the 2021 IECC. DOE notes that although ICC published an update to the IECC in 2018, this rule updates 10 CFR part 435 to the 2021 IECC directly, without requiring agencies to comply with the 2018 IECC. DOE notes, however, that because development of the IECC is incremental from version to version, the 2021 IECC does include all content in the 2018 IECC that was not specifically removed or modified during the development of the 2021 IECC.

Section 306(a) of ECPA provides that each Federal agency and the Architect of the Capitol must adopt procedures to ensure that new Federal buildings will meet or exceed the Federal building energy efficiency standards established under section 305. (42 U.S.C. 6835(a)) Section 306(b) of ECPA bars the head of a Federal agency from expending Federal funds for the construction of a new Federal building unless the building meets or exceeds the applicable baseline Federal building energy standards established under section 305. (42 U.S.C. 6835(b)) Specifically, all new Federal buildings must be designed to achieve the baseline standards in the IECC for low-rise residential buildings (and ASHRAE Standard 90.1 for commercial and multi-family high-rise residential buildings) and achieve energy consumption levels at least 30 percent below these minimum baseline standards, where LCC effective. (42 U.S.C. 6834 (a)(3)(A)) When it is not LCC effective to design new Federal low-rise residential buildings to exceed IECC performance levels by 30 percent, new Federal buildings must be designed to exceed the IECC performance levels up to the percentage that is LCC effective, but at minimum meets the performance levels of the IECC. (10 CFR 435.4(c)). These requirements do not extend to renovations or modifications to existing buildings.

III. Synopsis of the Final Rule

DOE is issuing this action as a final rule. As indicated in this preamble, DOE must determine whether the energy efficiency standards for new Federal buildings should be updated to reflect revisions included in the 2021 IECC based on the cost-effectiveness of the revisions. (42 U.S.C. 6834(a)(3)(B)) In this final rule, DOE determines that the energy efficiency standards for new Federal buildings should be updated to reflect the 2021 revisions to the IECC based on the cost-effectiveness of the revisions.

DOE reviewed the IECC for DOE's state building codes program and determined that the 2021 version of the IECC would achieve greater energy efficiency than the prior version (the 2018 version). (*See* 86 FR 40529 (July 28, 2021)) DOE also reviewed the 2018 version of the IECC and determined that the 2018 version would achieve greater energy efficiency than the prior version (the 2015 version currently referenced in 10 CFR part 435). (*See* 82 FR 2867 (January 10, 2017)) Both these determinations were subject to notice and comment. *See* 86 FR 26710 (May 17, 2021) and 84 FR 18833 (May 2, 2019), respectively, for the 2021 IECC and 2018 preliminary determinations. DOE found that the 2021 version of the IECC would save 8.79 percent more source energy than the 2018 version of the IECC[2] and that the 2018 version of the IECC would save 1.91 percent more source energy than the 2015 version of the IECC.[3]

In DOE's determinations for the State building codes program, and again in this rule, DOE states that the cost-effectiveness of revisions to the voluntary codes is considered through DOE's statutorily directed involvement in the codes process. *See* 86 FR 40529 (July 28, 2021). Section 307 of ECPA requires DOE to participate in the ICC code development process and to assist in determining the cost-effectiveness of the voluntary standards. (42 U.S.C. 6836) DOE is required to periodically review the economic basis of the voluntary building energy codes and participate in the industry process for review and modification, including seeking adoption of all technologically feasible and economically justified energy efficiency measures. (42 U.S.C. 6836(b))

In addition to DOE's consideration of the cost-effectiveness of the 2021 IECC through its participation in the code

[1] *National Cost-Effectiveness of the Residential Provisions of the 2018 IECC,* Taylor, ZT. PNNL–28515, Pacific Northwest National Laboratory, April 2021. *www.energycodes.gov/sites/default/files/2021–07/2018IECC_CE_Residential.pdf.*

National Cost-Effectiveness of the Residential Provisions of the 2021 IECC, Salcido, VR, Y Chen, Y Xie, and ZT Taylor. PNNL–31019, Pacific Northwest National Laboratory, June 2021. *www.energycodes.gov/sites/default/files/2021–07/2021IECC_CostEffectiveness_Final_Residential.pdf.*

Environmental Assessment for Final Rule, 10 CFR part 435, 'Energy Efficiency Standards for the Design and Construction of New Federal Low-Rise Residential Buildings,' Baseline Standards Update. The EA may be found in the docket for this rulemaking and at *www.energy.gov/nepa/doeea-2166-energy-efficiency-standards-new-federal-low-rise-residential-buildings-baseline.*

[2] *Final Determination Regarding Energy Efficiency Improvements in the 2021 International Energy Conservation Code (IECC); Notice of determination,* 86 FR 40529 (July 28, 2021). *www.regulations.gov/docket/EERE–2021–BT–DET–0010/document.*

[3] *Final Determination Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC); Notice of determination,* 84 FR 67435 (December 10, 2019). *www.federalregister.gov/documents/2019/12/10/2019–26550/final-determination-regarding-energy-efficiency-improvements-in-the-2018-international-energy.*

development process, DOE conducted an independent analysis of the cost-effectiveness of the 2021 IECC compared to the 2018 IECC and 2015 IECC.[4] The results of the analysis are discussed in section VII.A of this document. DOE's assumptions and methodology for the cost-effectiveness of this rule are based on DOE's cost-effectiveness analysis of the 2018 and 2021 IECC, as well as DOE's EA for this rulemaking.[5]

In this rule, DOE updates the energy efficiency standards applicable to new Federal buildings based on the determinations made by DOE as to the energy efficiency improvements of the 2018 IECC[6] and 2021 IECC,[7] as compared to the predecessor version (the 2015 IECC), and based on the considerations of cost-effectiveness incorporated into the codes processes, DOE's involvement in those processes, and DOE's own cost-effectiveness analysis. This final rule amends 10 CFR part 435 to update the referenced baseline Federal energy efficiency performance standards. This final rule does not make any changes to the overall requirement that agencies must design buildings to meet the baseline standard and, if LCC effective, achieve savings of at least 30 percent below the baseline standard.

A. Synopsis of Changes to the IECC Between the 2015 and 2021 IECC

The IECC is updated every three years by the International Code Council (ICC). DOE, as part of its determination process, evaluates each new version of the IECC for low-rise residential buildings. The summaries in the following sections are taken directly from DOE's determinations and supporting analyses for the 2018 IECC[8] and 2021 IECC.[9] Section III.A.1 of this document describes the changes between the 2015 IECC and the 2018 IECC and section III.A.2 of this document describes the changes between the 2018 IECC and the 2021 IECC.

1. Description of Changes From 2015 IECC to 2018 IECC

In creating the 2018 IECC, ICC processed 47 approved code change proposals to the 2015 IECC. A total of 14 of these changes were found to have a direct impact on energy use and the other 33 changes were administrative or had an impact on non-energy portions of the code. DOE found that changes resulting in decreased energy use outweigh any changes expected to result in increased energy use in residential buildings. Of the 47 total changes, 11 were expected to decrease energy use, 3 were expected to increase energy use, 30 were administrative, and 3 were considered not energy related.

The 11 changes considered that are expected to decrease energy use are the following:

(1) Requires R–5 insulation under the entire slab when the slab is heated. This change will result in reduced heat loss in buildings with heated slabs, thereby reducing energy use.

(2) Lowers fenestration U-factors in climate zones 3–8. This change reduces heat loss and gain through doors and windows in six of the eight IECC climate zones.

(3) Corrects an inconsistency in the steel framing R-value equivalency table. This change effectively requires an additional R–1 continuous insulation if R–19 cavity insulation is used, resulting in decreased energy use.

(4) Adds provisions for ducts buried in attic insulation. The provisions added address buried ducts as an optional feature.

(5) Adds heat recovery ventilation (HRV)/energy recovery ventilation (ERV)-specific fan-efficacy requirements. This change replaces prior efficacy values for generic in-line fans that were considered inappropriate when HRV/ERV systems are installed.

(6) Increases high-efficacy lighting requirements from 75 percent to 90 percent of permanently installed lighting fixtures and eliminates the option of calculating percentages based on lamp counts instead of fixture counts. This change results in reduced energy use in lighting and applies to all homes complying with the IECC.

(7) Updates equation for ventilation fan energy in the Standard Reference Design of the simulated performance alternative compliance path to reference prescriptive fan-efficacy requirements. The equation in the prior code version used a term based on outdated fan efficacies. This change reduces energy when compliance is demonstrated using the performance path.

(8) Replaces definition of Energy Rating Index (ERI) with a reference to ANSI/RESNET/ICC 301, except for Reference Home ventilation rates, which are modified to be consistent with International Residential Code (IRC) requirements. This change bases the ERI target on the IRC's ventilation rates, which are lower than those in American National Standards Institute (ANSI)/Residential Energy Services Network (RESNET)/ICC 301. This reduces ventilation energy in homes meeting the target in the ERI path.

(9) Improves mandatory envelope requirements in the ERI compliance path for homes with onsite generation. This change strengthens mandatory envelope efficiency requirements and prevents degrading envelope efficiency in trade for onsite generation.

(10) Requires new heating, ventilating, and air-conditioning (HVAC) systems in additions and alterations to comply with the same requirements as systems in new homes. This change will improve efficiency in some additions and alterations.

(11) Modifies and clarifies an exception to the pool cover requirements. This change makes a modest increase to the level of site-recovered energy required to qualify for the exception.

The three changes that are expected to increase energy use are as follows:

(1) Exempts log homes designed in accordance with ICC–400 from the thermal envelope requirements of the

[4] *National Cost-Effectiveness of the Residential Provisions of the 2018 IECC,* Taylor, ZT PNNL–28515, Pacific Northwest National Laboratory, April 2021. *www.energycodes.gov/sites/default/files/2021–07/2018IECC_CE_Residential.pdf.*

National Cost-Effectiveness of the Residential Provisions of the 2021 IECC, Salcido, VR, Y Chen, Y Xie, and ZT Taylor. PNNL–31019, Pacific Northwest National Laboratory, June 2021. *www.energycodes.gov/sites/default/files/2021–07/2021IECC_CostEffectiveness_Final_Residential.pdf.*

[5] Environmental Assessment for Final Rule, 10 CFR part 435, 'Energy Efficiency Standards for New Federal Low-Rise Residential Buildings,' Baseline Standards Update. The EA may be found in the docket for this rulemaking and at *www.energy.gov/nepa/doeea-2166-energy-efficiency-standards-new-federal-low-rise-residential-buildings-baseline.*

[6] *Final Determination Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC); Notice of determination,* 84 FR 67435 (December 10, 2019). *www.federalregister.gov/documents/2019/12/10/2019–26550/final-determination-regarding-energy-efficiency-improvements-in-the-2018-international-energy.*

[7] *Final Determination Regarding Energy Efficiency Improvements in the 2021 International Energy Conservation Code (IECC); Notice of determination,* 86 FR 40529 (July 28, 2021). *www.regulations.gov/docket/EERE–2021–BT–DET–0010/document.*

[8] *Final Determination Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC); Notice of determination,* 84 FR 67435 (December 10, 2019). *www.federalregister.gov/documents/2019/12/10/2019-26550/final-determination-regarding-energy-efficiency-improvements-in-the-2018-international-energy.*

National Cost-Effectiveness of the Residential Provisions of the 2018 IECC, Taylor, ZT. PNNL–28515, Pacific Northwest National Laboratory, April 2021. *www.energycodes.gov/sites/default/files/2021-07/2018IECC_CE_Residential.pdf.*

[9] *Final Determination Regarding Energy Efficiency Improvements in the 2021 International Energy Conservation Code (IECC); Notice of determination,* 86 FR 40529 (July 28, 2021) *www.regulations.gov/docket/EERE–2021–BT–DET–0010/document.*

National Cost-Effectiveness of the Residential Provisions of the 2021 IECC, Salcido VR, Y Chen, Y Xie, and ZT Taylor, PNNL–31019, Pacific Northwest National Laboratory, June 2021. *www.energycodes.gov/sites/default/files/2021–07/2021IECC_CostEffectiveness_Final_Residential.pdf.*

IECC. This change results in an expected increase in energy use in log homes since ICC–400 allows less efficient walls than the IECC.

(2) Allows buried ducts meeting specified insulation and air-sealing criteria to be considered equivalent to ducts located entirely within conditioned space in the simulated performance alternative compliance path. This change increases heat gain/loss into attics compared to ducts entirely within conditioned space.

(3) Raises (relaxes) ERI thresholds. This change allows higher energy use in residences under the ERI compliance path.

The remaining 33 changes were considered administrative in nature or were determined to not be energy related. These changes are discussed in more detail in Table A.2 of *Energy Savings Analysis: 2018 IECC for Residential Buildings.*[10]

2. Description of Changes From 2018 IECC to 2021 IECC

In creating the 2021 IECC, ICC processed 119 approved code change proposals to the 2018 IECC. A total of 35 of these changes were found to have a direct impact on energy use and the other 79 changes were administrative or had an impact on non-energy portions of the code. DOE found that changes resulting in decreased energy use outweigh any changes expected to result in increased energy use in residential buildings. Of the 35 changes that were determined to directly impact energy use, 29 were expected to decrease energy use and 6 were expected to increase energy use.

The following 11 changes were determined to result in the bulk of the energy savings associated with the 2021 IECC over the 2018 IECC:

(1) Increases lamp efficacy to 65 lumens per watt and luminaires efficacy to 45 lumens per watt.

(2) Increases efficacy in the definition of high-efficacy lamps to 70 lumens per watt.

(3) Increases stringency of wood frame wall R-value requirements in climate zones 4 and 5.

(4) Increases slab insulation R-value requirements and depth in climate zones 3–5.

(5) Increases stringency for ceiling insulation in climate zones 2 and 3.

(6) Increases stringency for ceiling insulation in climate zones 4–8 and adds exception for when there is not space for R–60 in the ceiling.

(7) Increases stringency of fenestration U-factors in climate zones 3–4.

(8) Increases whole-house mechanical ventilation system fan efficacy requirements for inline fans and bathroom/utility fans.

(9) Requires ventilation systems to include heat or energy recovery in climate zones 7 and 8.

(10) Requires exterior lighting in R–2, R–3, and R–4 buildings to meet Section C405.4 of IECC.

(11) Adds new section R408, ''Additional Efficiency Package Options'' to reduce energy use by 5 percent regardless of the compliance path chosen.

IV. Methodology, Analytical Results, and Conclusion

A. Cost-Effectiveness Analysis

DOE's assumptions and methodology for the cost-effectiveness of this rule are based on the cost-effectiveness analysis of the 2018 IECC[11] and 2021 IECC performed by DOE's state building codes program,[12] as well as DOE's EA for this rulemaking.[13] The EA identified a rate of new Federal residential construction of approximately 9.78 million square feet per year. This equates to approximately 3,824 new single-family units (9.60 million square feet) and 153 new low-rise multi-family residential units (0.19 million square feet) assumed each year. As described in the EA, this estimate is derived from consideration of data from the Federal Real Property Profile Management System (FRPP MS) extraction and Department of Defense estimates of privatized housing. DOE's cost-effectiveness analysis of the 2018 IECC provides tables for the first cost increase, the energy savings, and the LCCs associated with the 2018 IECC versus the 2015 IECC by climate zone. DOE's cost-effectiveness report does not provide national average values but does provide sufficient weighting data so that these national averages can be calculated. The weighting data provided in the cost-effectiveness report is used to generate the rows labeled ''National Average'' in Table IV.1 through Table IV.9 in this preamble.

Table IV.1 lists the increased first costs associated with the 2018 IECC for a standard 2,376 square feet prototypical home and a standard 1,200 square feet prototypical apartment/condo building.[14] [15] Based on historical data as described in the EA, DOE estimates that the majority of Federal low-rise residential construction will be single-family homes built by the Department of Defense (or their privatization contractors), along with some single-family homes and Federal low-rise multi-family buildings built by other agencies,[16] so the results of DOE's first cost analysis are shown in full. The

[10] *www.energycodes.gov/sites/default/files/2021–07/EERE–2018–BT–DET–0014–0008.pdf.*

[11] DOE's cost-effectiveness report on the 2018 IECC is ''National Cost-Effectiveness of the Residential Provisions of the 2018 IECC'', PNNL–28515, Taylor, ZT, April 2021. Available at *www.energycodes.gov/sites/default/files/2021–07/2018IECC_CE_Residential.pdf.*

[12] DOE's cost-effectiveness report on the 2021 IECC is ''National Cost-Effectiveness of the Residential Provisions of the 2021 IECC'', PNNL–31019, Salcido *et al,* June 2021. Available at *www.energycodes.gov/sites/default/files/2021-07/2021IECC_CostEffectiveness_Final_Residential.pdf.*

[13] The EA (DOE/EA–2166) is entitled, ''Environmental Assessment for Final Rule, 10 CFR part 435, 'Energy Efficiency Standards for New Federal Low-Rise Residential Buildings,' Baseline Standards Update.'' The EA may be found in the docket for this rulemaking and at *www.energy.gov/nepa/doeea-2166-energy-efficiency-standards-new-federal-low-rise-residential-buildings-baseline.*

[14] A discussion of the DOE residential prototypes is found in DOE's cost-effectiveness report, available at *www.energycodes.gov/sites/default/files/2021-07/2021IECC_CostEffectiveness_Final_Residential.pdf.*

[15] Note that the values in Table VI.1 have been adjusted to reflect 2020$ from the table that appears in DOE's determination of energy savings for IECC 2018, which were in 2018$. This adjustment was made using the GDP deflator value to correct for inflation between 2018 and 2020. Organization for Economic Co-operation and Development, GDP Implicit Price Deflator in United States, retrieved from FRED, Federal Reserve Bank of St. Louis; *fred.stlouisfed.org/series/USAGDPDEFAISMEI,* Updated February 17, 2021.

[16] DOE's main source of Federal construction information, the Federal Real Property Profile Management System (FRPP MS), lists Family Housing and Barracks/Dormitories as separate categories. DOE utilized the Federal Agency information in the FRPP MS to disaggregate Federal Dormitories and Barracks to estimate new construction of dormitories, which are predominantly residential in nature, and training barracks, which include non-residential spaces. Department of Defense agencies were assumed to construct training barracks, while non-DoD agencies were assumed to construct dormitories. DOE utilized Asset Height Range information in the FRPP MS to distinguish between low-rise residential construction and multi-family high-rise construction by including only buildings estimated to be less than 30 feet in height. Once buildings to be included had been identified, the FRPP MS data was then used to estimate the square footage of buildings in the Federal Dormitories and Barracks and Family Housing categories that are assumed to be built under 10 CFR part 435 (the subject of this rulemaking) versus those more likely to be built under 10 CFR part 433 (New Federal Commercial and Multi-Family High-rise Residential). For Family Housing, DOE also utilized the square foot information in the FRPP MS to develop percentage weights for the Single-Family prototype (less than 6,000 square feet) and Low-rise Multi-family Residential (6,000 square feet and greater). The square foot demarcation was determined using the BECP assumption of approximately 1,200 square feet per multi-family housing unit, and an assumption that 5 or more housing units would define a multi-family building. While Barracks may be envisioned as long low buildings containing rows of cots, this vision is driven primarily by old-style barracks from the past. DOD's new training barracks tend to combine sleeping accommodations, classrooms, and physical training facilities and are therefore designed by DOD using the Federal commercial and high-rise multi-family requirements.

2018 IECC does increase the first cost of construction of new homes and apartments/condos compared to the 2015 IECC in all climate zones in the United States.

TABLE IV.1—TOTAL INCREMENTAL CONSTRUCTION FIRST COST FOR 2018 IECC COMPARED TO THE 2015 IECC

[2020$]

Climate zone	2,376 ft² house		1,200 ft² apartment/condo	
	Slab, unheated basement, or crawlspace	Heated basement	Slab, unheated basement, or crawlspace	Heated basement
1	$0	$0	$0	$0
2	0	0	0	0
3	72	108	56	74
4	72	108	56	74
5	48	72	37	49
6	48	72	37	49
7	48	72	37	49
8	48	72	37	49
National Average	49	74	38	50

Table IV.2 lists the increased first costs associated with the 2021 IECC for a standard 2,376 square feet prototypical home and a standard 1,200 square feet prototypical apartment/condo building. The 2021 IECC increases the first cost of construction of new homes and apartments/condos compared to the 2018 IECC in all climate zones in the United States.

TABLE IV.2—TOTAL INCREMENTAL CONSTRUCTION FIRST COST * FOR 2021 IECC COMPARED TO THE 2018 IECC

[2020$]

Climate zone	2,376 ft² house	1,200 ft² apartment/condo
1	$936	$933
2	1,530	1,146
3	1,859	1,192
4	3,687	1,533
5	3,569	1,487
6	1,477	1,102
7	2,980	2,603
8	2,982	2,603
National Average	2,372	1,316

* The 2021 Cost Effectiveness report provides total incremental construction cost increase with no distinction made between the foundation type. In this particular transition from IECC 2018 to IECC 2021, the cost increase is primarily due to additional insulation requirements, window improvements, efficiency option packages, and heat recovery ventilation (only for climate zones 7 and 8).

Table IV.3 combines the incremental first costs associated with the 2018 and 2021 versions of the IECC. In addition to adjusting for inflation (as was done for the values in Table IV.1), the 2018 IECC analysis was adjusted to use the same underlying economic assumptions as the 2021 IECC, including fuel prices, fuel price escalations, labor and material costs, and sales tax rates.

TABLE IV.3—TOTAL INCREMENTAL CONSTRUCTION FIRST COST FOR 2021 IECC COMPARED TO THE 2015 IECC

[2020$]

Climate zone	2,376 ft² house	1,200 ft² apartment/condo
1	$936	$933
2	1,536	1,146
3	1,938	1,217
4	3,265	1,386
5	3,624	1,503
6	1,531	1,118
7	3,035	2,620
8	3,037	2,620
National Average	2,336	1,294

The United States Census Bureau tracks information on new home sales in the United States. Based on available data, the median price of a non-Federal single-family home in the United States in 2020 was $336,990.[17] The national average incremental cost increase of $2,336 represents approximately 0.7 percent of the median cost of a new home. An estimated construction cost of $217 per square foot for new Federal dormitories and barracks was obtained from RS Means (2020).[18] This would equate to approximately $260,400 per multi-family unit. The national average incremental cost increase of $1,294 represents approximately 0.5 percent of the approximate cost per multi-family unit. Any increase in first cost would be accompanied by a reduction in energy costs and an increase in LCC net savings.

The estimated first year energy cost savings associated with the 2018 IECC is shown in Table IV.4 and the estimated first year energy cost savings associated with the 2021 IECC is show in Table IV.5.[19] These tables are based on a combination of single-family homes and apartments/condos as described in DOE's cost-effectiveness reports. While the weighting of homes and apartments/condos may not be identical in the private and Federal sectors, the trends are similar for both single-family homes and apartments/condos. Both the 2018 IECC and 2021 IECC save a moderate amount of energy costs over the 2015 IECC in all climate zones in the United States.

TABLE IV.4—AVERAGE FIRST YEAR ENERGY COST SAVINGS FOR THE 2018 IECC COMPARED TO THE 2015 IECC

[2020$]

Climate zone	Average annual energy cost savings (2020$/dwelling-unit-yr)
1	$15
2	15
3	25
4	29
5	28
6	30
7	36
8	48
National Average	25

TABLE IV.5—AVERAGE FIRST YEAR ENERGY COST SAVINGS FOR THE 2021 IECC COMPARED TO THE 2018 IECC

[2020$]

Climate zone	Average annual energy cost savings (2020$/dwelling-unit-yr)
1	$200
2	192
3	200
4	205
5	173
6	123
7	306
8	411
National Average	191

Table IV.6 combines the average first year energy cost savings associated with the 2018 and 2021 versions of the IECC. In addition to adjusting for inflation (as was done for the values in Table IV.4), the 2018 IECC analysis was adjusted to use the same underlying economic assumptions as the 2021 IECC, including fuel prices, fuel price escalations, labor and material costs, and sales tax rates.

TABLE IV.6—AVERAGE FIRST YEAR ENERGY COST SAVINGS FOR THE 2015 IECC COMPARED TO THE 2021 IECC

[2020$]

Climate zone	Average annual energy cost savings (2020$/dwelling-unit-yr)
1	$208
2	199
3	214

[17] *See www.census.gov/construction/nrs/historical_data/index.html,* Median and Average Sale Price of Houses Sold.

[18] RS Means. 2020. RS Means Building Construction Cost Data, 89th Ed. Construction Publishers & Consultants. Norwell, MA.

[19] Note that the values in Table VI.4 have been adjusted to reflect 2020$ from the table that appears in DOE's determination of energy savings for IECC 2018, which were in 2018$. This adjustment was made using the GDP deflator value to correct for inflation between 2018 and 2020. Organization for Economic Co- operation and Development, GDP Implicit Price Deflator in United States, retrieved from FRED, Federal Reserve Bank of St. Louis; *fred.stlouisfed.org/series/USAGDPDEFAISMEI*, Updated February 17, 2021.

TABLE IV.6—AVERAGE FIRST YEAR ENERGY COST SAVINGS FOR THE 2015 IECC COMPARED TO THE 2021 IECC—Continued

[2020$]

Climate zone	Average annual energy cost savings (2020$/dwelling-unit-yr)
4	223
5	189
6	146
7	328
8	439
National Average	205

The LCC impact of the 2018 IECC is shown in Table IV.7 and the LCC impact of the 2021 IECC is shown in Table IV.8.[20] Again, these values represent the combination of single-family homes and apartments/condos, but the trends are clear. Both the 2018 IECC and 2021 IECC have moderate LCC net savings in all climate zones in the United States.

TABLE IV.7—TOTAL LCC NET SAVINGS FOR THE 2018 IECC COMPARED TO THE 2015 IECC

[2020$]

Climate zone	Total LCC net savings (2020$/dwelling-unit)
1	$417
2	420
3	548
4	641
5	652
6	706
7	857
8	1,209
National Average	579

TABLE IV.8—TOTAL LCC NET SAVINGS FOR THE 2021 IECC COMPARED TO THE 2018 IECC

[2020$]

Climate zone	Total LCC net savings (2020$/dwelling-unit)
1	$3,536
2	2,854
3	2,829
4	2,243
5	1,034
6	970
7	3,783
8	6,782
National Average	2,320

Table IV.9 combines the total LCC net savings associated with the 2018 and 2021 versions of the IECC. In addition to adjusting for inflation (as was done for the values in Table IV.7), the 2018 IECC analysis was adjusted to use the same underlying economic assumptions as the 2021 IECC, including fuel prices, fuel price escalations, labor and material costs, and sales tax rates.

TABLE IV.9—TOTAL LCC NET SAVINGS FOR THE 2021 IECC COMPARED TO THE 2015 IECC

[2020$]

Climate zone	Total LCC net savings (2020$/dwelling-unit)
1	$3,946
2	3,241
3	3,354

[20] Note that the values in Table VI.7 have been adjusted to reflect 2020$ from the table that appears in DOE's determination of energy savings for IECC 2018, which were in 2018$. This adjustment was made using the GDP deflator value to correct for inflation between 2018 and 2020. Organization for Economic Co-operation and Development, GDP Implicit Price Deflator in United States, retrieved from FRED, Federal Reserve Bank of St. Louis; *fred.stlouisfed.org/series/USAGDPDEFAISMEI*, Updated February 17, 2021.

TABLE IV.9—TOTAL LCC NET SAVINGS FOR THE 2021 IECC COMPARED TO THE 2015 IECC—Continued

[2020$]

Climate zone	Total LCC net savings (2020$/dwelling-unit)
4	2,890
5	1,639
6	1,716
7	4,643
8	7,924
National Average	2,860

By multiplying the estimated 3,977 units of new low-rise Federal construction per year by the national average values in Table IV.3, Table IV.6, and Table IV.9, DOE estimated that the total incremental first cost estimate for Federal buildings is an increase of $9.1 million per year, that the total first year energy cost estimate is a savings of $0.8 million per year, and that the annual LCC net savings for the entire Federal low-rise residential buildings sector are estimated to be $11.4 million per year.

DOE also conducted a net benefits and costs analysis using a 30-year analysis period and an assumed building lifetime of 30 years. The building lifetime assumption was made to correspond with availability of underlying data from the cost-effectiveness analysis conducted by DOE's State building energy codes program.

DOE calculated the net present value (NPV) of the change in equipment cost and reduced operating cost associated with the difference between the IECC 2015 and the IECC 2021. The NPV is the value in the present of a time-series of costs and savings, equal to the present value of savings in operating cost minus the present value of the increased total equipment cost to consumers.

DOE determined the total increased equipment cost for each year of the analysis period (2022–2051) using the incremental construction cost described previously. DOE determined the present value of operating cost savings for each year from the beginning of the analysis period to the year when all Federal buildings constructed by 2051 have been retired, assuming a 30-year lifetime of the building.

The average annual operating cost includes the costs for energy, repair or replacement of building components (*e.g.,* heating and cooling equipment, lighting, and envelope measures), and maintenance of the building. DOE determined the per-unit annual savings in operating cost based on the savings in energy costs plus replacement and maintenance cost savings, which were calculated in the underlying cost-effectiveness analysis by DOE's State building energy codes program. While DOE used the methodology and prices described previously to calculate first year energy cost savings and LCC net savings, for the NPV calculations, DOE determined the per-unit annual savings in operating cost by multiplying the per square foot annual electricity, natural gas, and fuel oil savings in energy consumption by the appropriate residential energy price from EIA's *AEO2021*.[21] DOE forecasted energy prices based on projected average annual price changes in EIA's *AEO2021* to develop the operating cost savings through the analysis period.

DOE uses national discount rates to calculate national NPV. DOE estimated NPV using both a 3-percent and a 7-percent real discount rate, in accordance with the Office of Management and Budget's guidance to Federal agencies on the development of regulatory analysis, particularly section E therein: *Identifying and Measuring Benefits and Costs*.[22] The NPV is the sum over time of the discounted net savings.

The present value of increased equipment costs is the annual total cost increase in each year (the difference between the IECC 2021 and the IECC 2015), discounted to the present, and summed throughout the analysis period (2022 through 2051). Because new construction is held constant through the analysis period, the installed cost is constant.

The present value of savings in operating cost is the annual savings in operating cost (the difference between the IECC 2021 and the IECC 2015), discounted to the present and summed through the analysis period (2022 through 2051). Savings are decreases in operating cost associated with the higher energy efficiency associated with buildings designed to the IECC 2021 compared to the IECC 2015. Total annual savings in operating cost are the savings per square foot multiplied by the number of square feet that survive in a particular year through the lifetime of the buildings constructed in the last year of the analysis period.

B. Monetization of Emissions Reduction Benefits

As part of the development of this rule, for the purpose of complying with the requirements of Executive Order 12866, DOE considered the estimated monetary benefits from the reduced emissions of CO_2, CH_4, N_2O, NO_X, and SO_2 that are expected to result from this rule. In order to make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of buildings constructed in the analysis period. This section summarizes the basis for the values used for monetizing the emissions benefits and presents the values considered in this rule.

On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the

[21] DOE—U.S. Department of Energy. 2021. Annual Energy Outlook 2021 with Projections to 2050. Washington, DC. Available at *www.eia.gov/outlooks/aeo/.*

[22] Office of Management and Budget. OMB Circular A–4, Regulatory Analysis. 2003. OMB: Washington, DC. September 17, 2003. *www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

injunction and present monetized benefits where appropriate and permissible under law.

1. Monetization of Greenhouse Gas Emissions

For the purpose of complying with the requirements of Executive Order 12866, DOE estimates the monetized benefits of the reductions in emissions of CO_2, CH_4, and N_2O by using a measure of the social cost (''SC'') of each pollutant (*e.g.,* SC–GHGs). These estimates represent the monetary value of the net harm to society associated with a marginal increase in emissions of these pollutants in a given year, or the benefit of avoiding that increase. These estimates are intended to include (but are not limited to) climate-change-related changes in net agricultural productivity, human health, property damages from increased flood risk, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. DOE exercises its own judgment in presenting monetized climate benefits as recommended by applicable executive orders and guidance, and DOE would reach the same conclusion presented in this notice in the absence of the social cost of greenhouse gases, including the February 2021 Interim Estimates presented by the Interagency Working Group on the Social Cost of Greenhouse Gases. DOE exercises its own judgment in presenting monetized climate benefits as recommended by applicable executive orders, and DOE would reach the same conclusion presented in this notice in the absence of the social cost of greenhouse gases, including the February 2021 Interim Estimates presented by the Interagency Working Group on the Social Cost of Greenhouse Gases.

DOE estimated the global social benefits of CO_2, CH_4, and N_2O reductions (*i.e.,* SC–GHGs) using the estimates presented in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990 published in February 2021 by the Interagency Working Group on the Social Cost of Greenhouse Gases (IWG) (IWG, 2021). The SC–GHGs is the monetary value of the net harm to society associated with a marginal increase in emissions in a given year, or the benefit of avoiding that increase. In principle, SC–GHGs includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. The SC–GHGs therefore, reflects the societal value of reducing emissions of the gas in question by one metric ton. The SC–GHGs is the theoretically appropriate value to use in conducting benefit-cost analyses of policies that affect CO_2, N_2O and CH_4 emissions. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD), the DOE agrees that the interim SC–GHG estimates represent the most appropriate estimate of the SC–GHG until revised estimates have been developed reflecting the latest, peer-reviewed science.

The SC–GHGs estimates presented here were developed over many years, using transparent process, peer-reviewed methodologies, the best science available at the time of that process, and with input from the public. Specifically, in 2009, an interagency working group (IWG) that included the DOE and other executive branch agencies and offices was established to ensure that agencies were using the best available science and to promote consistency in the social cost of carbon (SC–CO_2) values used across agencies. The IWG published SC–CO_2 estimates in 2010 that were developed from an ensemble of three widely cited integrated assessment models (IAMs) that estimate global climate damages using highly aggregated representations of climate processes and the global economy combined into a single modeling framework. The three IAMs were run using a common set of input assumptions in each model for future population, economic, and CO_2 emissions growth, as well as equilibrium climate sensitivity (ECS)—a measure of the globally averaged temperature response to increased atmospheric CO^2 concentrations. These estimates were updated in 2013 based on new versions of each IAM. In August 2016 the IWG published estimates of the social cost of methane (SC–CH_4) and nitrous oxide (SC–N2O) using methodologies that are consistent with the methodology underlying the SC–CO_2 estimates. The modeling approach that extends the IWG SC–CO_2 methodology to non-CO_2 GHGs has undergone multiple stages of peer review. The SC–CH_4 and SC–N_2O estimates were developed by Marten et al. (2015) and underwent a standard double-blind peer review process prior to journal publication. In 2015, as part of the response to public comments received to a 2013 solicitation for comments on the SC–CO_2 estimates, the IWG announced a National Academies of Sciences, Engineering, and Medicine review of the SC–CO_2 estimates to offer advice on how to approach future updates to ensure that the estimates continue to reflect the best available science and methodologies. In January 2017, the National Academies released their final report, Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide, and recommended specific criteria for future updates to the SC–CO_2 estimates, a modeling framework to satisfy the specified criteria, and both near-term updates and longer-term research needs pertaining to various components of the estimation process (National Academies, 2017). Shortly thereafter, in March 2017, President Trump issued Executive Order 13783, which disbanded the IWG, withdrew the previous TSDs, and directed agencies to ensure SC–CO_2 estimates used in regulatory analyses are consistent with the guidance contained in OMB's Circular A–4, ''including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates'' (E.O. 13783, Section 5(c)).

On January 20, 2021, President Biden issued Executive Order 13990, which re-established the IWG and directed it to ensure that the U.S. Government's estimates of the social cost of carbon and other greenhouse gases reflect the best available science and the recommendations of the National Academies (2017). The IWG was tasked with first reviewing the SC–GHG estimates currently used in Federal analyses and publishing interim estimates within 30 days of the E.O. that reflect the full impact of GHG emissions, including by taking global damages into account. The interim SC–GHG estimates published in February 2021, specifically the SC–CH_4 estimates, are used here to estimate the climate benefits for this final rule. The E.O. instructs the IWG to undertake a fuller update of the SC–GHG estimates by January 2022 that takes into consideration the advice of the National Academies (2017) and other recent scientific literature.

The February 2021 SC–GHG TSD provides a complete discussion of the IWG's initial review conducted under E.O. 13990. In particular, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to reflect the full impact of GHG emissions in multiple ways. First, the IWG found that a global perspective is essential for SC–GHG estimates because it fully captures climate impacts that affect the United States and which have been omitted from prior U.S.-specific estimates due to

methodological constraints. Examples of omitted effects include direct effects on U.S. citizens, assets, and investments located abroad, supply chains, and tourism, and spillover pathways such as economic and political destabilization and global migration. In addition, assessing the benefits of U.S. GHG mitigation activities requires consideration of how those actions may affect mitigation activities by other countries, as those international mitigation actions will provide a benefit to U.S. citizens and residents by mitigating climate impacts that affect U.S. citizens and residents. If the United States does not consider impacts on other countries, it is difficult to convince other countries to consider the impacts of their emissions on the United States. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with this assessment and, therefore, in this final rule DOE centers attention on a global measure of SC–CH4. This approach is the same as that taken in DOE regulatory analyses from 2012 through 2016. Prior to that, in 2008 DOE presented Social Cost of Carbon (SCC) estimates based on values the Intergovernmental Panel on Climate Change (IPCC) identified in literature at that time. As noted in the February 2021 SC–GHG TSD, the IWG will continue to review developments in the literature, including more robust methodologies for estimating a U.S.-specific SC–GHG value, and explore ways to better inform the public of the full range of carbon impacts. As a member of the IWG, DOE will continue to follow developments in the literature pertaining to this issue.

Second, the IWG found that the use of the social rate of return on capital (7 percent under current OMB Circular A–4 guidance) to discount the future benefits of reducing GHG emissions inappropriately underestimates the impacts of climate change for the purposes of estimating the SC–GHG. Consistent with the findings of the National Academies (2017) and the economic literature, the IWG continued to conclude that the consumption rate of interest is the theoretically appropriate discount rate in an intergenerational context (IWG 2010, 2013, 2016a, 2016b), and recommended that discount rate uncertainty and relevant aspects of intergenerational ethical considerations be accounted for in selecting future discount rates. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with this assessment and will continue to follow developments in the literature pertaining to this issue.

While the IWG works to assess how best to incorporate the latest, peer reviewed science to develop an updated set of SC–GHG estimates, it set the interim estimates to be the most recent estimates developed by the IWG prior to the group being disbanded in 2017. The estimates rely on the same models and harmonized inputs and are calculated using a range of discount rates. As explained in the February 2021 SC–GHG TSD, the IWG has recommended that agencies to revert to the same set of four values drawn from the SC–GHG distributions based on three discount rates as were used in regulatory analyses between 2010 and 2016 and subject to public comment. For each discount rate, the IWG combined the distributions across models and socioeconomic emissions scenarios (applying equal weight to each) and then selected a set of four values recommended for use in benefit-cost analyses: An average value resulting from the model runs for each of three discount rates (2.5 percent, 3 percent, and 5 percent), plus a fourth value, selected as the 95th percentile of estimates based on a 3 percent discount rate. The fourth value was included to provide information on potentially higher-than-expected economic impacts from climate change. As explained in the February 2021 SC–GHG TSD, and DOE agrees, this update reflects the immediate need to have an operational SC–GHG for use in regulatory benefit-cost analyses and other applications that was developed using a transparent process, peer-reviewed methodologies, and the science available at the time of that process. Those estimates were subject to public comment in the context of dozens of proposed rulemakings as well as in a dedicated public comment period in 2013.

DOE's derivations of the SC–GHGs (*i.e.,* SC–CO_2, SC–N_2O, and SC–CH_4) values used for this rule are discussed in the following sections, and the results of DOE's analyses estimating the benefits of the reductions in emissions of these pollutants are presented in section VII.A.

a. Social Cost of Carbon

The SC–CO_2 values used for this rule were generated using the values presented in the 2021 update from the IWG's February 2021 TSD. Table IV.10 shows the updated sets of SC–CO_2 estimates from the latest interagency update in 5-year increments from 2020 to 2050. For purposes of capturing the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate include all four sets of SC–CO_2 values, as recommended by the IWG.[23]

TABLE IV.10—ANNUAL SC–CO_2 VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050

[2020$ per Metric Ton CO_2]

Year	Discount rate			
	5% average	3% average	2.5% average	3% 95th percentile
2020	14	51	76	152
2025	17	56	83	169
2030	19	62	89	187
2035	22	67	96	206
2040	25	73	103	225
2045	28	79	110	242
2050	32	85	116	260

[23] For example, the February 2021 TSD discusses how the understanding of discounting approaches suggests that discount rates appropriate for intergenerational analysis in the context of climate change may be lower than 3 percent.

In calculating the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the February 2021 TSD, adjusted to 2020$ using the implicit price deflator for gross domestic product (GDP) from the Bureau of Economic Analysis. For each of the four sets of SC–CO_2 cases specified, the values for emissions in 2020 were $14, $51, $76, and $152 per metric ton avoided (values expressed in 2020$). DOE derived values from 2051 to 2070 based on estimates published by EPA.[24] These estimates are based on methods, assumptions, and parameters identical to the 2020–2050 estimates published by the IWG. DOE derived values after 2070 based on the trend in 2060–2070 in each of the four cases. DOE derived values after 2050 using the approach described above for the SC–CO_2.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SC–CO_2 value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SC–CO_2 values in each case.

b. Social Cost of Methane and Nitrous Oxide

The SC–CH_4 and SC–N_2O values used for this rule were generated using the values presented in the 2021 update from the IWG.[25] Table IV.11 shows the updated sets of SC–CH_4 and SC–N_2O estimates from the latest interagency update in 5-year increments from 2020 to 2050. To capture the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate to include all four sets of SC–CH_4 and SC–N_2O values, as recommended by the IWG.

TABLE IV.11—ANNUAL SC–CH_4 AND SC–N_2O VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050

[2020$ per metric ton]

Year	SC–CH_4 discount rate and statistic				SC–N_2O discount rate and statistic			
	5% average	3% average	2.5% average	3% 95th percentile	5% average	3% average	2.5% average	3% 95th percentile
2020	670	1,500	2,000	3,900	5,800	18,000	27,000	48,000
2025	800	1,700	2,200	4,500	6,800	21,000	30,000	54,000
2030	940	2,000	2,500	5,200	7,800	23,000	33,000	60,000
2035	1,100	2,200	2,800	6,000	9,000	25,000	36,000	67,000
2040	1,300	2,500	3,100	6,700	10,000	28,000	39,000	74,000
2045	1,500	2,800	3,500	7,500	12,000	30,000	42,000	81,000
2050	1,700	3,100	3,800	8,200	13,000	33,000	45,000	88,000

DOE multiplied the CH_4 and N_2O emissions reduction estimated for each year by the SC–CH_4 and SC–N_2O estimates for that year in each of the cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the cases using the specific discount rate that had been used to obtain the SC–CH_4 and SC–N_2O estimates in each case.

2. Monetization of Other Air Pollutants

DOE estimated the monetized value of NO_X and SO_2 emissions reductions from electricity generation using benefit per ton estimates based on air quality modeling and concentration-response functions conducted for the Clean Power Plan final rule. 84 FR 32520. DOE used EPA's values for NO_X (as $PM_{2.5}$) and SO_2 for 2020, 2025, and 2030 calculated with discount rates of 3 percent and 7 percent, and EPA's values for ozone season NO_X, which do not involve discounting since the impacts are in the same year as emissions. DOE used linear interpolation to define values for the years between 2020 and 2025 and between 2025 and 2030; for years beyond 2030 the values are held constant.

DOE also estimated the monetized value of NO_X and SO_2 emissions reductions from site use of natural gas in buildings impacted by this rule using benefit-per-ton estimates from the EPA's Benefits Mapping and Analysis Program. Although none of the sectors covered by EPA refers specifically to residential and commercial buildings, the sector called ''area sources'' would be a reasonable proxy for residential and commercial buildings.[26] The EPA document provides high and low estimates for 2025 and 2030 at 3- and 7-percent discount rates.[27] DOE used the same linear interpolation and extrapolation as it did with the values for electricity generation. DOE primarily relied on the low estimates to be conservative.

DOE multiplied the emissions reduction (in tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of

[24] See EPA, *Revised 2023 and Later Model Year Light-Duty Vehicle GHG Emissions Standards: Regulatory Impact Analysis,* Washington, DC, December 2021. Available at: *www.epa.gov/system/files/documents/2021-12/420r21028.pdf* (last accessed January 13, 2022).

[25] See Interagency Working Group on Social Cost of Greenhouse Gases, *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide. Interim Estimates Under Executive Order 13990,* Washington, DC, February 2021. Available at: *www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf* (last accessed March 17, 2021).

[26] ''Area sources'' represents all emission sources for which states do not have exact (point) locations in their emissions inventories. Because exact locations would tend to be associated with larger sources, ''area sources'' would be fairly representative of small dispersed sources like homes and businesses.

[27] ''Area sources'' are a category in the 2018 document from EPA, but are not used in the 2021 document cited above. *See: www.epa.gov/sites/default/files/2018-02/documents/sourceapportionmentbpttsd_2018.pdf.*

greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law.

C. Conclusion

This analysis results in a cumulative net present value (NPV) of total benefits of the rule of $0.23 billion (at a 7-percent discount rate) and $0.50 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating cost savings minus the estimated increased building costs for new Federal construction for 2022–2051 with a 30-year lifetime and includes monetized climate and health benefits (see Table IV.12). DOE estimates climate benefits from a reduction in greenhouse gases (GHG) using four different estimates of the social cost of CO_2 (''SC–CO_2''), the social cost of methane (''SC–CH_4''), and the social cost of nitrous oxide (''SC–N_2O''). Together these represent the social cost of GHG (SC–GHG). DOE used interim SC–GHG values developed by an Interagency Working Group on the Social Cost of Greenhouse Gases (IWG).[28] [29] DOE does not have a single central SC–GHG point estimate and it emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions.

The benefits and costs of the rulemaking can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2020$) of the benefits from building to IECC 2021, consisting primarily of operating cost savings from using less energy, minus increases in building costs, and (2) the annualized monetary value of the benefits of climate (GHG) and health (NO_X, and SO_2) emission reductions. Table IV.13 shows the annualized values for this rulemaking, expressed in 2020$. In the tables, total benefits for both the 3-percent and 7-percent cases are presented using the average GHG social costs with 3-percent discount rate, but the Department emphasizes the importance and value of considering the benefits calculated using all four SC–GHG cases.

TABLE IV.12—SUMMARY OF MONETIZED ECONOMIC BENEFITS AND COSTS (Billion 2020$)

[2022–2051 plus 30-year lifetime]

	Billion $2020
3% discount rate	
Consumer Operating Cost Savings	0.391
Climate Benefits *	0.114
Health Benefits **	0.177
Total Benefits †	0.682
Consumer Incremental Product Costs ††	0.179
Net Benefits	0.503
7% discount rate	
Consumer Operating Cost Savings	0.168
Climate Benefits *	0.114
Health Benefits **	0.066
Total Benefits †	0.347
Consumer Incremental Product Costs ††	0.113
Net Benefits	0.234

Note: This table presents the costs and benefits associated with Federal new low-rise residential buildings built in 2022–2051. These results include benefits to consumers which accrue after 2051 from the buildings constructed in 2022–2051.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). Together these represent the social cost of greenhouse gases (SC–GHG). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC–GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates. See section IV.B of this document for more details.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing $PM_{2.5}$ and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent. See IV.B of this document for more details.

[28] *See* Interagency Working Group on Social Cost of Greenhouse Gases, Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide. Interim Estimates Under Executive Order 13990, Washington, DC, February 2021. *https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.*

[29] On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law.

† Total and net benefits include consumer operating cost savings and benefits related to public health and climate. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law.

†† Costs include incremental equipment costs as well as installation costs.

TABLE IV.13—ANNUALIZED MONETIZED BENEFITS, COSTS, AND NET BENEFITS (Million 2020$)

[2022–2051 plus 30-year lifetime]

Category	Million 2020$/year	
	3% discount rate	7% discount rate
Consumer Operating Cost Savings	20.0	13.5
Climate Benefits *	5.8	5.8
Health Benefits **	9.0	5.3
Total Benefits †	34.8	18.8
Costs ††	9.1	9.1
Net Benefits	25.7	15.5

Note: This table presents the costs and benefits associated with Federal new low-rise residential buildings built in 2022–2051. These results include benefits to consumers which accrue after 2051 from the buildings constructed in 2022–2051.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). Together these represent the social cost of greenhouse gases (SC–GHG). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC–GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates. See section IV.B of this document for more details.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent. See section IV.B of this document for more details.

† Total and net benefits include consumer operating cost savings and benefits related to public health and climate. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law.

†† Costs include incremental equipment costs as well as installation costs.

Accordingly, DOE has determined that the implementation of IECC 2021 for Federal low-rise residential buildings is cost-effective. DOE is presenting monetized climate benefits in accordance with the applicable Executive Orders and DOE would reach the same conclusion presented in this notice in the absence of the social cost of greenhouse gases, including the February 2021 Interim Estimates presented by the Interagency Working Group on the Social Cost of Greenhouse Gases.

V. Compliance Date

This final rule applies to new Federal low-rise residential buildings for which design for construction begins on or after one year from the publication date of this rulemaking in the **Federal Register**. (42 U.S.C. 6834(a)(1)) Such buildings must be designed to exceed the energy efficiency level of the appropriate updated voluntary standard by 30 percent if LCC effective. However, at a minimum, such buildings must achieve the energy efficiency equal to that of the appropriate updated voluntary standard. One-year lead time before the design for construction begins is consistent with DOE's previous updates to the energy efficiency baselines and the original statutory mandate for Federal building standards. One year lead time before design for construction begins helps to minimize compliance costs to agencies, which may have planned buildings in various stages of design, and allows for design changes to more fully consider LCC effective measures (as opposed to having to revise designs in development, which may make incorporation of energy efficiency measures more difficult or expensive).

VI. Reference Resources

DOE originally prepared this list of resources to help Federal agencies achieve building energy efficiency levels of at least 30 percent below the 2009 IECC. DOE has reviewed these resources and believes that they continue to be useful for helping agencies maximize their energy efficiency levels. DOE has updated this resource list as appropriate. These resources come in many forms and in a variety of media. Resources are provided for all buildings, as well as specifically for low-rise residential buildings. FEMP offers an online search database of tools that can help agencies reduce energy use and meet Federal laws and requirements. Tools include software, calculators, data sets, and databases created by DOE and other Federal organizations. This resource can be found at *www.energy.gov/eere/femp/federal-energy-management-tools.*

(1) Energy Efficient Products—U.S. DOE Federal Energy Management Program and U.S. Environmental Protection Agency (EPA) ENERGY STAR Program

www.energy.gov/eere/femp/energy-efficient-products-and-energy-saving-technologies

Federal agencies are required by EPAct 2005 and 10 CFR part 436 to

specify Federal Energy Management Program (FEMP) designated or ENERGY STAR equipment, including building mechanical and lighting equipment and builder-supplied appliances, for purchase and installation in all new construction unless the agency can show that the use of such equipment is not life-cycle cost-effective. 42 U.S.C. 8259b(b) Although this rule does not specifically address the use of this equipment, ENERGY STAR and FEMP-designated products are generally more energy efficient than the corresponding minimum manufacturing standards for residential-sized appliances and equipment, and may be used to achieve part of the savings required of Federal building designs. Agencies are required to use equipment designated as high-efficiency by FEMP and/or ENERGY STAR, credit may be taken for this equipment as part of the Total Building Performance compliance path through the use of Section R401.2.5 Part 2 of the 2021 IECC. Credit given in the Total Building Performance compliance path will depend on whether the equipment efficiency required for ENERGY STAR and FEMP-designated products meets or exceeds the efficiency required for the 2021 IECC additional efficiency packages. In some cases, the efficiency required in the 2021 IECC additional efficiency packages exceeds the efficiency of the ENERGY STAR and FEMP-designated equipment, which implies that no credit will be given in the Total Building Performance compliance path. The FEMP websites, accessed through the previous links, are provided as useful resources for achieving part of the energy savings required by the rule.

(2) Life-Cycle Cost Analysis—U.S. DOE Federal Energy Management Program

www.energy.gov/eere/femp/building-life-cycle-cost-programs

The LCC analysis rules promulgated in 10 CFR part 436 Subpart A, *Life-Cycle Cost Methodology and Procedures,* conform to requirements in the Federal Energy Management Improvement Act of 1988 (Pub. L. 100–615) and subsequent energy conservation legislation, as well as Executive Order 13693, ''Planning for Federal Sustainability in the Next Decade.'' The LCC guidance and required discount rates and energy price projections are determined annually by FEMP and the Energy Information Administration, and are published in the Annual Supplement to The National Institute of Standards and Technology Handbook 135: ''Energy Price Indices and Discount Factors for Life-Cycle Cost Analysis.''

(3) ENERGY STAR Buildings—U.S. Environmental Protection Agency and U.S. Department of Energy

www.energystar.gov/homes

ENERGY STAR is a government-backed program helping businesses and individuals protect the environment through superior energy efficiency. The EPA program requirements for ENERGY STAR-labeled homes, effective as of the date of this rule, provide a useful guide for meeting the Federal energy efficiency standard for low-rise residential buildings.

(4) Passive House Institute US

www.phius.org/home-page

This website provides information on designing and building very low energy homes.

(5) U.S. DOE Office of Energy Efficiency & Renewable Energy—Residential Buildings Integration

www.energy.gov/eere/buildings/residential-buildings-integration

This website provides information on energy efficient home design strategies and technologies to support energy efficiency in residences.

(6) 2020 National Green Building Standard, ICC 700—ICC and NAHB

https://shop.iccsafe.org/icc-700-2020-national-green-building-standardr.html

The National Green Building Standard ICC 700–2020 National Green Building Standard® (NGBS) is an American National Standards Institute (ANSI)-approved, residential construction standard for voluntary, above-code building certification is a green building rating system for homes approved by the American National Standards Institute. This standard The NGBS standard provides requirements design and verification direction for building high-efficiency and green homes and multi-family buildings.

(7) The NGBS Green Promise

www.ngbs.com/the-ngbs-green-promise

The National Green Building Standard is a green building rating system for homes approved by the American National Standards Institute.

(8) LEED Certification for Residential

www.usgbc.org/leed/rating-systems/residential

This certification system provides requirements for building high-efficiency and green homes and multi-family buildings.

(9) Green Globes—The Green Building Initiative

www.thegbi.org/

This certification provides requirements for building high-efficiency and green multi-family buildings.

(10) 2018 IECC—ICC

https://shop.iccsafe.org/codes/2018-international-codes-and-references/2018-international-energy-conservation-code.html[30]

The interim energy efficiency standard for low-rise residential buildings between the 2015 IECC and the 2021 IECC is the 2018 IECC.

(11) 2021 IECC—ICC

https://shop.iccsafe.org/codes/2021-international-codes-and-references/2021-international-energy-conservation-coder.html[31]

The energy efficiency standard for low-rise residential buildings is the 2021 IECC.

(12) Whole Building Design Guide—National Institute of Building Sciences

www.wbdg.org/

A portal providing one-stop access to up-to-date information on a wide range of building-related guidance, criteria, and technology from a ''whole buildings'' perspective.

VII. Regulatory Analysis

A. Review Under Executive Order 12866, ''Regulatory Planning and Review''

This final rule is a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this action was subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB). OMB has completed its review. As discussed previously in this rule, DOE is required to determine, based on the cost-effectiveness, whether the standards for Federal buildings should be updated to reflect an amendment to the IECC standard. As stated in the preamble, DOE complied with the statutory language by analyzing the cost-effectiveness of the 2018 IECC and the 2021 IECC, and through DOE's involvement in the ICC code development process.

[30] A free read-only version of the 2018 IECC is available at *https://codes.iccsafe.org/content/IECC2018P4.*

[31] A free read-only version of the 2021 IECC is available at *https://codes.iccsafe.org/content/IECC2021P1.*

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (January 21, 2011). E.O. 13563 is supplemental to, and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866.

Review under Executive Order 12866 requires an analysis of the economic effect of the rule. For this purpose, DOE estimated incremental first cost (in this case, the difference between the cost of a building designed to meet the 2021 IECC and a building designed to meet the 2015 IECC) for the Federal low-rise residential buildings sector, as well as LCC net savings. Because this update incorporates changes made in the 2018 and 2021 IECC codes, DOE has adjusted the IECC 2018 analyses to use the same underlying economic assumptions (*e.g.,* fuel price escalations, labor rates, etc.) as the IECC 2021 analysis in order to estimate the cumulative impact of the two code changes. First, DOE estimated that the annual full fuel cycle national energy savings would be 0.074 trillion Btu (associated with one year of Federal construction), that the cumulative (over the 30-year analysis period) full fuel cycle national energy savings would be 0.060 quadrillion Btu, and that the cumulative (including building lifetime savings) full fuel cycle national energy savings would be 0.063 quadrillion Btu. Based on these energy savings and using the methodology described in section IV of this document, DOE estimated the resulting incremental first cost, first year energy cost savings, and annual LCC net savings. DOE estimated that the total incremental first cost is an increase of $9.1 million per year, with an average first cost increase of $2,296 per household. DOE estimated $11.3 million in annual LCC net savings for the entire Federal low-rise residential buildings sector with an average LCC net savings of $2,860 per household.[32]

Table VII.1 shows the monetized economic benefits and costs expected to result from this rulemaking. Using a 7-percent discount rate for consumer benefits and costs and health benefits, and a 3-percent discount rate case for GHG social (climate) costs, the estimated cost of this rulemaking is $0.113 billion in increased equipment costs, while the estimated benefits are $0.168 billion in reduced equipment operating costs, $0.114 billion in climate benefits, and $0.066 billion in health benefits. In this case, the net benefit amounts to $0.234 billion. Using a 3-percent discount rate for all benefits and costs, the estimated cost of this rulemaking is $0.179 billion in increased equipment costs, while the estimated benefits are $0.391 billion in reduced equipment operating costs, $0.114 billion in climate benefits, and $0.177 billion in health benefits. In this case, the net benefit amounts to $0.503 billion.

Table VII.2 shows the annualized monetized economic benefits and costs expected to result from this rulemaking. Using a 7-percent discount rate for consumer benefits and costs and health benefits, and a 3-percent discount rate case for GHG social (climate) costs, the estimated cost of this rulemaking is $9.1 million per year in increased equipment costs, while the estimated annual benefits are $13.5 million in reduced equipment operating costs, $5.8 million in climate benefits, and $5.3 million in health benefits. In this case, the net benefit amounts to $15.5 million per year. Using a 3-percent discount rate for all benefits and costs, the estimated cost of this rulemaking is $9.1 million per year in increased equipment costs, while the estimated annual benefits are $20.0 million in reduced equipment operating costs, $5.8 million in climate benefits, and $9.0 million in health benefits. In this case, the net benefit amounts to $25.7 million per year.

TABLE VII.1—SUMMARY OF MONETIZED ECONOMIC BENEFITS AND COSTS (BILLION 2020$)

[2022–2051 plus 30-year lifetime]

	Billion $2020
3% discount rate	
Consumer Operating Cost Savings	0.391
Climate Benefits *	0.114
Health Benefits **	0.177
Total Benefits †	0.682
Consumer Incremental Product Costs ††	0.179
Net Benefits	0.503
7% discount rate	
Consumer Operating Cost Savings	0.168
Climate Benefits *	0.114
Health Benefits **	0.066
Total Benefits †	0.347
Consumer Incremental Product Costs ††	0.113
Net Benefits	0.234

Note: This table presents the costs and benefits associated with Federal new commercial and multi-family high-rise buildings built in 2022–2051. These results include benefits to consumers which accrue after 2051 from the buildings constructed in 2022–2051.

[32] DOE also prepared an EA for this rule that details the environmental impacts, including emissions reductions, of the rule. Environmental Assessment for Final Rule, 10 CFR part 435, 'Energy Efficiency Standards for New Federal Low-Rise Residential Buildings,' Baseline Standards Update. The EA may be found in the docket for this rulemaking and at *www.energy.gov/nepa/doeea-2166-energy-efficiency-standards-new-federal-low-rise-residential-buildings-baseline.*

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). Together these represent the social cost of greenhouse gases (SC–GHG). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC–GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates. See section IV.B of this document for more details.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent. See section IV.B of this document for more details.

† Total and net benefits include consumer operating cost savings and benefits related to public health and climate. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law. † Costs include incremental equipment costs as well as installation costs.

TABLE VII.2—ANNUALIZED MONETIZED BENEFITS, COSTS, AND NET BENEFITS (MILLION 2020$)

[2022–2051 plus 30-Year Lifetime]

Category	Million 2020$/year	
	3% Discount rate	7% Discount rate
Consumer Operating Cost Savings	20.0	13.5
Climate Benefits *	5.8	5.8
Health Benefits **	9.0	5.3
Total Benefits†	34.8	24.6
Costs††	9.1	9.1
Net Benefits	25.7	15.5

Note: This table presents the costs and benefits associated with Federal new commercial and multi-family high-rise buildings built in 2022–2051. These results include benefits to consumers which accrue after 2051 from the buildings constructed in 2022–2051.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). Together these represent the social cost of greenhouse gases (SC–GHG). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC–GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates. See section IV.B of this document for more details.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent. See section IV.B of this document for more details.

† Total and net benefits include consumer operating cost savings and benefits related to public health and climate. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law.

†† Costs include incremental equipment costs as well as installation costs.

B. Review Under the Administrative Procedure Act

This rule, which updates energy efficiency performance standards for the design and construction of new Federal buildings, is a rule relating to public property, and therefore is not subject to the rulemaking requirements of the Administrative Procedure Act, including the requirement to publish a notice of proposed rulemaking. (*See* 5 U.S.C. 553(a)(2))

C. Review Under the Regulatory Flexibility Act

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

As noted above, DOE has determined that a notice of proposed rulemaking is not required by 5 U.S.C. 553 or any other law for issuance of this rule. As such, the analytical requirements of the Regulatory Flexibility Act do not apply. 5 U.S.C. 605(b).

D. Review Under the Paperwork Reduction Act of 1995

This rulemaking will impose no new information or record keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

E. Review Under the National Environmental Policy Act of 1969

DOE prepared an EA (DOE/EA–2166) entitled, ''Environmental Assessment for Final Rule, 10 CFR part 435, 'Energy Efficiency Standards for New Federal Low-Rise Residential Buildings,' Baseline Standards Update,'' [33] pursuant to the Council on Environmental Quality's (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508), the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and DOE's NEPA Implementing Procedures (10 CFR part 1021).

The EA addresses the possible incremental environmental effects attributable to the application of the final rule. The only anticipated impact would be a decrease in outdoor air pollutants resulting from decreased fossil fuel consumption, either directly consumed on site or indirectly when used to generate energy that is consumed in Federal buildings. Therefore, DOE has issued a finding of no significant impact (FONSI), pursuant to NEPA, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and DOE's regulations for compliance with NEPA (10 CFR part 1021).

To identify the potential environmental impacts that may result from implementing the final rule on new Federal low-rise residential buildings, DOE compared the requirements of the final rule updating energy efficiency performance standards for Federal new low-rise residential buildings to 2021 IECC with the ''no-action alternative'' of using the current Federal standards (the 2015 IECC). This comparison is identical to that undertaken by DOE in its determinations of energy savings of those standards and codes.

Accordingly, DOE concludes in the EA that new Federal buildings designed and constructed to the 2021 IECC will use less energy than new Federal buildings designed and constructed to the 2015 IECC because the 2021 IECC is more efficient than 2015 IECC. This decrease in energy usage translates to reduced emissions of carbon dioxide (CO_2), nitrogen oxides (NO_X), and mercury (Hg) over the 30-year period examined in the EA. As reported in the EA, cumulative emission reductions for 30 years of construction and operation for Federal buildings built during that period (2022 through 2051) were estimated at up to 1.3 million metric tons of CO_2, up to 2.3 thousand tons of NO_X, up to 0.002 tons of Hg, up to 10.8 thousand tons of CH_4, up to 0.4 thousand tons of SO_2, and up to 0.01 thousand tons of N_2O. In conducting the net benefits analysis, DOE also calculated the energy savings and associated emissions corresponding to the analysis period plus the lifetime of the building (30 years) to capture the full benefits stream associated with Federal buildings constructed from 2022 through 2051. For 30 years of construction and operation including building lifetime, cumulative emission reductions were estimated at up to 2.5 million metric tons of CO_2, up to 4.3 thousand tons of NO_X, up to 0.004 tons of Hg, up to 20.8 thousand tons of CH_4, up to 0.8 thousand tons of SO_2, and up to 0.02 thousand tons of N_2O.

F. Review under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this rule and determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

G. Review Under Executive Order 12988, ''Civil Justice Reform''

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

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments as well as the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a) and (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR

[33] The EA may be found in the docket for this rulemaking and at *www.energy.gov/nepa/doeea-2166-energy-efficiency-standards-new-federal-low-rise-residential-buildings-baseline.*

12820) (also available at *https://energy.gov/gc/office-general-counsel*). This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year by State, local, and tribal governments, in the aggregate, or by the private sector, so these requirements under the Unfunded Mandates Reform Act do not apply.

I. Review Under the Treasury and General Government Appropriations Act of 1999

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

J. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

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

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

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

L. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE's Energy Information Administration (EIA) estimates single-family and multi-family households in the residential sector will be approximately 120 million households averaging 1,800 square feet in the United States in 2022, with a growth rate of roughly 0.7 percent per year, which is equivalent to about 832,000 new households or approximately 1.5 billion square feet per year.[34] This rule is expected to incrementally reduce the energy usage of approximately 9.78 million square feet[35] of Federal low-rise residential construction annually. Thus, the rule represents approximately 0.65 percent of the expected annual U.S. construction in 2022, and less in every succeeding year. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the DOE Organization Act (Pub. L. 95–91), DOE must comply with section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). (15 U.S.C. 788) Section 32 provides that where a proposed rule authorizes or requires use of commercial standards, the NOPR must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Department of Justice (DOJ) and the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

Although section 32 specifically refers to the proposed rule stage, DOE is meeting these requirements at the final rule stage because there was no proposed rule for this action. This final rule incorporates testing methods contained in the following commercial standard: ICC 2021 IECC, International Energy Conservation Code, 2020, International Code Council, ISBN 978–1–60983–749–5.

DOE has evaluated these standards and notes that the IECC Standard is developed under ICC's governmental consensus standard procedures and is under a three-year maintenance cycle. ICC has established a program for regular publication of errata and revisions, including procedures for timely, documented, consensus action on requested changes to the IECC. The 2018 IECC was published in 2017 and the 2021 IECC was published in 2020. However, DOE is unable to conclude whether the IECC fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review). DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

N. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference the ICC 2021 International Energy Conservation Code, (IECC), Redline Version, copyright 2021. This U.S. standard provides minimum requirements for energy-efficient designs for low-rise residential buildings. Copies of this standard are available from the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478, 1–888–422–7233, *www.iccsafe.org.*

The Director of the Federal Register previously approved ICC International Energy Conservation Code (IECC) 2005, 2009, and 2015 Editions, for incorporation by reference in 10 CFR part 435.

[34] *See* Table A4 of the 2021 Annual Energy Outlook at *www.eia.gov/outlooks/aeo/excel/aeotab_4.xlsx.*

[35] *See* EA for this rule for the origin of the federal residential construction estimate.

VIII. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IX. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 435

Buildings and facilities, Energy conservation, Federal buildings and facilities, Housing, Incorporation by reference.

Signing Authority

This document of the DOE was signed on March 28, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the DOE. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 31, 2022.

Treena V. Garrett,

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

For the reasons set forth in the preamble, the Department of Energy amends part 435 of chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 435—ENERGY EFFICIENCY STANDARDS FOR THE DESIGN AND CONSTRUCTION OF NEW FEDERAL LOW–RISE RESIDENTIAL BUILDINGS

■ 1. The authority citation for part 435 continues to read as follows:

Authority: 42 U.S.C. 6831–6832; 6834–6836; 42 U.S.C. 8253–54, 42 U.S.C. 7101 *et seq.*

■ 2. Section 435.2 is amended by:

■ a. Removing in the definition for ''IECC Baseline Building 2004'', the text ''ICC International Energy Conservation Code, 2004 Supplement Edition, January 2005'' and adding, in its place, the text ''ICC IECC 2004'';

■ b. Removing in the definition for ''IECC Baseline Building 2009'', the text ''ICC International Energy Conservation Code, 2009 Edition, January 2009'' and adding, in its place, the text ''ICC IECC 2009''; and

■ c. Adding in alphanumerical order a definition for ''IECC Baseline Building 2021''.

The addition reads as follows:

§ 435.2 Definitions.

* * * * *

IECC Baseline Building 2021 means a building that is otherwise identical to the proposed building but is designed to meet, but not exceed, the energy efficiency specifications in the ICC IECC 2021 (incorporated by reference, see § 435.3).

* * * * *

■ 3. Section 435.3 is amended by revising paragraph (a) and adding paragraph (b)(4) to read as follows:

§ 435.3 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, DOE must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at DOE, and at the National Archives and Records Administration (NARA). Contact DOE at: The U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–9127, *Buildings@ee.doe.gov, https://www.energy.gov/eere/buildings/building-technologies-office.* For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the sources in the following paragraphs of this section.

(b) * * *

(4) ICC 2021 International Energy Conservation Code (IECC), Redline Version, Copyright 2021, (''IECC 2021''), IBR approved for §§ 435.2, 435.4, and 435.5.

■ 4. Section 435.4 is amended by:

■ a. Revising paragraph (a)(3) introductory text;

■ b. Removing in paragraph (a)(3)(i), the text ''2015 IECC'' and adding in its place the text ''IECC 2015''; and

■ c. Adding paragraph (a)(4).

The revision and addition reads as follows:

§ 435.4 Energy efficiency performance standard.

(a) * * *

(3) All Federal agencies shall design new Federal buildings that are low-rise residential buildings, for which design for construction began on or after January 10, 2018, but before April 5, 2023 to:

* * * * *

(4) All Federal agencies shall design new Federal buildings that are low-rise residential buildings, for which design for construction began on or after April 5, 2023 to:

(i) Meet the IECC 2021, (incorporated by reference, see § 435.3); and

(ii) If life-cycle cost-effective, achieve energy consumption levels, calculated consistent with paragraph (b) of this section, that are at least 30 percent below the levels of the IECC Baseline Building 2021.

* * * * *

■ 5. Section 435.5 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 435.5 Performance level determination.

* * * * *

(c) For new Federal buildings for which design for construction began on or after January 10, 2018 but before April 5, 2023 each Federal agency shall determine energy consumption levels for both the IECC Baseline Building 2015 and proposed building by using the Simulated Performance Alternative found in section R405 of the IECC 2015 (incorporated by reference, see § 435.3).

(d) For new Federal buildings for which design for construction began on or after April 5, 2023 each Federal agency shall determine energy consumption levels for both the IECC Baseline Building 2021 and proposed building by using the Simulated Performance Alternative found in section R405 of the IECC 2021 (incorporated by reference, *see* § 435.3).

[FR Doc. 2022–07138 Filed 4–4–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0020; Project Identifier MCAI–2021–00784–R; Amendment 39–22000; AD 2022–07–12]

RIN 2120–AA64

Airworthiness Directives; Hélicoptères Guimbal Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–02–20, which applied to certain Hélicoptères Guimbal (HG) Model Cabri G2 helicopters. AD 2021–02–20 required initial and repetitive inspections of certain rotating and non-rotating scissor fittings, and depending on the results, replacing the affected assembly. AD 2021–02–20 also prohibited installing certain main rotor hubs (MRHs) and swashplate guides unless the initial inspection was accomplished. This AD was prompted by a report of a crack in a rotating scissor fitting. This AD retains certain requirements of AD 2021–02–20, and requires installation of newly designed parts, provides a terminating action for the initial and repetitive inspections, and revises the applicability. This AD also extends the repetitive inspection interval and prohibits installing certain MRHs and swashplate guides. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 10, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 10, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of February 22, 2021 (86 FR 8299, February 5, 2021).

ADDRESSES: For service information identified in this final rule, contact Hélicoptères Guimbal, 1070, rue du Lieutenant Parayre, Aérodrome d'Aix-en-Provence, 13290 Les Milles, France; telephone 33–04–42–39–10–88; email *support@guimbal.com;* or at *https://www.guimbal.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. Service information that is incorporated by reference is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0020.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0020; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Union Aviation Safety Agency (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: Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–02–20, Amendment 39–21403 (86 FR 8299, February 5, 2021) (AD 2021–02–20). AD 2021–02–20 applied to HG Model Cabri G2 helicopters, with rotating or non-rotating scissor fitting part number (P/N) G12–00–200, installed on the MRH or swashplate guide, respectively. The NPRM published in the **Federal Register** on January 31, 2022 (87 FR 4822). In the NPRM, the FAA proposed to retain certain inspection and corrective action requirements of AD 2021–02–20. The NPRM also proposed to require within 60 hours time-in-service (TIS) or 6 months, whichever occurs first after the effective date of the proposed AD, and thereafter at intervals not to exceed 60 hours TIS or 6 months, whichever occurs first, leaving each scissor fitting assembled and visually inspecting each scissor fitting for a crack. If there is a crack during the initial inspection or the recurring inspection, the NPRM proposed to require before further flight, replacing certain parts or as an alternative, installing HG modification (mod) 20–040.

The NPRM proposed to require, within 60 months or during the next main gearbox overhaul, whichever occurs first after the effective date of the proposed AD, removing from service MRH P/N G12–00–100, or G12–00–101, or G12–00–102 and swashplate guide P/N G21–01–101 or G21–01–102 and installing HG mod 20–040. The proposed NPRM also allowed installing HG mod 20–040 to be a terminating action for the initial and recurring visual inspections required by the proposed AD.

Additionally, for any pre-HG mod 20–040 helicopter, as of February 22, 2021 (the effective date of AD 2021–02–20), the NPRM proposed to prohibit installing an MRH or swashplate guide, with a certain part-numbered rotating or non-rotating scissor fitting installed, unless certain actions have been accomplished. For any post-HG mod 20–040 helicopter, as of the effective date of the proposed AD, the NPRM proposed to prohibit installing an MRH or swashplate guide, with a certain part-numbered rotating or non-rotating scissor fitting installed, on any helicopter.

The NPRM was prompted by EASA AD 2021–0155, dated July 2, 2021 (EASA AD 2021–0155), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for HG Cabri G2 helicopters, all manufacturer serial numbers. EASA advises that a design change was developed for the MRH and swashplate guide including installation instructions for the modification. EASA AD 2021–0155 advises the design change requires installing new scissor fitting P/N G12–00–202, which is not affected by stress corrosion cracking. EASA AD 2021–0155 further advises once a helicopter installs a certain part-numbered MRH and a certain part-numbered swashplate guide containing the newly designed scissor fitting, HG mod 20–040 is accomplished. This condition, if not addressed, could result in failure of a rotating or non-rotating scissor fitting and subsequent loss of control of the helicopter.

Accordingly, EASA AD 2021–0155 retains the requirements of EASA AD 2020–0199, dated September 21, 2020, and corrected September 24, 2020 (EASA AD 2020–0199), which prompted AD 2021–02–20, and requires replacement of the MRH and swashplate guide assemblies with assemblies equipped with the newly designed scissor fitting. EASA AD 2021–0155 also increases the interval for the repetitive inspection and prohibits any affected part to be installed on any helicopter that has HG mod 20–040 installed. EASA AD 2021–0155 allows a terminating action for the initial and

repetitive inspections if the helicopter has been modified and includes the updated modification information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Guimbal Service Bulletin SB 20–012, Revision C; SB 20–011, Revision D; and SB 21–007 Revision C, each dated July 22, 2021 (SB 20–012 Rev C, SB 20–011 Rev D, and SB 21–007 Rev C). SB 20–012 Rev C specifies removing the bolts connecting the two scissor fittings P/N G12–00–200 and accomplishing a one-time detailed inspection for a crack in certain areas. SB 20–012 Rev C also specifies reassembling the two scissor fittings using correct bolt torque limits, installing new cotter pins, and reporting any findings to HG customer support.

SB 20–011 Rev D specifies procedures for a recurring inspection after accomplishment of SB 20–012 Rev C of the same areas of the scissor fittings for a crack as SB 20–012 Rev C, except without removing the bolts which connect the two scissor fittings. SB 20–011 Rev D also specifies reporting any findings to HG customer support. SB 21–007 Rev C specifies instructions for installing the newly designed scissor fitting.

This AD also requires Guimbal Service Bulletin SB 20–012, Revision B, dated October 5, 2020 (SB 20–012 Rev B), which the Director of the Federal Register approved for incorporation by reference as of February 22, 2021 (86 FR 8299, February 5, 2021).

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.

Other Related Service Information

The FAA also reviewed Guimbal Service Bulletin SB 20–011, Revision C, dated October 5, 2020 (SB 20–011 Rev C). SB 20–011 Rev C specifies the same procedures as SB–20–011 Rev D, except SB 20–011 Rev D updates the applicability and references SB 21–007 Rev C.

The FAA reviewed Guimbal Service Bulletin SB 20–011, Revision B, and SB 20–012, Revision A, each dated September 1, 2020 (SB 20–011 Rev B and SB 20–012 Rev A). SB 20–012 Rev A specifies the same procedures as SB 20–012 Rev B, except SB 20–012 Rev B revises the compliance time, adds the EASA AD identification information, and updates the Situation section description. SB 20–011 Rev B specifies the same procedures as SB 20–011 Rev C, except SB 20–011 Rev C adds the EASA AD identification information and updates the Situation section description.

The FAA also reviewed Guimbal Service Bulletin SB 21–007, Revision B, dated April 4, 2021 which states the same procedures as SB 21–007 Rev C, except SB 21–007 Rev C revises the compliance time to coincide with the effective date of EASA AD 2021–0155.

Differences Between This AD and EASA AD 2021–0155

EASA AD 2021–0155 requires detailed inspections, whereas this AD requires cleaning each scissor fitting and visually inspecting each scissor fitting using a flashlight. EASA AD 2021–0155 also requires reporting certain information, whereas this AD does not. EASA AD 2021–0155 requires replacing certain parts if a crack is detected with serviceable parts, whereas this AD requires replacing certain parts with airworthy parts.

Costs of Compliance

The FAA estimates that this AD affects 32 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Removing and installing the bolt and cotter pins in the initial inspection takes a minimal amount of time with a minimal parts cost.

Inspecting each scissor fitting takes about 0.5 work-hour for an estimated cost of $43 per fitting, per inspection cycle. There are 2 scissor fittings installed on a helicopter, for an estimated cost of $85 per helicopter and $2,720 for the U.S. fleet, per inspection cycle.

Removing an MRH and swashplate guide and installing the improved MRH and swashplate guide takes about 6 work-hours and parts cost about $1,608 through the parts exchange program for an estimated cost of $2,118 per helicopter and $67,776 for the U.S. fleet. The FAA expects the majority of operators to use the parts exchange program. If not accomplished through the parts exchange program, an improved MRH and swashplate guide costs about $8,695 for an estimated cost of $9,205 per helicopter and $294,560 for the U.S. fleet.

The FAA estimates the following costs to do any necessary on-condition replacements that are required based on the results of the inspection. The agency has no way of determining the number of aircraft that might need these on-condition replacements:

Replacement of an MRH due to a crack in the scissor fitting with an airworthy MRH takes about 5 work-hours and parts cost about $7,360 for an estimated cost of $7,785 per helicopter; and replacement of a swashplate guide due to a crack in the scissor fitting with an airworthy swashplate guide takes about 6 work-hours and parts cost about $1,312 for an estimated cost of $1,822 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–02–20, Amendment 39–21403 (86 FR 8299, February 5, 2021); and

■ b. Adding the following new airworthiness directive:

2022–07–12 Hélicoptères Guimbal: Amendment 39–22000; Docket No. FAA–2022–0020; Project Identifier MCAI–2021–00784–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 10, 2022.

(b) Affected ADs

This AD replaces AD 2021–02–20, Amendment 39–21403 (86 FR 8299, February 5, 2021) (AD 2021–02–20).

(c) Applicability

This AD applies to Hélicoptères Guimbal (HG) Model Cabri G2 helicopters, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6700, Rotorcraft Flight Control; 6710, Main Rotor Control.

(e) Unsafe Condition

This AD was prompted by a report of a crack in a rotating scissor fitting. The FAA is issuing this AD to detect a crack and prevent failure of a scissor fitting. The unsafe condition, if not addressed, could result in failure of a rotating or non-rotating scissor fitting 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

For helicopters with rotating or non-rotating scissor fitting part number (P/N) G12–00–200, installed on the main rotor hub (MRH) or swashplate guide, respectively:

(1) Within 30 hours time-in-service (TIS) or 30 calendar days, whichever occurs first after February 22, 2021 (the effective date of AD 2021–02–20):

(i) Remove the cotter pins and bolts connecting the rotating and non-rotating scissor fitting by following the Required Actions, IPC 4.1–2 a), of Guimbal Service Bulletin SB 20–012, Revision B, dated October 5, 2020 (SB 20–012 Rev B). Remove the cotter pins from service. Clean each scissor fitting. Using a flashlight, visually inspect each scissor fitting by following the Required Actions, IPC 4.1–2 b), of SB 20–012 Rev B. As an alternative to using SB 20–012 Rev B, you may remove the cotter pins and bolts in accordance with the Required Actions, IPC 4.1–2 a), of Guimbal Service Bulletin SB 20–012, Revision C, dated July 22, 2021 (SB 20–012 Rev C), and visually inspect each scissor fitting in accordance with the Required Actions, IPC 4.1–2 b), of SB 20–012 Rev C.

(ii) If there is a crack, before further flight, replace the MRH or swashplate guide with an airworthy part as applicable; or, as an alternative, you may accomplish the modification specified in paragraph (g)(3) of this AD.

(iii) If there is not a crack, reassemble the scissor fittings by following the Required Actions, IPC 4.1–2 c), of SB 20–012 Rev B. As an alternative to using SB 20–012 Rev B, you may reassemble the scissor fittings in accordance with the Required Actions, IPC 4.1–2 c), of SB 20–012 Rev C.

(2) Thereafter, within 60 hours TIS or 6 months, whichever occurs first after the effective date of this AD, and thereafter at intervals not to exceed 60 hours TIS or 6 months, whichever occurs first:

(i) Leaving each rotating and non-rotating scissor fitting assembled, clean each scissor fitting. Using a flashlight, visually inspect each scissor fitting by following the Required Actions, IPC 4.1–2 a), of Guimbal Service Bulletin SB 20–011, Revision D, dated July 22, 2021.

(ii) If there is a crack, before further flight, replace the MRH or swashplate guide, with an airworthy part as applicable; or, as an alternative, you may accomplish the modification specified in paragraph (g)(3) of this AD.

(3) Within 60 months, or during the next main gearbox overhaul, whichever occurs first after the effective date of this AD, remove MRH P/N G12–00–100, or G12–00–101, or G12–00–102 and swashplate guide P/N G21–01–101 or G21–01–102 from service and modify your helicopter by installing MRH P/N G12–00–103 and swashplate guide P/N G21–01–103 containing scissor fitting P/N G12–00–202 (HG modification (mod) 20–040) by following the Required Actions, IPC 2.1–0 a) through k) and m) through aa) of Guimbal Service Bulletin SB 21–007, Revision C, dated July 22, 2021.

Note 1 to paragraph (g)(3): HG mod 20–040, as referenced in paragraphs (g)(3), and (h)(1) and (2) of this AD, is accomplished after installation of MRH P/N G12–00–103 and swashplate guide P/N G21–01–103 containing scissor fitting P/N G12–00–202.

(4) Completing the actions required by paragraph (g)(3) of this AD constitutes a terminating action for the requirements in paragraphs (g)(1) and (2) of this AD.

(h) Parts Installation

(1) For any pre-HG mod 20–040 helicopter: As of February 22, 2021 (the effective date of AD 2021–02–20), do not install an MRH or swashplate guide, with rotating or non-rotating scissor fitting P/N G12–00–200 installed, respectively, on any helicopter, even if new, unless the actions required by paragraph (g)(1) of this AD have been accomplished.

(2) For any post-HG mod 20–040 helicopter: As of the effective date of this AD, do not install an MRH or swashplate guide, with rotating or non-rotating scissor fitting P/N G12–00–200 installed, respectively, on any helicopter.

(i) Credit for Previous Actions

(1) This paragraph provides credit for the actions required by paragraph (g)(1) of this AD if you accomplished Guimbal Service Bulletin SB 20–012, Revision A, dated September 1, 2020, before February 22, 2021 (the effective date of AD 2021–02–20).

(2) This paragraph provides credit for the first instance of the actions required by paragraph (g)(2) of this AD if you accomplished Guimbal Service Bulletin SB 20–011, Revision B, dated September 1, 2020, before February 22, 2021 (the effective date of AD 2021–02–20).

(3) This paragraph provides credit for the actions required by paragraph (g)(2) of this AD if you accomplished Guimbal Service Bulletin SB 20–011, Revision C, dated October 5, 2020, before the effective date of this AD.

(4) This paragraph provides credit for the actions required by paragraph (g)(3) of this AD if you accomplished Guimbal Service Bulletin SB 21–007, Revision B, dated April 4, 2021, before the effective date of this AD.

(j) Special Flight Permits

A special flight permit may be permitted provided that there are no passengers onboard, and the flight is operating under day Visual Flight Rules, for the purpose of ferrying the helicopter to an authorized maintenance facility.

(k) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/ certificate holding district office.

(l) Related Information

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

(2) Service information identified in this AD is available at the contact information specified in paragraphs (m)(5) and (6).

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2021–0155, dated July 2, 2021. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2022–0020.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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.

(3) The following service information was approved for IBR on May 10, 2022.

(i) Guimbal Service Bulletin SB 20–011, Revision D, dated July 22, 2021.

(ii) Guimbal Service Bulletin SB 20–012, Revision C, dated July 22, 2021.

(iii) Guimbal Service Bulletin SB 21–007 Revision C, dated July 22, 2021.

(4) The following service information was approved for IBR on February 22, 2021 (86 FR 8299, February 5, 2021).

(i) Guimbal Service Bulletin SB 20–012, Revision B, dated October 5, 2020.

(ii) [Reserved]

(5) For Hélicoptères Guimbal service information identified in this AD, contact Hélicoptères Guimbal, 1070, rue du Lieutenant Parayre, Aérodrome d'Aix-en-Provence, 13290 Les Milles, France; telephone 33–04–42–39–10–88; email *support@guimbal.com;* web *https://www.guimbal.com.*

(6) 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.

(7) 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 March 24, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07094 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1068; Project Identifier MCAI–2021–00383–T; Amendment 39–21981; AD 2022–06–15]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. This AD was prompted by reports of bleed air leaks in the wing box area and failure of the leak detection shroud. This AD requires removing and inspecting the affected V-band coupling and check valve seals, doing corrective actions if necessary, and replacing the coupling and seals with a redesigned assembly. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 10, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 10, 2022.

ADDRESSES: For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.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 on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1068.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1068; 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: Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–11, dated March 29, 2021 (TCCA AD CF–2021–11) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1068.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all De Havilland Aircraft of Canada Limited Model DHC–8–401 and –402 airplanes. The NPRM published in the **Federal Register** on December 17, 2021 (86 FR 71594). The NPRM was prompted by reports of bleed air leaks in the wing box area and failure of the leak detection shroud. The NPRM proposed to require removing and inspecting the affected V-band coupling and check valve seals, doing corrective actions if necessary, and replacing the coupling and seals with a redesigned assembly. The FAA is issuing this AD to address the possibility of undetected hot engine bleed air being directed onto aircraft structure, the main landing gear (MLG) emergency release cable, and the static air temperature (SAT) sensor, which could cause the main landing gear emergency release cable to malfunction. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line

Pilots Association, International (ALPA), indicated its support for NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

De Havilland Aircraft of Canada Limited has issued Service Bulletin 84–36–06, dated December 15, 2020. This service information describes procedures for removing the affected V-band coupling and check valve seals, doing a visual inspection of the coupling covers and surrounding area for damage due to bleed air leakage, and replacing the coupling and seals with a redesigned assembly.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$75	$415	$34,030

The FAA estimates the following costs to do any necessary coupling cover replacement that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTION

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$5	$90

The FAA has received no definitive data on which to base the cost estimates for correcting damage in the area surrounding the coupling covers.

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:

2022–06–15 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–21981; Docket No. FAA–2021–1068; Project Identifier MCAI–2021–00383–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 10, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Model DHC–8–401 and –402 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by reports of bleed air leaks in the wing box area and failure of the leak detection shroud. The FAA is issuing this AD to address the possibility of undetected hot engine bleed air being directed onto aircraft structure, the main landing gear (MLG) emergency release cable, and the static air temperature (SAT) sensor,

which could cause the main landing gear emergency release cable to malfunction.

(f) Compliance

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

(g) Required Actions

Within 48 months or 8,000 flight hours, whichever occurs first, from the effective date of this AD: Remove the affected V-band coupling and check valve seals, do a visual inspection for damage to the coupling covers and surrounding area, and replace the coupling and seals with a redesigned assembly, in accordance with the Accomplishment Instructions, paragraph 3.B., of de Havilland Service Bulletin 84–36–06, dated December 15, 2020.

(1) If any damage to a coupling cover is found, replace the coupling cover before further flight in accordance with the Accomplishment Instructions of de Havilland Service Bulletin 84–36–06, dated December 15, 2020.

(2) If any damage to the surrounding area is found, before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (i)(2) of this AD.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install a V-band coupling, part number (P/N) DSC361–250, or check valve seal, P/N MS35769–71, in the center wing front spar area of any airplane.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–11, dated March 29, 2021, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1068.

(2) For more information about this AD, contact Elizabeth Dowling, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(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) De Havilland Aircraft of Canada Limited Service Bulletin 84–36–06, dated December 15, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.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.

(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 March 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07083 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1063; Project Identifier MCAI–2021–00826–T; Amendment 39–21987; AD 2022–06–21]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2018–09–09, which applied to certain Airbus Model A318 and A319 series airplanes; all Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and all Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2018–09–09 required modifying the holes of the upper cleat to upper stringer attachments at certain areas of the left- and right-hand wings. Since the FAA issued AD 2018–09–09, additional affected configurations were identified and, for certain airplanes, it was determined that additional modification work and revised compliance times are necessary. This AD retains the requirements of AD 2018–09–09 and adds airplanes, requires different compliance times for certain airplane configurations, and, for certain airplanes, requires additional modifications or reduces compliance times, 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 May 10, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 10, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at

https://www.regulations.gov by searching for and locating Docket No. FAA–2021–1063.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1063; 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 mandatory continuing airworthiness information (MCAI), 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:

Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3223; email *sanjay.ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0167, dated July 14, 2021 (EASA AD 2021–0167) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2018–09–09, Amendment 39–19266 (83 FR 19925, May 7, 2018; corrected May 15, 2018 (83 FR 22354)) (AD 2018–09–09). AD 2018–09–09 applied to certain Airbus Model A318 and A319 series airplanes; all Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and all Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on December 21, 2021 (86 FR 72195). The NPRM was prompted by a report indicating that additional affected configurations were identified to be subject to widespread fatigue damage and, for certain airplanes, it was determined that additional modification work (such as, for certain configurations, oversizing certain additional holes, replacing a certain fastener with a corrosion-resistant fastener, or cleat refit and sealant procedure) or revised compliance times are necessary. The NPRM proposed to retain the requirements of AD 2018–09–09 and add airplanes, require different compliance times for certain airplane configurations, and, for certain airplanes, require additional modifications or reduce compliance times, as specified in EASA AD 2021–0167.

The FAA is issuing this AD to prevent fatigue cracking in the stringer attachment holes of the wings, which could result in reduced structural integrity of the wings. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters, Air Line Pilots Association, International (ALPA), and United Airlines, who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the 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. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0167 specifies procedures for modifying the stringer attachments at rib 2 through rib 7 of the left- and right-hand wings. The modification includes oversizing the holes, doing an eddy current inspection of the affected holes for damage, and repairing damage. EASA AD 2021–0167 also specifies additional work for airplanes on which the modification actions were accomplished using certain service information. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 1,446 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2018–09–09	125 work-hours × $85 per hour = $10,625	$26,260	$36,885	$41,901,360 (1,136 airplanes).
New actions	125 work-hours × $85 per hour = $10,625	1,520	12,145	$17,561,670.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions or the additional work for certain previously modified airplanes, as specified in this AD.

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 (AD) 2018–09–09, Amendment 39–19266 (83 FR 19925, May 7, 2018; corrected May 15, 2018 (83 FR 22354)); and

■ b. Adding the following new AD:

2022–06–21 Airbus SAS: Amendment 39–21987; Docket No. FAA–2021–1063; Project Identifier MCAI–2021–00826–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 10, 2022.

(b) Affected ADs

This AD replaces AD 2018–09–09, Amendment 39–19266 (83 FR 19925, May 7, 2018; corrected May 15, 2018 (83 FR 22354)).

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0167, dated July 14, 2021 (EASA AD 2021–0167).

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a report that additional affected configurations were identified to be subject to widespread fatigue damage at certain stringer attachments and, for certain airplanes, it was determined that additional modification work is necessary. The FAA is issuing this AD to prevent fatigue cracking in the stringer attachment holes of the wings, which could result in reduced structural integrity of the wings.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0167.

(h) Exceptions to EASA AD 2021–0167

(1) Where EASA AD 2021–0167 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0167 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3223; email *sanjay.ralhan@faa.gov.*

(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 2021–0167, dated July 14, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0167, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

(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 March 10, 2022.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07085 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0383; Project Identifier MCAI–2022–00264–T; Amendment 39–21998; AD 2022–07–10]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report that certain overheat detection system (OHDS) sensing elements may not properly detect thermal bleed leak events due to a quality escape during the manufacturing process. This AD requires revising the operator's existing FAA-approved minimum equipment list (MEL) to include dispatch restrictions as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also prohibits the installation of affected parts. This AD also allows operators to inspect affected parts for discrepancies, and do applicable replacements, in order to terminate the revision of the operator's existing MEL required by this AD. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective April 20, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 20, 2022.

The FAA must receive comments on this AD by May 20, 2022.

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

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

For EASA material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For Kidde Aerospace & Defense service information identified in this final rule, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Building B, Wilson, NC 27896; telephone: 319–295–5000; internet: *https://kiddetechnologies.com/aviation.com.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0383.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0383; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2022–0383; Project Identifier MCAI–2022–00264–T" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0031, dated February 25, 2022 (EASA AD 2022–0031) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

This AD was prompted by a report that certain OHDS sensing elements may not properly detect thermal bleed leak events due to a quality escape during the manufacturing process. The FAA is issuing this AD to address undetected thermal bleed leak events that might not be isolated during flight, possibly resulting in localized areas of the wing structure being exposed to high temperatures and consequent reduced structural integrity of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0031 specifies procedures for revising the operator's existing MEL to include dispatch restrictions (which, depending on the configuration, includes limiting the number of inoperative days for the

OHDS sensing element or requiring certain checks in order to be inoperative) for Airbus A350 Master Minimum Equipment List (MMEL) item 36–22–01, ''Air Leak Detection Redundancy.'' EASA AD also specifies procedures for a detailed inspection of the affected OHDS sensing elements for discrepancies (*i.e.,* the related electronic centralized aircraft monitoring (ECAM) alert is not displayed after a heat gun test is done), and applicable replacements (which is not required by this AD, as discussed under ''Differences Between this AD and the MCAI).'' EASA AD 2022–0031 also prohibits the installation of affected parts.

Kidde Aerospace & Defense Service Bulletin CFD–26–3, dated January 13, 2022, identifies affected OHDS sensing elements (those having certain part numbers and corresponding date codes).

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI described above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2022–0031 described previously, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the MCAI.''

EASA AD 2022–0031 requires operators to ''inform all flight crews'' of revisions to the operator's existing MMEL, and thereafter to ''operate the aeroplane accordingly.'' However, this AD does not specifically require those actions as they are already required by FAA regulations.

FAA regulations (14 CFR 121.628(a)(2)) require operators to provide pilots with access to all of the information contained in the operator's existing MEL. Furthermore, 14 CFR 121.628(a)(5) requires airplanes to be operated under all applicable conditions and limitations contained in the operator's existing MEL. Therefore, including a requirement in this AD to operate the airplane according to the revised MEL would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2022–0031 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2022–0031 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0031 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0031. Service information required by EASA AD 2022–0031 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0383 after this AD is published.

Differences Between This AD and the MCAI

EASA AD 2022–0031 requires an inspection of affected parts for discrepancies within 36 months, and replacing discrepant parts. However, the planned compliance time for the inspection would allow enough time to provide notice and opportunity for prior public comment on the merits of the inspection. Therefore, the FAA is considering further rulemaking to require the inspection and replacement. This AD does not mandate that inspection, instead making it an optional action in this AD. Accomplishing the inspection, and applicable replacements, will constitute terminating action for the revision of the operator's existing MEL required by this AD. The terminating action is specified in paragraph (5) of EASA AD 2022–0031.

FAA's Justification and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because undetected thermal bleed leak events that might not be isolated during flight could result in localized areas of the wing structure being exposed to high temperatures and consequent reduced structural integrity of the airplane. The OHDS sensing elements are critical to continued airworthiness of the airplane because an undetected hot air leak might lead to permanent damage to the surrounding loaded structure. Additionally, the revision of the operator's existing MEL required by this AD must be done within 30 days in order to address the unsafe condition. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

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

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

The FAA estimates that this AD affects 29 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$2,465

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
13 work-hours × $85 per hour = $1,105	$0	$1,105

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any optional actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hours × $85 per hour = $85	* $0	* $85

* The FAA has received no definitive data on the parts cost.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–07–10 Airbus SAS: Amendment 39–21998; Docket No. FAA–2022–0383; Project Identifier MCAI–2022–00264–T.

(a) Effective Date

This airworthiness directive (AD) is effective April 20, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by a report that certain overheat detection system (OHDS) sensing elements may not properly detect thermal bleed leak events due to a quality escape during the manufacturing process. The FAA is issuing this AD to address undetected thermal bleed leak events that might not be isolated during flight, possibly resulting in localized areas of the wing structure being exposed to high temperatures and consequent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0031, dated February 25, 2022 (EASA AD 2022–0031).

(h) Exceptions to EASA AD 2022–0031

(1) Where EASA AD 2022–0031 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2022–0031 has a definition for ''Affected part'' and refers to ''the VSB [vendor service bulletin]'' for the

part numbers and date codes, for this AD, use Kidde Aerospace & Defense Service Bulletin CFD–26–3, dated January 13, 2022, as ''the VSB'' for the part numbers and date codes.

(3) Where EASA AD 2022–0031 has a definition for ''Groups'' and identifies certain airplanes as Group 2 airplanes, replace the text, ''An aeroplane having an MSN [manufacturer serial number] not listed in the Section 1.A of the SB is Group 2, provided it is determined that no affected part has been installed on any affected position of that aeroplane since Airbus date of manufacture'' with ''An aeroplane having an MSN not listed in the Section 1.A of Airbus Service Bulletin A350–36–P032, dated December 3, 2021, is Group 2, provided it is determined that no affected part has been installed on any affected position of that aeroplane since Airbus date of manufacture.''

(4) Where paragraphs (2) and (3) of EASA AD 2022–0031 require a detailed inspection of affected parts and applicable corrective actions, this AD does not require those actions, but allows performing those actions as terminating action for the revision of the operator's existing minimum equipment list (MEL) as specified in paragraph (5) of EASA AD 2022–0031.

(5) The ''Remarks'' section of EASA AD 2022–0031 does not apply to this AD.

(6) Where paragraph (1) of EASA 2022 0031 specifies to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(i) No Reporting Requirement and No Return of Parts

(1) Although the service information referenced in EASA AD 2022–0031 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(2) Although the service information referenced in EASA AD 2022–0031 specifies to return certain parts to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraphs (i) and (j)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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 2022–0031, dated February 25, 2022.

(ii) Kidde Aerospace & Defense Service Bulletin CFD–26–3, dated January 13, 2022.

(3) For EASA AD 2022–0031, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) For Kidde Aerospace & Defense service information, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Building B, Wilson, NC 27896; telephone: 319–295–5000; internet: *https://kiddetechnologies.com/aviation.com.*

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

(6) 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 March 24, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07089 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0224]

RIN 1625–AA00

Safety Zone; Upper Mississippi River Mile Markers 172.0–172.3, St. Louis, MO

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters in the Upper Mississippi River at Mile Markers (MM) 172.0–172.3. The safety zone is needed to protect personnel, vessels, and the marine environment from all potential hazards associated with electrical line work. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective without actual notice from April 5, 2022, through May 1, 2022. For the purposes of enforcement, actual notice will be used from March 30, 2022, until April 5, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0224 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register

NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The work for this project has already begun and the NPRM process would hinder the progress of the ongoing work and compromise public safety. We must establish this temporary safety zone immediately 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 this rule would be contrary to public safety due to ongoing construction work.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with electrical line work will be a safety concern for anyone operating or transiting within the Upper Mississippi River from MM 172.0 through 172.3. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while electrical line work is being conducted.

IV. Discussion of the Rule

Electrical line work has been ongoing near Mile Marker (MM) 172 since March 9, 2022. The safety zone is designed to protect waterway users until work is complete.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size of the safety zone as conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on a safety zone located on the Upper Mississippi River at MM 172.0–172.3, near the River City Casino. The Safety Zone is expected to be active only during the hours of 0900–1400, or only when work is being conducted, every day until May 1, 2022.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian

tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing the width of the Upper Mississippi River at MM 172.0–172.3. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0224 to read as follows:

§ 165.T08–0224 Safety Zone; Mississippi River, Mile Markers 172.0–172.3, St. Louis, MO.

(a) *Location.* The following area is a safety zone: All navigable waters within Upper Mississippi River Mile Markers (MM) 172.0–172.3.

(b) *Effective period.* This section is effective without actual notice from April 5, 2022, through May 1, 2022. For the purposes of enforcement, actual notice will be provided from March 30, 2022, through April 5, 2022.

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

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone as ice or flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: March 30, 2022.

R.M. Scott,

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

[FR Doc. 2022–07070 Filed 4–4–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0229]

RIN 1625–AA00

Safety Zone; Tennessee River, Chattanooga, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Tennessee River on mile marker (MM) 464.0 to 464.5. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by Vision Hospitality 25th Anniversary Fireworks. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 9:30 p.m. through 10:30 p.m. on April 21, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0229 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Third Class Joshua Rehl, Marine Safety Detatchment Nashville, U.S. Coast Guard; telephone 615–736–5421, email *Joshua.M.Rehl@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to

comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable . We must establish this safety zone immediately and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Vision Hospitality Group 25th Anniversary Fireworks starting April 21, 2022, will be a safety concern for anyone within mile marker 464.0 to 464.5 on the Tennessee River. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the firework display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 9:30 p.m. until 10:30 p.m. on April 21, 2022. The safety zone will cover all navigable waters between Mile Marker (MM) 464.0 to 464.5 on the Tennessee River, extending the entire width of the river. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the fireworks display is occuring. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone, enforcement period, as well as any changes in the dates and times of enforcement.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone restricts transit on a point five segment of the Tennessee River for 1 hour on one day. Moreover, the Coast Guard would issue Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone so that waterway users may plan accordingly for this short restriction on transit, and the rule allows vessels to request permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 1 hour that will prohibit entry between MM 464.0 to 464.5 on the Tennessee River for the fireworks display. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. Due to the emergency nature of this rulemaking, a Record of Environmental Consideration is not required.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1., Revision No. 01.2.Inserting required closing tag for E.

■ 2. Add § 165.T08–0223 to read as follows:

§ 165.T08–0223 Safety Zone; Tennessee River, Chattanooga, TN.

(a) *Location.* The following area is a safety zone: All navigable waters of the Tennessee River, Mile Markers 464.0 to 464.5, extending the entire width of the river.

(b) *Periods of enforcement.* This section will be enforced from 9:30 p.m. through 10:30 p.m. on April 21, 2022.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or the COTP's 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 Ohio Valley.

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone, enforcement period, as well as any changes in the dates and times of enforcement.

Dated: March 30, 2022.

A.M. Beach,

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

[FR Doc. 2022–07156 Filed 4–4–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0638; FRL–9101–02–R9]

Clean Air Plans; Base Year Emissions Inventories for the 2015 Ozone Standards; Arizona; Phoenix-Mesa and Yuma Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), revisions to the Arizona state implementation plan (SIP) concerning the base year emissions inventory requirements for the Phoenix-Mesa ozone nonattainment area (''Phoenix-Mesa'') and Yuma ozone nonattainment area (''Yuma'') for the 2015 ozone national ambient air quality standards (NAAQS).

DATES: This rule is effective May 5, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0638. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ben Leers, Air Planning Office (AIR–2), EPA Region IX, (415) 947–4279, *leers.ben@epa.gov.*

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

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I. Proposed Action

On July 8, 2020, the Arizona Department of Environmental Quality (ADEQ) submitted a revision to the Arizona SIP titled ''Maricopa Association of Governments (MAG) 2020 Eight-Hour Ozone Plan'' (''2020 Phoenix-Mesa SIP Submittal''). The 2020 Phoenix-Mesa SIP Submittal includes a 2017 baseline emissions inventory for Phoenix-Mesa developed by the Maricopa Association of Governments. On December 22, 2020, ADEQ submitted a revision to the Arizona SIP titled ''Marginal Ozone

Plan for the Yuma Nonattainment Area,'' and on July 1, 2021, ADEQ provided a technical supplement to its December 22, 2020 SIP revision. ADEQ's December 22, 2020 SIP revision and July 1, 2021 technical supplement include a 2017 baseline emissions inventory for Yuma and are herein referred to collectively as the ''2020 Yuma SIP Submittal.''

On October 22, 2021, the EPA proposed to approve the 2020 Phoenix-Mesa SIP Submittal and 2020 Yuma SIP Submittal as meeting the ozone-related baseline emissions inventory requirement for the Phoenix-Mesa and Yuma ozone nonattainment areas, respectively, for the 2015 ozone NAAQS.[1] Our October 22, 2021 proposed rule also discussed the following: Background on the 2015 ozone NAAQS; an overview of the baseline emissions inventory requirements for the 2015 ozone NAAQS under sections sections 172(c)(3) and 182(a)(1) of the CAA and under the EPA's implementing regulations for the 2015 ozone NAAQS at 40 CFR 51.1315; an overview of ADEQ's SIP revisions submitted to meet the ozone baseline emissions inventory requirement for Phoenix-Mesa and Yuma; a discussion of the public notice and hearing procedures conducted by ADEQ to meet the requirements of CAA sections 110(a)(1) and 110(l) and 40 CFR 51.102; and our evaluation of ADEQ's SIP submittals.

II. Public Comments and EPA Responses

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

III. EPA Action

For the reasons described in our October 22, 2021 proposed action, we are taking final action to approve the 2020 Phoenix-Mesa SIP Submittal and 2020 Yuma SIP Submittal as meeting the ozone-related baseline emissions inventory requirement for the Phoenix-Mesa and Yuma ozone nonattainment areas for the 2015 ozone NAAQS. The emissions inventories in the 2020 Phoenix-Mesa SIP Submittal and 2020 Yuma SIP Submittal contain comprehensive, accurate, and current inventories of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a).

[1] 86 FR 58630.

IV. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The Fort McDowell Yavapai Nation, the Gila River Indian Community of the Gila River Indian Reservation, the Tohono O'odham Nation of Arizona, and the Salt River Pima Maricopa Indian Community of the Salt River Reservation have areas of Indian country located within the Phoenix-Mesa nonattainment area for the 2015 ozone NAAQS. The Cocopah Tribe of Arizona and the Quechan Tribe of the Fort Yuma Indian Reservation have areas of Indian country located within the Yuma nonattainment area for the 2015 ozone NAAQS. In those areas of Indian country, this final rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 29, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart D—Arizona

■ 2. Section 52.120, paragraph (e), table 1 is amended:

■ a. Under the heading ''Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas,'' by adding entries for ''SIP Revision: Marginal Ozone Plan for the Yuma Nonattainment Area (dated December 17, 2020), excluding chapter D and appendix C'' and ''Supplemental Information for the Yuma Ozone Marginal Non-Attainment Area State Implementation Plan Emission Inventory (dated June 30, 2021)'' before the entry for ''SIP Revision: Hayden Lead Nonattainment Area, excluding Appendix C''; and

■ b. Under the heading ''Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas'' by adding an entry for ''MAG 2020 Eight-Hour Ozone Plan—Submittal of Marginal Area Requirements for the Maricopa Nonattainment Area (dated June 2020), excluding the chapter titled ''Emissions Statements—CAA Section 182(a)(3)(B)'' '' after the entry for ''Reasonably Available Control Technology (RACT) Analysis, Negative Declaration and Rules Adoption''.

The additions read as follows:

§ 52.120 Identification of plan.

* * * * *

(e) * * *

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively] [1]

Name of SIP provision	Applicable geographic or nonattainment area or title/subject	State/submittal date	EPA approval date	Explanation
The State of Arizona Air Pollution Control Implementation Plan				
*	*	*	*	*
Part D Elements and Plans (Other than for the Metropolitan Phoenix or Tucson Areas)				
SIP Revision: Marginal Ozone Plan for the Yuma Nonattainment Area (dated December 17, 2020), excluding chapter D and appendix C.	Yuma 2015 8-hour ozone nonattainment area.	December 22, 2020 ...	April 5, 2022, [INSERT **Federal Register** CITATION].	Adopted by the Arizona Department of Environmental Quality on December 22, 2020.
Supplemental Information for the Yuma Ozone Marginal Non-Attainment Area State Implementation Plan Emission Inventory (dated June 30, 2021).	Yuma 2015 8-hour ozone nonattainment area.	July 1, 2021	April 5, 2022, [INSERT **Federal Register** CITATION].	Submitted as a supplement to the SIP Revision: Marginal Ozone Plan for the Yuma Nonattainment Area on July 1, 2021.
*	*	*	*	*
Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas				
*	*	*	*	*
MAG 2020 Eight-Hour Ozone Plan—Submittal of Marginal Area Requirements for the Maricopa Nonattainment Area (dated June 2020), excluding the chapter titled ''Emissions Statements—CAA Section 182(a)(3)(B)''.	Phoenix-Mesa 2015 8-hour ozone nonattainment area.	July 8, 2020	April 5, 2022, [INSERT **Federal Register** CITATION].	Adopted by the Arizona Department of Environmental Quality on July 7, 2020.
*	*	*	*	*

[1] Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

* * * * *

[FR Doc. 2022–07056 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0410; FRL–8791–02–R9]

Air Plan Limited Approval and Limited Disapproval; California; Air Resources Board; Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of a revision to the California Air Resources Board (CARB) portion of the California State Implementation Plan (SIP). These revision concerns emissions of volatile organic compounds (VOCs) from vapor recovery systems of gasoline cargo tanks. Under the authority of the Clean Air Act (CAA or the Act), this action

simultaneously approves the rescission of a different statewide rule from the California SIP that previously regulated this emission source.

DATES: This rule is effective May 5, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA–R09–OAR–2021–0410. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: La Kenya Evans, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3245 or by email at *evans.lakenya@epa.gov.*

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

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I. Proposed Action

On October 21, 2021 (86 FR 58627), the EPA proposed a limited approval and limited disapproval of the following SIP revisions, that were submitted on August 22, 2018, for incorporation into the California SIP.

TABLE 1—SUBMITTED SIP REVISIONS

Regulation or provision	Regulation title or subject	Date of local action	State requested action
California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014.	Certification of Vapor Recovery Systems for Cargo Tanks.	Adopted on 07/25/13	Addition to the SIP.
Certification Procedure CP–204	Certification Procedure for Vapor Recovery Systems of Cargo Tanks.	Referenced in Section 94014 and adopted on 11/7/2014.	Addition to the SIP.
Test Procedure TP–204.1	Determination of Five Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks.	Referenced in Section 94014 and adopted on 11/7/2014.	Addition to the SIP.
Test Procedure TP–204.2	Determination of One Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks.	Referenced in Section 94014 and adopted on 05/27/2014.	Addition to the SIP.
Test Procedure TP–204.3	Determination of Leak(s)	Referenced in Section 94014 and adopted on 11/7/2014.	Addition to the SIP.
California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94004.	Certification of Vapor Recovery Systems—Gasoline Delivery Tanks.	Repealed on 06/29/1995	Rescission from the SIP.
Method 2–5	Certification and Test Procedures for Vapor Recovery Systems of Gasoline Delivery Tanks.	Referenced in Section 94004 and effective on 09/1/1982.	Rescission from the SIP.

We proposed a limited approval because we determined that these revisions improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 of the Act. These provisions include the following:

1. Executive Officer discretion in California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014, CP–204 Section 5.4 and incorporated by reference in TP–204.1, TP–204.2, and TP–204.3.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During the comment period we received two anonymous comments in support of EPA's October 21, 2021 proposed rule to limit VOC emissions and protect the environment. We acknowledge the comments, and we are approving the regulations that pertain to vapor emissions into the SIP. EPA received one comment from Silvio Mazzella Jr. providing additional reference materials. We acknowledge the additional information noted by the commenter.

We also received one comment from Isabelle Nield, which we respond to below.

Comment: The commenter's primary concern is that ''[d]ue to the proposed rule's lack of compliance with the Clean Air Act . . . the rule should [not] be incorporated into the SIP in its current state.'' They recommend instead that ''the proposed rule should be revised to address the deficiencies, then approved.'' Aside from this issue, the commenter notes the value of the proposed SIP revision for air quality in a range of areas, including reduction in outdoor VOCs and interstate emissions exchange from gasoline regulation.

EPA's Response: We understand the commenter to assert that the Executive Officer discretion issue that represents the basis for our limited disapproval of California Code of Regulations, Title 17, Section 94014 is significant enough to warrant not approving the entire rule into the SIP until the issue is corrected. We disagree.

As we noted in our October 21, 2021 proposed rule, a comparison of the revised Section 94014 as a whole with the current SIP-approved version, which was last approved on July 8, 1982, indicates substantial changes to the rule that improve the clarity, specificity, and stringency of the current SIP-approved rule. Additionally, the minor deficiencies the EPA identified in the SIP revision will not result in any degredation in California's air quality with respect to VOCs. As noted in the Technical Support Document found in the docket for our proposed action, at the time of the rule's submittal, CARB had never approved any of the equivalent test methods to Technical Procedure (TP)–204.1, TP–204.2 or TP–204.3 that are the subject of the limited disapproval in the nearly forty years of the rule's enforcement.[1] As a result, a limited approval of this rule will strengthen the SIP and allow the EPA to enforce VOC emissions from cargo tanks with requirements that are more stringent than the rule that is currently in the SIP.

As discussed in our proposed action, documents submitted for inclusion into the SIP should not include unbounded director's discretion that allows the State to approve alternatives to the applicable SIP without following the SIP revision process described in CAA section 110. California Code of Regulations, Title 17, Section 94014, CP–204, Section 5.4, allows the Executive Officer to approve an alternative test procedure in certain situations where EPA Method 301 is not applicable, without approval from the EPA. This authority is then incorporated by reference in TP–204.1, TP–204.2, and TP–204.3. Without further specificity, these provisions represent unbounded director's discretion and constitute a SIP deficiency.

CAA sections 110(k)(3) and 301(a) provide the EPA with the authority to issue a limited approval and limited disapproval action that will strengthen the SIP and require the state to correct for the above SIP deficiency, and the commenter has not provided any information or supplemental evidence that would indicate this action is contrary to CAA requirements. Therefore, the EPA will proceed with the limited approval and limited disapproval of this rule as proposed.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule and referenced test procedures into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3) and 301(a), the EPA is simultaneously finalizing a limited disapproval of California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8, Article 1, Section 94014.

As a result, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. In addition, the offset sanction in CAA section 179(b)(2) will be imposed 18 months after the effective date of this action, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission from the State corrects the identified deficiencies before the applicable deadline.

Note that the submitted rules have been adopted by CARB, and the EPA's final limited disapproval does not prevent CARB from enforcing them. The limited disapproval also does not prevent any portion of the rules from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: *https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf.*

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. The EPA is also finalizing deletion of rules that were previously incorporated by reference from the applicable California SIP. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Section 94014 and the associated certification procedure and test procedures as described in Table 1 of this preamble, and finalizing the removal of Section 94004 and Method 2–5 also as described in Table 1 from the SIP. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

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

C. Regulatory Flexibility Act (RFA)

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

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

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

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law.

[1] EPA TSD p. 14, Docket ID: EPA–R09–OAR–2021–0410–0024.

Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

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

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

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

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: March 30, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220a, paragraph (c) is amended

■ a. In Table 1 by:

■ i. Removing the entry for ''94004''; and

■ ii. Adding an entry titled ''Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8 (Compliance with Nonvehicular Emissions Standards); Article 1 (Vapor Recovery Systems in Gasoline Marketing Operations)'' after the entry for ''94003'', and under the added heading, add an entry for ''94014''; and

■ b. In Table 2 by:

■ i. Adding entries for ''Certification Procedure CP–204'', ''Test Procedure TP–204.1'' ''Test Procedure TP–204.2'', and ''Test Procedure TP–204.3'', after the entry for ''Method 2–4: Certification and Test Procedures for Vapor Recovery Systems at Gasoline Terminals''; and

■ ii. Removing the entry for ''Method 2–5: Certification and Test Procedures for Vapor Recovery Systems of Gasoline Delivery Tanks''.

The additions read as follows:

§ 52.220a Identification of plan-in part.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8 (Compliance with Nonvehicular Emissions Standards); Article 1 (Vapor Recovery Systems in Gasoline Marketing Operations)				
94014	Certification of Vapor Recovery Systems for Cargo Tanks.	4/1/2015	[INSERT **Federal Register** CITATION], 4/5/2022.	*Submitted on August 22, 2018 as an attachment to a letter dated August 16, 2018.*
*	*	*	*	*

[1] Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in Table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

* * * * *

TABLE 2—EPA-APPROVED CALIFORNIA TEST PROCEDURES, TEST METHODS, AND SPECIFICATIONS

Title/subject	State effective date	EPA approval date	Additional explanation
* * *		* *	* *
Certification Procedure CP–204 Certification Procedure for Vapor Recovery Systems of Cargo Tanks.	4/1/2015	[INSERT **Federal Register** CITATION], 4/5/2022.	*Submitted on August 22, 2018 as an attachment to a letter dated August 16, 2018.*
Test Procedure TP–204.1 Determination of Five Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks.	4/1/2015	[INSERT **Federal Register** CITATION], 4/5/2022.	*Submitted on August 22, 2018 as an attachment to a letter dated August 16, 2018.*
Test Procedure TP–204.2 Determination of One Minute Static Pressure Performance of Vapor Recovery Systems of Cargo Tanks.	4/1/2015	[INSERT **Federal Register** CITATION], 4/5/2022.	*Submitted on August 22, 2018 as an attachment to a letter dated August 16, 2018.*
Test Procedure TP–204.3 Determination of Leak(s) ..	4/1/2015	[INSERT **Federal Register** CITATION], 4/5/2022.	*Submitted on August 22, 2018 as an attachment to a letter dated August 16, 2018.*
* * *		* *	* *

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[FR Doc. 2022–07106 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2010–0406; FRL–9206–02–R8]

Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Regional Haze State and Federal Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of North Dakota on August 3, 2020, addressing regional haze. Specifically, EPA is approving Amendment No. 2 to the North Dakota SIP for Regional Haze to satisfy certain requirements for the first implementation period of the Clean Air Act's (CAA) regional haze program. Amendment No. 2 adopts the same regional haze requirements for nitrogen oxides (NO_X) for Antelope Valley Station Units 1 and 2 promulgated by EPA in our 2012 Federal Implementation Plan (FIP). In conjunction with the approval of Amendment No. 2, we are also withdrawing the 2012 FIP as it applies to the Antelope Valley Station as well as certain provisions related to Coal Creek Station that were vacated by a judicial determination. EPA will work with North Dakota to ensure that the State corrects the SIP deficiencies related to Coal Creek Station. EPA is finalizing this action pursuant to sections 110 and 169A of the CAA.

DATES: This rule is effective on May 5, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2010–0406. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the website and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please call or email the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

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

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I. Background

The background for this action is described in detail in our March 12, 2021 proposed rule.[1] In the proposed rule, EPA proposed to approve Amendment No. 2 to the North Dakota Regional Haze SIP as described below.

[1] 86 FR 14055 (March 12, 2021).

A. Amendment No. 2 to the North Dakota Regional Haze State Implementation Plan

We proposed to approve the following elements of Amendment No. 2 to the North Dakota Regional Haze SIP: [2]

- A NO_X emission limit of 0.17 lb/MMBtu (30-day rolling average) each for Antelope Valley Station Units 1 and 2, applicable at all times including during periods of startup, shutdown, emergency, and malfunction;
- The associated monitoring, recordkeeping, and reporting requirements for Antelope Valley Station Units 1 and 2;
- Provisions requiring compliance with the emission limit and monitoring, recordkeeping, and reporting requirements in the SIP revision no later than the effective date of this final action; and
- Related nonregulatory provisions as reflected in additions and changes to the 2010 Regional Haze SIP in section 9.5.1 (Antelope Valley Station), Appendix J.1.6 (Federal Land Manager Comments on Amendment No. 2 and Department's Response), and Appendix J.3.4 (U.S. Environmental Protection Agency Comments on Amendment No. 2 and Department's Response).

We proposed to find that North Dakota fulfilled its requirement to consult with the Federal Land Managers (FLMs) in development of Amendment No. 2.

We also proposed to restore certain other nonregulatory text amendments under 40 CFR 52.1820(e). The proposed amendments include incorporation of provisions previously approved in our 2012 final rule.[3] EPA partially approved these provisions as meeting the requirements of the CAA and applicable regulations in previous actions; [4] however, when updating 40 CFR 52.1820(e) in 2015, we inadvertently deleted all approved provisions relevant to North Dakota regional haze.[5] We proposed to remedy that error; however, we did not otherwise address or reopen for comment any of the previously approved provisions. We deem any comments on these provisions beyond the scope of this action.

B. Federal Implementation Plan Withdrawal

Because we proposed to find that Amendment No. 2 satisfies the reasonable progress requirements for NO_X at Antelope Valley Station Units 1 and 2 for the first regional haze planning period, we also proposed to withdraw the corresponding portions of the North Dakota Regional Haze FIP at 40 CFR 52.1825.

In addition, EPA stated that we planned to remove from the Code of Federal Regulations the FIP requirements for Coal Creek Station that the U.S. Court of Appeals for the Eighth Circuit vacated in *North Dakota* v. *EPA*.[6] Because this is a purely ministerial action to ensure that the Code of Federal Regulations reflects current case law, we did not invite public comment on our removal of the vacated language. North Dakota's BART obligation for Coal Creek Station remains outstanding.

We did not propose any other changes related to our 2012 final rule because no other changes were addressed in Amendment No. 2 or required by the *North Dakota* decision. Accordingly, our determinations regarding North Dakota's reasonable progress goals, long-term strategy, and interstate transport obligations under CAA section 110(a)(2)(D)(i)(II) concerning visibility protection,[7] remain in place.[8] We did not reopen or take comment on these aspects of our 2012 final rule. We deem any comments on these issues beyond the scope of this action.

Our proposed rule provided background on the requirements of the CAA and EPA's Regional Haze Rule, and EPA's rationale for its proposed action. That background information and rationale will not be restated here. For the reasons stated in the proposed rule and this document, EPA approves Amendment No. 2 to the North Dakota SIP for Regional Haze to satisfy certain requirements for the first implementation period [9] of the CAA's regional haze program.

II. Public Comments and EPA Responses

We received comments from the public and a group of conservation organizations through the internet and mail. The full text of comments received from these commenters is included in the publicly posted docket associated with this action at *https://www.regulations.gov.* The National Parks Conservation Association, Sierra Club, and Badlands Conservation Alliance (Conservation Organizations) submitted detailed written comments in opposition to our proposed approval of Amendment No. 2. We also received a short comment from a member of the public in support of our proposed approval.

Comment summary: The commenters assert that EPA's proposal relies on outdated data and technical information. They state that North Dakota's SIP submittal does not contain a four-factor reasonable progress analysis of its own, nor does it reference EPA's FIP analysis. Further the commenters state that the emission data and technical analysis regarding costs and controls in EPA's 2012 FIP are more than nine years old, and no longer represent current operations. The commenters state that current operational data is missing from the record, and that Antelope Valley Station Units 1 and 2 are currently meeting NO_X emission limits of 0.11 lb/MMBtu, which is significantly less than the FIP and SIP revision limit of 0.17 lb/MMBtu. The commenters assert that EPA's regulations require that SIPs must provide for ''public availability of emission data reported by source owners or operators or otherwise obtained by a State or local agency,'' which is then required to be correlated with the applicable reasonable progress emission limitations. The commenters assert that neither North Dakota's SIP submittal nor EPA's proposal contain an updated reasonable progress analysis and consideration of additional controls.

Response: EPA disagrees with these comments. First, neither North Dakota nor EPA is required to conduct a new four factor reasonable progress analysis for this action because the relevant analysis was completed during the first regional haze planning period in support of EPA's 2012 FIP. As explained in the proposed rule, this action involves a mere transfer of the first planning period NO_X reasonable progress requirements for Antelope Valley Station Units 1 and 2 from EPA's 2012 FIP to North Dakota's SIP.

Under the Regional Haze Rule, states were required to submit SIP revisions including first planning period regional haze requirements on December 17, 2007.[10] North Dakota submitted its regional haze SIP revision in 2010.[11] As explained in the proposed rule, in 2012, EPA disapproved North Dakota's NO_X reasonable progress determination for

[2] The regulatory provisions of SIP Amendment No. 2 (which are the only parts of Amendment No. 2 being incorporated by reference) are contained in Appendix D.6, Permit to Construct for Antelope Valley, number PTC20031.

[3] 77 FR 20894 (April 6, 2012).

[4] Id.

[5] 80 FR 76211 (December 8, 2015).

[6] 730 F.3d 750, 764 (8th Cir. 2013), *cert. denied,* 134 S. Ct. 2662 (2014).

[7] 42 U.S.C. 7410(a)(2)(D)(i)(II).

[8] 77 FR 20896, 20899–900; see also 85 FR 20165, 20177 (April 10, 2020) (regarding the status of North Dakota's obligations under CAA section 110(a)(2)(D)(i)(II) concerning visibility protection).

[9] ''Implementation period'' and ''planning period'' are used interchangeably in this document.

[10] 40 CFR 51.308(b).

[11] 86 FR 14057.

Antelope Valley Station Units 1 and 2 and instead promulgated a FIP. To support the FIP, EPA performed a thorough, six-step, reasonable progress analysis.[12] EPA presented control efficiencies, emissions data, emissions reductions for six different control options (including no controls), analyzed costs for five control options, and noted visibility benefits of 0.754 deciviews at Theodore Roosevelt National Park from the installation of new low-NO_X burners and separated overfire air (LNB and SOFA, or ''combustion controls'') on Antelope Valley Station Units 1 and 2. As a result of EPA's six-step analysis, EPA determined that an emission limit consistent with the installation of LNB and SOFA (0.17 lb/MMBtu on a 30-day rolling average) was appropriate to require as reasonable progress for the first planning period.[13] North Dakota's SIP revision at issue in this action adopts the *exact same* emission limit and associated monitoring, recordkeeping, and reporting requirements that EPA included in its 2012 FIP, thereby adopting the *exact same* first planning period NO_X reasonable progress requirements for Antelope Valley Station Units 1 and 2 that EPA set in 2012. Thus, neither North Dakota nor EPA was required to perform a new analysis duplicative of EPA's earlier analysis for purposes of this federal-to-state transfer.

Second, neither North Dakota nor EPA was required to update the prior analysis with current emissions data or tighten the NO_X emission limit based on current operations.[14] Again, the determination being transferred from EPA's 2012 FIP to North Dakota's SIP in this action is a first planning period determination. The analysis that supported EPA's 2012 determination and the emission limit that EPA set (0.17 lbs/MMBtu on a 30-day rolling average) was consistent with the EPA's understanding at the time of the emission limit achievable with combustion controls at similar units.[15] That Antelope Valley Station Units 1 and 2 currently could meet a lower NO_X emission limit with the installed combustion controls may be relevant to North Dakota's forthcoming second planning period regional haze SIP revision, but that information does not demand a revised analysis to support the mere transfer of first planning period requirements from EPA's FIP to North Dakota's SIP.

Comment summary: The commenters assert that EPA must not approve North Dakota's proposed SIP amendments because they are inconsistent with EPA's FIP. Specifically, the commenters assert that the regulatory text in 40 CFR 52.1820(e) contains two conflicting provisions:

- EPA proposes to adopt by reference North Dakota's SIP that was effective under State law on July 8, 2020 (which contains information and references to the disapproved SIP in Section 9.5.1 of North Dakota's SIP Amendment No. 2); and
- While in the same portion of the regulatory text, EPA's ''Comments'' for the Regional Haze line entry indicates that it is incorporating by reference the entire State Plan ''[e]xcluding provisions disapproved on April 6, 2012. 77 FR 20894.''

The commenters state that Section 9.5.1 of North Dakota's SIP references assumptions and analysis from the disapproved sections of its Regional Haze SIP, including control efficiencies and emission reductions. The commenters state that EPA's disapproval explained that North Dakota's control efficiencies and emission reductions for Units 1 and 2 differed from EPA analysis, and EPA ultimately relied on its own analysis promulgating the FIP. The commenters also argue that EPA's current proposal erred in stating that North Dakota's SIP Amendment No. 2 merely adopts the FIP. The commenters conclude that EPA is proposing to approve portions of North Dakota's SIP that it earlier disapproved. The commenters also assert that North Dakota has attempted to use this SIP amendment to restore assumptions and analysis EPA disapproved and replaced with its FIP analysis and final reasonable progress determination.

The commenters contend that it is unreasonable and inappropriate for EPA to approve the sentences in North Dakota's narrative in Section 9.5.1 because they are inconsistent with EPA's FIP analysis. Additionally, the commenters contend that neither North Dakota's SIP amendment nor EPA's proposal contain the substantive technical analysis to support North Dakota's brief discussion in Section 9.5.1. The commenters state that there is no information for the public to review and comment on. The commenters believe that North Dakota may have included the discussion and reference to its disapproved SIP provisions in an attempt to then reference this information as ''EPA approved'' in its upcoming proposed regional haze SIP due to EPA by July 31, 2021. The commenters conclude that EPA must not approve the State's disapproved first round reasonable progress analysis for Antelope Valley Station.

Response: EPA disagrees with this comment. First, the commenters are incorrect that EPA's 2012 disapproval ''explained that [North Dakota's] control efficiencies and emission reductions for Units 1 and 2 differed from [the] EPA analysis, and EPA ultimately relied on its own analysis promulgating the FIP.'' In the 2011 proposed rule, we explicitly stated that ''[o]ur analysis is based on the information provided by North Dakota, except that, as we explain below, we are disregarding North Dakota's visibility analysis.''[16] In EPA's analysis supporting the FIP, the control efficiency and emission reductions for each control were identical to those in North Dakota's analysis.[17] For example, both EPA and North Dakota assumed that LNB with SOFA could achieve a 51% control efficiency and reduce NO_X emissions by 3,889 tons per year at Unit 1 and by 3,450 tons per year at Unit 2. Thus, by relying on the 2012 analysis for this rule, EPA is not relying on assumptions and analysis that EPA disapproved in 2012, as the commenters contend.

Moreover, as acknowledged by the commenters, the proposed regulatory text in 40 CFR 52.1820(e) for this action specifies that the provisions of the 2010 SIP that were disapproved in our 2012 final action, including those in Section 9.5.1, will remain disapproved.[18] Thus, in this action, we are not approving previously disapproved portions of North Dakota's SIP.

Finally, the commenters presented no evidence to support their contention that North Dakota intends to rely on the technical analysis from its 2010 SIP for its second planning period regional haze SIP revision. We are aware that North Dakota has selected Antelope Valley Station as a source to analyze for additional control measures in the second planning period. We are also aware that the new four factor analysis conducted for North Dakota's second

[12] 76 FR 58570, 58630–32 (September 21, 2011).

[13] 77 FR 20899.

[14] Note that the commenters are incorrect that current operational data is missing from the record for this action. See AVS Monthly AMPD Data, EPA–R08–OAR–2010–0406–0440.

[15] 76 FR 58632. See also, 40 CFR part 51, appendix Y, IV.E.5 (stating that 0.17 lb/MMBtu is the presumptive limit that can be met by tangential-fired boilers using combustion control technology and burning lignite coal).

[16] 76 FR 58631.

[17] Compare id., Table 71, Summary of Antelope Valley Station NO_X Reasonable Progress Analysis Control Technologies for Unit 1 and 2 Boilers, with North Dakota Department of Health, North Dakota State Implementation Plan for Regional Haze, February 24, 2010, Table 9.8, Control Cost Options, page 204.

[18] 86 FR 14061.

planning period SIP revision will be based on an updated technical analysis, including updated representative baseline emissions, control efficiencies, emission reductions, and costs.[19] North Dakota's second planning period SIP revision and the accompanying new four factor analysis will be subject to EPA review and subsequent public notice and comment. Any errors or deficiencies in the analysis will be addressed at that time.

Comment summary: The commenters assert that North Dakota has not made an ''official plan submission'' to EPA and EPA has not demonstrated that the SIP submittal is complete. Specifically, the commenters assert that North Dakota failed to submit a SIP revision consistent with 40 CFR part 51, appendix V, because the submittal does not describe the ''[c]ompliance/enforcement strategies'' it intends to follow in implementing the SIP, ''including how compliance will be determined in practice.'' They assert that the SIP revision also lacks a ''description of the enforcement methods'' that North Dakota plans to use when it implements the reasonable progress control strategy for the Antelope Valley Station. Additionally, the commenters contend that North Dakota's SIP revision lacks a technical basis and reasoned analysis for including EPA's FIP in the SIP. The commenters state that it is unclear what authority North Dakota relied on to adopt and then implement the SIP.

The commenters further assert that EPA failed to prepare a completeness analysis under appendix V for public review and comment. The commenters contend that without a completeness analysis, EPA has not demonstrated that the SIP revision contains ''[e]vidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure [reasonable progress determination] emission levels.''

Response: EPA disagrees with these comments. CAA section 110(k) provides a two-step process for EPA's review of SIP submittals. First, within six months of receiving a SIP submission, EPA must make a threshold ''completeness determination'' to determine whether the SIP contains certain ''minimum criteria'' designated by EPA as ''the information necessary to . . . determine whether the plan submission complies with the provisions of the CAA.''[20] These minimum criteria are listed in 40 CFR part 51, appendix V.[21] There is no requirement in the CAA or EPA's regulations that EPA document its completeness review prior to proposing to approve a SIP revision. To the contrary, if EPA fails to make the completeness determination within six months, the SIP submission is deemed complete by operation of law.[22] Here, EPA received North Dakota's SIP submittal on July 28, 2020. EPA did not make a formal completeness determination within six months; thus, the SIP submittal was deemed complete by operation of law and constitutes an official submission.[23] North Dakota's authority to adopt the SIP is addressed in the Opinion issued by the North Dakota Office of Attorney General and submitted with the SIP revision.[24]

In the second step of the two-step process, EPA evaluates SIP submittals for compliance with substantive CAA requirements.[25] Here, the relevant provisions are CAA sections 110 and 169A and 40 CFR 51.308. EPA explained in the proposed rule and elsewhere in this document how North Dakota's SIP revision complies with these substantive requirements of the CAA and Regional Haze Rule, and specifically addresses the commenters' concerns regarding enforceability in this document below.[26] Thus, the commenters' assertions that North Dakota's SIP revision was inadequate because it lacked appendix V criteria and that EPA's proposal was inadequate because it lacked an appendix V completeness determination are without merit.

Comment summary: The commenters state that, in order to approve North Dakota's SIP that replaces the FIP, the SIP revision must be substantively identical to the FIP and enforceable. The commenters contend that EPA's proposal does not include all the permit provisions necessary to make the SIP equivalent to the FIP, but instead includes only selective provisions from North Dakota's air pollution control permit to construct: ''emission limit[s] for Units 1 and 2 and corresponding monitoring, recordkeeping, and reporting requirements.'' The commenters assert that EPA's proposal is not substantively identical to its FIP because it does not propose approving parallel permit conditions that are necessary for enforceability, such as permit conditions related to definitions, compliance dates, continuous emissions monitoring, and others. The commenters also state that there are permit conditions for which there are not parallel provisions in the FIP that, if approved into the SIP, would at least in part address their concerns regarding enforceability. Finally, the commenters state that there are permit conditions for which there are not parallel conditions in the FIP and that we do not have authority to approve, such as those related to continuous emission monitoring procedures, audits, and reporting, and to emission inventory reporting. In particular, the commenters contend that EPA must not approve the permit conditions that involve reporting on State-supplied forms because (1) the forms may contain information inconsistent with that required by the FIP, (2) the permit conditions do not specify what is on these forms, and the public did not have an opportunity to review and comment on the forms, and (3) the information in the forms is left to the State's discretion. The commenter makes similar arguments regarding monitoring procedures and audits.

Response: We agree with this comment, in part, and are making changes in this final rule accordingly. In our proposed rule, the comment column in the regulatory text for Antelope Valley Station indicated that we proposed to incorporate into the SIP those permit conditions found in the permit-to-construct (PTC20031) related only to the ''NO_X BART emission limit for Units 1 and 2 and corresponding monitoring, recordkeeping, and reporting requirements.''[27] While this language could be understood to mean that any permit condition necessary for enforceability would be included in the SIP, the commenters interpreted it to mean that only the permit conditions in the three sections of the permit with corresponding titles would be incorporated into the SIP: Section

[19] North Dakota Department of Environmental Quality, Air Pollution Control Program, Division of Air Quality, DRAFT for Federal Land Manager Review, North Dakota State Implementation Plan for Regional Haze, available at *https://deq.nd.gov/publications/AQ/Planning/RegionalHaze/Round_2/ND_RH_SIP_v2.0DRAFT.pdf.* See four- factor analysis for Antelope Valley Station in Appendix A.2.

[20] 42 U.S.C. 7410(k)(1)(A), (B).

[21] 40 CFR part 51, appendix V.

[22] 42 U.S.C. 7410(k)(1)(C); 40 CFR part 51, appendix V, § 1.2.

[23] 40 CFR part 51, appendix V, § 1.2 (''A determination of completeness under this paragraph means that the submission is an official submission for purposes of § 51.103.'').

[24] Letter dated July 28, 2020, from Doug Burgum, Governor, North Dakota, to Gregory Sopkin, Regional Administrator, EPA Region 8, Subject: Revisions to North Dakota Regional Haze SIP for control of air pollution; North Dakota, Final Revisions to Implementation Plan for Control of Air Pollution, Amendment No. 2 to North Dakota State Implementation Plan First Planning Period for Regional Haze (July 2020) (Amendment No. 2) at 121.

[25] See *NRDC* v. *Browner,* 57 F.3d 1122, 1123 (D.C. Cir. 1995).

[26] 86 FR 14055, 14057–58.

[27] 86 FR 14061.

II.A.2—Emission Limits; Section II.A.5—Monitoring Requirements and Conditions; and Section II.A.6—Reporting. To provide clarity, we are removing the comment from the source-specific requirements for Antelope Valley Station Units 1 and 2. This should address the commenters' concerns regarding the permit conditions necessary for enforceability, as well as whether the SIP is substantively the same as the FIP. In addition, we note that this approach (not specifying which permit conditions are being incorporated into the SIP) is consistent with the approach we took for other sources in our 2012 final rule (*i.e.,* for Heskett Station Units 1 and 2, Leland Olds Units 1 and 2, Milton R. Young Units 1 and 2, and Staton Station Unit 1).[28]

We disagree that we do not have authority to, and must not, approve additional permit conditions for which there are not parallel conditions in the FIP. With the clarifying change we are making to the source-specific requirements of 40 CFR 52.1820(d) today, we are incorporating into the SIP all provisions that are necessary for enforceability (*e.g.,* monitoring, record keeping, and reporting). Thus, any permit conditions that are in addition to parallel conditions in the FIP only serve to enhance enforceability. In any event, these additional permit conditions are included in the Title V permit for Antelope Valley Station, and are thus already federally enforceable.[29] Moreover, the same or similar permit conditions also appear in the permit-to-construct for each of the sources for which we approved source-specific requirements in our 2012 final rule.[30] Finally, the forms that concern the commenters are publicly available on North Dakota's website.[31] We have reviewed them and find no reason to conclude that they would allow violations of the emission limit for Units 1 and 2 or the monitoring, recordkeeping, and reporting requirements, or interfere with enforceability.

Comment summary: The commenters assert that North Dakota's SIP revision did not contain an analysis under CAA section 110(*l*), and that EPA's analysis is inaccurate and incomplete. In particular, the commenters contend that EPA wrongly referenced a CAA section 110(*l*) analysis completed for the 2012 FIP. The commenters further assert that EPA wrongly considered only National Ambient Air Quality Standards (NAAQS) requirements and not other CAA requirements, including regional haze requirements, in its CAA section 110(*l*) analysis. Additionally, the commenters contend that the public was not provided an opportunity to comment on the required section 110(*l*) analysis that considers all the Act's requirements.

Response: EPA disagrees with these comments. CAA section 110(*l*) states in relevant part: ''The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), and any other applicable requirement of this chapter.'' [32] CAA section 110(*l*) applies to all requirements of the CAA and it applies to all areas of the country, whether attainment, nonattainment, unclassifiable or maintenance for one or more of the six criteria pollutants. In general, a section 110(*l*) demonstration should address all pollutants whose emissions and/or ambient concentrations would change as a result of a plan revision. The level of rigor needed for any CAA section 110(*l*) demonstration will vary depending on the nature and circumstances of the revision.

As an initial matter, the commenters fail to identify any change to emissions or ambient concentrations of NO_X that will result from approval of North Dakota's SIP revision. Nor can they. As we explained in the proposed rule and above in response to comments, the first planning period reasonable progress requirements for Antelope Valley Station Units 1 and 2 in North Dakota's SIP revision are the *exact same* requirements in EPA's 2012 FIP.[33] Thus, there is no difference in emissions between the 2012 FIP and the SIP revision. Accordingly, EPA's approval of North Dakota's SIP revision cannot interfere with any applicable CAA requirement.

Additionally, there was no CAA section 110(*l*) analysis for the 2012 final rule, and thus, EPA did not rely on a prior CAA 110(*l*) analysis in the 2021 proposal. Instead, in the 2021 proposal, EPA stated that '[t]he previous section of [the proposal] and our 2011 proposed rule and 2012 final rule explain how the proposed SIP revision will comply with applicable regional haze requirements and general implementation plan requirements such as enforceability.'' [34] In other words, under CAA section 110(*l*), we proposed to find that EPA's approval of North Dakota's SIP revision does not interfere with the CAA's regional haze provisions (or other implementation plan requirements) because the SIP revision mirrors EPA's 2012 FIP requirements, which EPA determined in 2012 meet the requirements of the CAA's regional haze provisions (and other implementation plan requirements). Accordingly, EPA's CAA section 110(*l*) analysis is not inaccurate or incomplete—EPA considered potential interference with all applicable CAA requirements, including regional haze requirements. But EPA tailored its analysis to the circumstances at issue here—a mere transfer of the existing emission limit for Units 1 and 2 and the associated monitoring, recordkeeping, and reporting requirements (and no corresponding change in emissions) from EPA's 2012 FIP to an approved SIP revision. We find that approval of Amendment No. 2, and concurrent withdrawal of the corresponding FIP, are not anticipated to interfere with applicable requirements of the CAA and therefore CAA section 110(*l*) does not prohibit approval of this SIP revision.

Comment summary: The commenters further contend that EPA's approval of North Dakota's SIP revision would violate the CAA's anti-backsliding provisions. The commenters state that EPA may not approve North Dakota's SIP revision because it would allow increased NO_X emissions and visibility impairment in violation of the CAA section 110(*l*) and case law. The commenters criticize EPA for failing to evaluate how emissions will change as a result of North Dakota's SIP revision when compared to the FIP and for failing to fully evaluate the differences between the FIP and North Dakota's SIP revision.

The commenters contend that EPA's replacement of its FIP with North Dakota's SIP revision would violate CAA section 110(*l*) by allowing increased air pollution for several reasons. First, the commenters contend that EPA failed to propose to approve all the provisions in North Dakota's permit,

[28] 77 FR 20943.

[29] Air Pollution Control Title V Permit to Operate, Permit Number T5–F8600, renewal no. 4, June 26, 2019. North Dakota has a fully approved operating permit program. 40 CFR part 70, appendix A.

[30] 77 FR 20943.

[31] See Title V Semi-Annual Monitoring Report, *https://www.deq.nd.gov/forms/aq/title-v/SFN52737.pdf;* Title V Annual Compliance Certification Report, *https://www.deq.nd.gov/forms/aq/title-v/SFN52738.pdf;* see also *https://www.deq.nd.gov/AQ/Forms.aspx* (list of North Dakota Air Quality Forms).

[32] 42 U.S.C. 7410(*l*).

[33] 86 FR 14057–58.

[34] 86 FR 14058. EPA also added that there are no NAAQS nonattainment or maintenance areas in North Dakota. See Current Nonattainment Counties for All Criteria Pollutants, *https://www3.epa.gov/airquality/greenbook/ancl.html* (last visited Jan. 11, 2021).

which according to the commenters means that citizens and others will not have the same opportunities to enforce the emission limits as under the FIP and will result in less stringent requirements and likely increased emissions. Second, the commenters contend that EPA failed to propose approval of provisions in North Dakota's permit that would address their enforceability concerns. Third, commenters contend that EPA proposed to include provisions in the approved SIP revision that do not appear in the FIP, including provisions that allow unbounded discretion to North Dakota, which the commenters contend could also result in increasing emissions.

Response: EPA disagrees with these comments. As explained above, the transfer of first planning period NO_X regional haze requirements for Antelope Valley Station Units 1 and 2 from EPA's 2012 FIP to North Dakota's SIP will not result in any change in NO_X emissions. Moreover, as also explained above, the SIP revision and corresponding permit are not less stringent than the FIP, nor is the SIP revision less enforceable. The commenters have offered no support for their contention that, under the SIP revision, the State obtains ''unbounded discretion'' inconsistent with the FIP and we find none. Accordingly, there is no support for the commenters' assertion that the SIP approval results in backsliding under the CAA.[35]

Comment summary: The commenters state that, if EPA were to take final action, it must fix fatal errors in its proposed regulatory text. In a footnote, the commenters state that EPA did not explain its authority for correcting the regulatory text to include provisions approved in 2012 and inadvertently deleted in 2015. Additionally, the commenters contend that making the correction would resolve the error going forward but would not restore the regulatory text missing from the Code of Federal Regulations from 2015 to present. The commenters contend that EPA's final action and regulatory text must clearly include language that covers the missing years so that the SIP is enforceable during that time period.

The commenters also criticize EPA for proposing a single ''State effective date'' of July 8, 2020, in the proposed regulatory text language in 40 CFR 52.1820(e). The commenters identify three reasons why they believe the state effective date must be corrected. First, the commenters state that the only portions of the State regional haze SIP that were effective as a matter of State law on July 8, 2020, were the following: Section 9.5.1; Appendix J.1.6: FLM Comments on SIP Amendment 2; and Appendix J.3.4. Second, the commenters state that North Dakota's cover letter to Basin Electric Cooperative for construction permit PTC20031 for its Antelope Valley Station explains that the State's intent was to make the permit effective if/when EPA approved the SIP Amendment No. 2, not at the time the SIP was adopted by the State. The commenters state that EPA's proposed regulatory text for the ''State effective date'' needs to be clarified on this point. Third, the commenters state that the remaining sections of North Dakota's regional haze SIP incorporated by reference in 40 CFR 52.1820(e), which EPA inadvertently deleted in 2015, were effective in 2012, not on July 8, 2020. The commenters conclude that the EPA must correct these errors for SIP enforceability purposes and revise the regulatory text to reflect the three different State effective dates for the regional haze SIP.

In addition, the commenters argue that EPA's FIP contains separate emission limits for Units 1 and 2, while EPA's proposed regulatory text proposes one emission limit for both units. The commenters assert that one plantwide emission limit would mean that when one unit is down for maintenance or other reasons, Antelope Valley Station could operate the controls on the second operating unit less stringently in order to save money. The commenters conclude that, if EPA elects to finalize this proposal, it must amend this regulatory text so that it is consistent with the FIP and regional haze program requirements.

Response: As stated in our proposed rule, we did not take comment on the restoration of the nonregulatory text amendments under 40 CFR 52.1820(e) that we inadvertently deleted in 2015. Thus, we deem the comment beyond the scope of this action. Contrary to the commenters' suggestion, EPA had authority to correct this error without additional notice and comment under the ''good cause'' exception in the Administrative Procedure Act.[36] Today's action simply restores nonregulatory provisions which were previously approved after public notice and comment for the 2012 final rule. Thus, another notice and opportunity for comment to correct the error is unnecessary.

Nonetheless, we disagree that it is necessary for the regulatory text to include language that covers previous regional haze actions to ensure that the regional haze SIP, as a whole, is enforceable. The nonregulatory provisions found in 40 CFR 52.1820(e), including the SIP narrative, are not enforceable. Instead, the enforceable portions of the SIP are incorporated by reference in paragraph in 40 CFR 52.1820(c), *EPA-approved regulations,* and 40 CFR 52.1820(d), *EPA-approved source specific requirements.* Thus, the nonregulatory amendments are not necessary to ensure enforceability regardless of whether citations to previous actions are listed. Moreover, the regional haze amendments have been treated in the same manner as other sections of the State's SIP. That is, only the effective date of the most recent revision to a relevant chapter or section of the SIP (in this case, July 8, 2020) is given. Finally, we are clarifying that the ''State effective date'' is the effective date of the State's SIP or rule, and differs from the compliance date (through the permit to construct) to meet emission limits and related requirements.

The commenters are incorrect that EPA proposed to approve a plant-wide emission limit for Units 1 and 2. The permit, PTC20031, which we are now incorporating into the SIP in whole, includes condition II.A.2 stating that ''Basin Electric Power Coop. shall not emit or cause to be emitted from *each unit* NO_X in excess of 0.17 pounds per million British Thermal Units (0.17 lb/10^6 Btu) averaged over a 30-day period (30-day rolling average)'' (emphasis added). Permit condition II.A.2 is consistent with the separate emission limits in the FIP that we are withdrawing. Regardless, as discussed above, the proposed comment language

[35] *WildEarth Guardians* v. *EPA,* 759 F.3d 1064, 1074 (9th Cir. 2014) (finding that the petitioners identified nothing in Nevada's SIP that weakened or removed any pollution controls and that when a ''SIP merely maintained the status quo, that would not interfere with the attainment or maintenance of the NAAQS'' and the approval did not contravene CAA section 110(*l*)); see also *El Comite Para El Bienestar de Earlimart* v. *EPA,* 786 F.3d 688, 696–97 (9th Cir. 2015) (finding that EPA did not fail to consider CAA section 110(*l*) when it reasonably concluded that California's prior SIP requirement and the SIP revision requirement were equivalent). Because the SIP revision at issue here is not less stringent than the FIP, the other cases cited in footnote 40 of the comment letter are inapposite. In any event, they do not stand for the proposition that the commenters assert—neither the plain language of CAA section 110(*l*) nor case law supports an interpretation that *per se* prohibits approval of any SIP revision that allows an increase in emissions or weakens requirements relative to the existing implementation plan. Rather, the statute prohibits approval of such a SIP revision if it would *interfere with* attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA. See *Indiana* v. *EPA,* 796 F.3d 803, 811 (7th Cir. 2015); *Alabama Environmental Council* v. *EPA,* 711 F.3d 1277, 1293 (11th Cir. 2013) (quoting *Train* v. *NRDC, Inc.,* 421 U.S. 60, 79 (1975)); *Kentucky Resource Council* v. *EPA,* 467 F.3d 986, 994–996 (6th Cir. 2006).

[36] 5 U.S.C. 553(d)(3).

in 40 CFR 52.1820(d) to which the commenters refer is not included in this final action.

Comment summary: The commenters contend that EPA's proposal fails to abide by the environmental justice requirements in 2021 Executive Orders. The commenters state that EPA is required to ensure that its action on SIP regional haze plans address any disproportionate environmental impacts of the pollution that contributes to haze. The commenters further assert that EPA missed the mark in considering only Executive Order 12898, because in January 2021, the current Administration signed additional Executive Orders that require agencies to advance and prioritize environmental justice (citing Executive Orders 13998 and 14008). The commenters criticize EPA for failing to consider impacts on nearby environmental justice communities located on and near the Fort Berthold Indian Reservation under these additional Executive Orders and instead relying on its 2012 analysis under Executive Order 12898. The commenters assert that EPA must provide a new environmental justice analysis and tighter NO_X limits to improve visibility and air quality in the Fort Berthold Indian Reservation.

Response: EPA disagrees with these comments. As established in the responses above, the requirements of the State's SIP are substantively the same as in EPA's FIP. Our 2012 FIP for Antelope Valley Station resulted in substantial NO_X reductions from Units 1 and 2. In particular, in our 2012 FIP, we calculated that the emission limit of 0.17 lb/MMBtu (30-day rolling average) would lead to NO_X reductions of 3,889 tons per year for Unit 1 and 3,450 tons per year for Unit 2.[37] We expect this level of NO_X reductions will continue under North Dakota's SIP revision. Thus, the impacts of this action, like the 2012 FIP, are expected to be beneficial, rather than adverse, and its benefits are expected to accrue to communities in and near Indian country lands within the Fort Berthold Indian Reservation. Our review of Executive Orders 13990 and 14008, cited by the commenters, do not lead us to a different conclusion regarding the need for additional analysis under the circumstances at issue in this action.

Comment summary: The commenters state that EPA should not finalize approval of this action. The commenters also state that, if EPA were to finalize approval, we should make corrections (per comments above) to ensure that the EPA's approval of the SIP is substantively equivalent to the FIP. The commenters contend that otherwise EPA's approval of the SIP revision would be less stringent and inconsistent with the FIP and current emissions, and also undermine the Eighth Circuit's decision affirming the FIP for the Antelope Valley Station. The commenters state that the reductions and provisions required in the 2012 FIP should remain in place for Antelope Valley Station to maintain emission reduction requirements to better air quality in national parks and wilderness areas and the public health co-benefits for the environmental justice communities in the Fort Berthold Reservation and nearby communities. Finally, the commenters state that EPA should make various corrections, obtain missing SIP information from North Dakota after it amends its SIP, and add missing analysis as described in our summary of comments earlier in this notice. In doing so, the commenters believe that EPA should re-notice its proposal so that the public has an opportunity to comment on the missing information and analysis.

Response: We disagree that we should re-notice our proposal. The commenters concern regarding the enforceability of Amendment No. 2, as well as its equivalence to the FIP, have been addressed in response to other comments above. The level of NO_X emissions allowed under Amendment No. 2 will be the same as those allowed under the FIP.

Comment summary: A member of the public commented that they think it is a good idea that EPA is proposing to approve the North Dakota SIP revision addressing regional haze. The commenter believes the approval will help improve air quality which will have a positive effect on air pollution. The commenter states that the proposal will also satisfy some aspects of the CAA.

Response: We appreciate the commenter's support for our proposed action.

III. The EPA's Final Action

For the reasons stated in the preamble to the proposed rule and in this document, and with the clarifications to the regulatory text discussed herein, we are fully approving Amendment No. 2 to the North Dakota SIP for Regional Haze to satisfy certain requirements for the first implementation period of the regional haze program. Because we find that Amendment No. 2 satisfies the reasonable progress requirements for NO_X at Antelope Valley Station Units 1 and 2 for the first regional haze planning period, we are also withdrawing the corresponding portions of the North Dakota Regional Haze FIP at 40 CFR 52.1825. We are also restoring certain other nonregulatory text amendments under 40 CFR 52.1820(e), as described in the preamble to the proposed rule and in this document. Finally, we are removing from the Code of Federal Regulations the FIP requirements for Coal Creek Station that the Eighth Circuit vacated in *North Dakota* v. *EPA.*

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SIP amendments described in section I.A of this preamble and set forth below. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* (refer to docket EPA–R08–OAR–2010–0406) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[38]

V. Statutory and Executive Order Reviews

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

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

This action is exempt from review by the Office of Management and Budget (OMB) because it will apply to a single facility in the State of North Dakota. It is therefore not a rule of general applicability.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the

[37] 76 FR 58631, Table 71. Calculated reductions were based on baseline (no controls) emissions of 7,625 tons per year and 6,765 tons per year for Units 1 and 2, respectively.

[38] 62 FR 27968 (May 22, 1997).

PRA. Because this rule revises regional haze reporting requirements for a single facility, the PRA does not apply.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule does not impose any requirements or create impacts on small entities as no small entities are subject to the requirements of this rule.[39]

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

I. National Technology Transfer and Advancement (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

K. Determination Under Clean Air Act Section 307(d)

Pursuant to CAA sections 307(d)(1)(B) and 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of section 307(d). CAA section 307(d)(1)(B) provides that section 307(d) applies to, among other things, ''the promulgation or revision of an implementation plan by the Administrator under [CAA section 110(c)].''[40] Under section 307(d)(1)(V), the provisions of section 307(d) also apply to ''such other actions as the Administrator may determine.''[41] To the extent the approval of North Dakota's SIP revision is not expressly identified under section 307(d), the Administrator hereby determines that section 307(d) applies to this aspect of this action. The agency has complied with the procedural requirements of CAA section 307(d) during the course of this rulemaking.

L. Congressional Review Act (CRA)

This rule is exempt from the CRA because it is a rule of particular applicability that only applies to a single named facility.

M. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Michael S. Regan,

Administrator.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart JJ—North Dakota

■ 2. In § 52.1820:

■ a. The table in paragraph (d) is amended by adding the center heading ''Antelope Valley Station Units 1 and 2.'' and the entry ''PTC20031'' at the end of the table.

■ b. The table in paragraph (e) is amended by adding the center heading ''North Dakota State Implementation Plan for Regional Haze.'' and the entry ''North Dakota State Implementation Plan for Regional Haze'' at the end of the table.

The additions read as follows:

§ 52.1820 Identification of plan.

* * * * *

(d) * * *

[39] See 13 CFR 121.201, Sector 22, Subsector 221.

[40] 42 U.S.C. 7607(d)(1)(B).

[41] 42 U.S.C. 7607(d)(1)(V).

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
Antelope Valley Station Units 1 and 2					
PTC20031	Air pollution control permit to construct for Federal Implementation Plan Replacement.	4/5/2022	5/5/2022	[insert **Federal Register** citation], 4/5/2022.	

(e) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
North Dakota State Implementation Plan for Regional Haze					
North Dakota State Implementation Plan for Regional Haze.	North Dakota State Implementation Plan for Regional Haze.	7/8/20	5/5/2022	[insert **Federal Register** citation], 5/5/2022.	Excluding provisions disapproved on April 6, 2012, 77 FR 20894.

§ 52.1825 [Removed and Reserved]

■ 3. Remove and reserve § 52.1825.

[FR Doc. 2022–06904 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0702; FRL–9537–02–R4]

Air Plan Approval; Georgia; Air Quality Control, Miscellaneous Rule Revisions to Definitions and Permitting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Georgia state implementation plan (SIP) submitted on behalf of the State of Georgia by the Georgia Environmental Protection Division (GA EPD) through a letter dated September 1, 2020. This revision includes changes to the State's air quality regulations incorporated into the SIP by changing the definition of ''pollution control project'' and making minor changes to the corresponding minor new source review (NSR) permitting regulations for consistency. EPA is approving this SIP revision because the State has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective May 5, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0702. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams-Miles, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303–8960. The telephone number is (404) 562–9144. Ms. Williams-Miles can also be reached via electronic mail at *WilliamsMiles.Pearlene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving a SIP revision submitted on behalf of the State of Georgia by GA EPD through a letter dated September 1, 2020.[1] This revision changes the definition of ''pollution control project'' (PCP) at Georgia Rule 391–3–1–.01(qqqq) and the scope of the corresponding permitting provisions related to PCPs at Rule 391–3–1–.03(6), ''Exemptions,'' at subsection (j). Pursuant to Rule 391–3–1–.03(6)(j),[2] PCPs are exempt from the requirement to obtain a minor source construction permit under Georgia Rule 391–3–1–.03(1), ''Construction (SIP) Permits.'' The submittal first changes the definition of PCP to require that any collateral emissions increase from a PCP must be lower than the emissions thresholds established to exempt cumulative modifications at Rule 391–3–1–.03(6)(i)3.(i)–(v) from minor source construction permitting.[3] Secondly, the

[1] The September 1, 2020, submittal contains changes to other SIP-approved rules that are not addressed in this notice. EPA will be acting on those rules separately.

[2] EPA approved the PCP definition into the SIP, with the exception of subsections (qqqq)1. and (qqqq)3.–8., on May 29, 2020. *See* 85 FR 32300.

[3] SIP-approved Rule 391–3–1–.03(6)(i)3 states ''Cumulative modifications not covered in an existing permit to an existing permitted facility

Continued

definition is changed to revise the list of projects that are presumed to be environmentally beneficial and qualify as PCPs. Lastly, the definition is revised to change rule cross-references for consistency with the revision to the list of projects. The September 1, 2020, SIP revision also makes changes to Rule 391–3–1–.03, ''Permits,'' at section (6)(j), ''Construction Permit Exemption for Pollution Control Projects'' to update the cross-references to Rule 391–3–1–.01(qqqq) to correspond to the updated list of projects. The changes to Rule 391–3–1–.03(6) also include minor administrative edits that do not change the meaning of the existing SIP-approved provisions.

On February 10, 2022, EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the September 1, 2020, SIP revision regarding updates to Georgia's ambient air quality standard rules. *See* 87 FR 7786. The February 10, 2022, NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the February 10, 2022, NPRM were due on or before March 14, 2022. EPA received no comments on the February 10, 2022, NPRM.

Because the aforementioned changes do not alter the universe of sources exempted from minor source construction permitting under the SIP with this revision, Georgia's SIP is not being relaxed. Therefore, EPA believes that these changes are consistent with CAA sections 110(l) and 193, and requirements for minor source permitting in CAA section 110(a)(2)(C) and federal regulations. Thus, EPA is proposing to approve the SIP revision.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391–3–1–.01, ''Definitions'' at section (qqqq), state effective on July 29, 2020, which revises the definition of ''Pollution control project,'' and Georgia Rule 391–3–1–.03(6), ''Exemptions,''[4] also state effective on July 29, 2020, which is revised to establish consistency with the revisions to 391–3–1–.01(qqqq). EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** Section of this preamble for more information).

III. Proposed Action

EPA is approving the aforementioned changes to the Georgia SIP. Specifically, EPA is approving the revisions to section (qqqq) of Rule 391–3–1–.01, ''Definitions'' and throughout section 391–3–1–.03(6), ''Exemptions.'' EPA is approving these changes because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the

where the combined emission increases (excluding any contemporaneous emission decreases, *i.e.,* ''netting'' is not allowed) from all nonexempt modified activities are below the following thresholds for all pollutants: (i) 25 tons per year of carbon monoxide; (ii) 150 pounds per year total with a 1.5 pound per day maximum emission of lead; (iii) 10 tons per year of particulate matter, PM_{10} or sulfur dioxide; (iv) 10 tons per year of nitrogen oxides or volatile organic compounds (VOCs) except in the counties of Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale, where less than 2.5 tons per year of nitrogen oxides or VOCs is exempted; and (v) 2 tons per year total with a 15 pound per day maximum emission of any single hazardous air pollutant and less than 5 tons per year of any combination of hazardous air pollutants.''

[4] The table entry for Georgia Rule 391–3–1–.03(6), ''Exemptions,'' at 40 CFR 52.570(c) is revised in this action to include an explanation clarifying that 391–3–1–.03(6)(b)16 is not part of the SIP. Georgia submitted a SIP revision on August 22, 2007, to add (b)16 to the SIP. In a November 27, 2009, notice of final rulemaking, EPA stated that it was not acting on the portion of Georgia's August 22, 2007, SIP revision addressing (b)16 (*see* 74 FR 62249), and the State withdrew this provision from EPA consideration through a letter dated August 5, 2015.

time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: March 30, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L—Georgia

■ 2. In § 52.570, amend the table in paragraph (c) by revising the entries for ''391–3–1–.01'' and ''391–3–1–.03(6)'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01	Definitions	7/29/2020	4/5/2022, [Insert citation of publication].	Except the first paragraph, sections (a)–(nn), (pp)–(ccc), (eee)–(jjj), (nnn)–(bbbb), (dddd)–(kkkk), (mmmm), (rrrr)–(ssss), approved on 12/4/2018 with a State-effective date of 7/20/2017; sections (ddd) and (cccc) approved on 2/2/1996 with a State-effective date of 11/20/1994; (nnnn), approved on 1/5/2017 with a State-effective date of 8/14/2016; and sections (oooo) and (pppp) which are not in the SIP.
*	*	*	*	* * *
391–3–1–.03(6) ...	Exemptions	7/29/2020	4/5/2022, [Insert citation of publication].	With the exception of Rule 391–3–1–.03(6)(b)16.
*	*	*	*	* * *

* * * * *

[FR Doc. 2022–07131 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0428; FRL–9374–02–R4]

Finding of Failure To Attain the 2010 Sulfur Dioxide Standard; Tennessee; Sullivan County Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is finalizing the determination that the Sullivan County, Tennessee, sulfur dioxide (SO_2) nonattainment area (hereinafter referred to as ''the Sullivan County Area'' or ''Area'') failed to attain the 2010 1-hour SO_2 primary National Ambient Air Quality Standard (NAAQS or standard) by the applicable attainment date of October 4, 2018, based upon a weight of evidence analysis of available quality-assured and certified SO_2 ambient air monitoring data and SO_2 emissions data from January 2015 through December 2017. As a result of this determination, the State of Tennessee is required to submit by April 5, 2023, revisions to the Tennessee State Implementation Plan (SIP) that, among other things, provide for the attainment of the SO_2 NAAQS in the Sullivan County Area as expeditiously as practicable but no later than April 5, 2027.

DATES: This rule is effective May 5, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2021–0428. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can be reached by telephone at (404) 562–9009 or via electronic mail at *adams.evan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On January 13, 2022 (87 FR 2095), EPA published a notice of proposed rulemaking (NPRM) proposing to find that the Sullivan County Area failed to attain the 2010 1-hour SO_2 primary NAAQS [1] by the applicable attainment

[1] The Clean Air Act (CAA or Act) establishes a process for air quality management through the

Continued

date of October 4, 2018, based upon a weight of evidence analysis of available quality-assured and certified SO_2 ambient air monitoring data and SO_2 emissions data from January 2015 through December 2017.

EPA designated the Sullivan County Area as nonattainment on August 5, 2013,[2] based on air quality monitoring data from an SO_2 monitor operating at the time of designation (Air Quality System (AQS) Site ID: 47–163–0007). The Sullivan County Area is comprised of a 3-kilometer (km) radius circle centered around the B–253 powerhouse at the Eastman Chemical Company facility in Kingsport, Tennessee (Eastman), which encompasses this SO_2 monitor that was operating at the time of designation.[3] EPA's first round of designations for the 2010 SO_2 NAAQS, including the Sullivan County Area, became effective on October 4, 2013.

Pursuant to CAA section 192(a), the attainment date for the Area was no later than October 4, 2018, which is five years after the effective date of the final action designating the Sullivan County Area as nonattainment for the 2010 SO_2 NAAQS. Under section 179(c) of the CAA, within six months of the attainment date, EPA is required to make a determination, based on the area's air quality as of the attainment date, whether an area attained by that date. If EPA determines that an area failed to attain by the attainment date, EPA is required to publish that determination in the **Federal Register**. *See* CAA section 179(c)(2).

On June 25, 2021, EPA entered into a consent decree with the Center for Biological Diversity in the U.S. District Court for the Northern District of California.[4] The consent decree requires EPA to finalize by March 31, 2022, a determination whether the Sullivan County Area attained the 1-hour SO_2 standard by the October 4, 2018, attainment date.

In the January 13, 2022, NPRM, EPA evaluated whether the Sullivan County Area attained the 2010 SO_2 NAAQS by the October 4, 2018, attainment date. For an area to attain the 2010 SO_2 NAAQS by the October 4, 2018, attainment date, the design value based upon monitored air quality data from 2015–2017 at each eligible monitoring site must be equal to or less than 75 ppb for the 1-hour standard. EPA developed a weight of evidence assessment based on available quality-assured and certified air quality monitoring data, and source-specific SO_2 emissions in the Area from January 2015 through December 2017 to support the proposed determination that the Sullivan County Area did not attain the 1-hour SO_2 standard by October 4, 2018.

Air monitoring data in the Sullivan County Area from January 1, 2015, to July 20, 2016, did not meet the quality assurance requirements in 40 CFR part 58 Appendix A and, therefore, were not comparable to the NAAQS. Consequently, a valid 2015–2017 design value could not be determined for the Area. In lieu of a 2015–2017, 3-year design value, EPA reviewed the available quality-assured ambient monitoring data from July 20, 2016, to December 31, 2017, and annual and hourly SO_2 emissions data at Eastman from January 1, 2015, to December 31, 2017, to determine the air quality in the Sullivan County Area as of the applicable attainment date. The available annual 99th percentile daily maximum 1-hour average SO_2 data at each state and local air monitoring station (SLAMS) site[5] within the Sullivan County Area for the 2015–2017 period are presented in Table 1.

TABLE 1—2015–2017 SO_2 MONITORING DATA FOR THE SULLIVAN COUNTY AREA

Site (AQS ID)	Annual 99th percentile daily maximum 1-hour average (ppb)			Design Value valid?
	2015	2016	2017	
Ross N. Robinson (47–163–6001)	[a] N/A	[b] 152	92	No.
Skyland Dr. (47–163–6002)	[a] N/A	[b] 91	78	No.

Notes:
[a] The SLAMS monitors did not collect data in 2015.
[b] The Ross N. Robinson monitor had only two quarters of complete data in 2016 due to the monitor beginning operation on July 21, 2016. The Skyland Drive monitor had only one quarter of complete data in 2016 due to the monitor beginning operation on September 1, 2016.
Source: EPA AQS Design Value Report, retrieved September 14, 2021.

The data in Table 1 indicates that although the two sites in the Sullivan County Area did not have complete data in 2015 and 2016 to determine a 3-year design value, both monitors consistently measured 99th percentile daily maximum 1-hour SO_2 concentrations above the 75 ppb level of the 1-hour NAAQS in 2016 and 2017, after beginning operation in mid-2016. Both monitors have complete 2017 datasets.

The primary SO_2 emissions sources in the Area are the coal-fired boilers at Eastman. EPA observed that the annual SO_2 emissions and the hourly SO_2 emissions from the Eastman boilers were significantly higher from January 1, 2015, to June 30, 2016, when air monitoring data are not available, than from July 1, 2016, through December 31, 2017, when air monitoring data are available. Considering that the ambient measured concentrations exceeded the level of the NAAQS in 2016 and 2017, when emissions from the primary sources of SO_2 were *lower* than they were in 2015, EPA believes it is reasonable to expect that the 99th percentile maximum daily 1-hour SO_2 concentration in 2015 likely also exceeded the level of 75 ppb. Consequently, the three-year average of the 99th percentile value for 2015 (likely exceeded the level of the NAAQS), 2016 (exceeded the level of the NAAQS), and 2017 (exceeded the level of the NAAQS) almost certainly would have resulted in a design value that violated the NAAQS. Thus, EPA

establishment and implementation of the NAAQS. On June 2, 2010, EPA revised the primary SO_2 NAAQS, establishing a new 1-hour SO_2 standard of 75 parts per billion (ppb). *See* 75 FR 35520 (June 22, 2010). After the promulgation of a new or revised NAAQS, EPA is required to designate all areas of the country pursuant to section 107(d)(1)–(2) of the CAA.

[2] On August 5, 2013, EPA finalized its first round (round 1) of designations for the 2010 primary SO_2 NAAQS. Specifically, in the 2013 action, EPA designated 29 areas in 16 states as nonattainment for the 2010 SO_2 NAAQS, including a portion of Sullivan County.

[3] For exact descriptions of the Sullivan County Area, refer to 40 CFR 81.343.

[4] *See* Consent Decree entered June 25, 2021, (Docket ID: EPA–R04–OAR–2021–0428), *Center for Biological Diversity et al.* v. *EPA*, Case No. 3:20–cv–05436–EMC (N.D. Cal.) which is included in the docket for this action.

[5] See EPA's January 13, 2022, NPRM for additional details regarding the Ross N. Robinson and Skyland Drive SLAMS sites. See 87 FR 2095.

finds that this analysis of available quality-assured and certified ambient concentration data and SO_2 emissions data demonstrates by a weight of evidence that the Sullivan County Area failed to attain the 1-hour SO_2 NAAQS by the required attainment date of October 4, 2018.

EPA's January 13, 2022, NPRM provided detailed assessments of the SO_2 monitoring network and emissions data for the primary SO_2-emitting sources in the Area at Eastman. The NPRM also provided additional background information on the promulgation of the 2010 SO_2 NAAQS, as well as the designation of the Sullivan County Area under the CAA, and EPA's obligation under CAA section 179(c)(1) to determine if an area attained by the statutory attainment date. Lastly, the January 13, 2022, NPRM discussed the consequences for SO_2 nonattainment areas that failed to attain the 1-hour SO_2 standard by the October 4, 2018, attainment date. Comments on the January 13, 2022, NPRM were due on or before February 14, 2022.

II. Response to Comments

EPA received two comments on the January 13, 2022, NPRM, which are included in the docket for this action. The comments do not object to the proposed conclusion that the Sullivan County Area failed to timely attain the NAAQS and are generally in favor of the proposed finding set forth in the January 13, 2022, proposed rulemaking. EPA summarizes and responds to the comments below.

Comment 1: The commenter discusses the findings that EPA outlined in the January 13, 2022, NPRM and generally agrees that a ''SIP is needed to more closely monitor Sullivan County and hold them accountable to following the emission standards.'' The commenter notes that EPA cites to CAA section 179(d) for the consequences for the failure to meet the SO_2 standard. In addition, the commenter expresses concern that the required SIP ''simply passes on responsibility to the State'' and will not address the problem quickly and suggests EPA ''handle the situation.'' The commenter believes EPA has jurisdiction due to the nature of the SO_2 emissions impacting multiple states and that fines should be imposed on the responsible organizations.

Response 1: The commenter does not disagree with EPA's proposed determination that the Sullivan County, Tennessee SO_2 nonattainment area did not attain the 1-hour standard by the October 4, 2018, statutory attainment date. The commenter also supports the requirement for Tennessee to submit a SIP one year after EPA's finding that will provide attainment of the SO_2 standard in the nonattainment area by a new statutory attainment date pursuant to the requirements established at 179(d) of the CAA.

The commenter, however, expresses concern with relying on the State to address the problem, and suggests it would be ideal for EPA to handle the situation. The commenter asserts that EPA should levy fines and should have jurisdiction because of the nature of SO_2 emissions impacting multiple states. As acknowledged by the commenter, EPA is taking this action pursuant to CAA section 179, which specifies the consequences of EPA's determination that the Area did not attain the air quality standard by the applicable attainment date. Specifically, Section 179(d) requires each state with a nonattainment area that fails to attain the standard by the applicable attainment date to submit a SIP revision meeting the requirements of CAA sections 110 and 172 within one year after EPA publishes notice of its determination. Section 172 requires the revision to include, among other elements, a demonstration of attainment (within the period prescribed by CAA section 179(d)), reasonable further progress, and contingency measures. In addition, under CAA section 179(d)(2), the SIP revision must include such additional measures as EPA may reasonably prescribe, including all measures that can be feasibly implemented in the area in light of technological achievability, costs, and any non-air quality and other air quality-related health and environmental impacts.[6]

The relevance of the commenter's statements that EPA should have jurisdiction because of the nature of SO_2 emissions impacting multiple states, and that fines should be imposed on the responsible organizations, is unclear. The source-specific nature of the SO_2 standard is not relevant to EPA's obligations prescribed under the Act to ensure states comply with CAA planning requirements within the statutory timeframes. EPA appreciates the commenter's concern and believes the CAA clearly establishes the State's and EPA's respective responsibilities to ensure nonattainment areas demonstrate expeditious attainment of the standards within the period prescribed by CAA section 179(d). Regarding SO_2 emissions impacting multiple states, separate CAA provisions in section 110(a)(2)(D) require SIPs to contain adequate provisions to prohibit source emission activity that could impact another state's ability to attain or maintain the SO_2 standard.[7]

Comment 2: The commenter expresses concern about the proposed rule only addressing the SO_2 NAAQS in Sullivan County, Tennessee, and notes the importance of the proposed rule in maintaining the safety of the people. The commenter also brings up negative impacts from SO_2 on human health and the environment and states that ''that this is an important issue that I hope gets passed.''

Response 2: The commenter does not object to EPA's proposed determination that the Sullivan County Area failed to timely attain the NAAQS. EPA appreciates the commenter's acknowledgement of the health and environmental impacts from SO_2 pollution. Regarding the commenter's impression that the rule is only beneficial to those living in Sullivan County, EPA notes that the finding of failure to attain is specific to a portion of Sullivan County, Tennessee surrounding Eastman Chemical based on the Agency's 2013 determination that the Area was not attaining the 1-hour SO_2 standard. Since 2013, EPA has determined that areas in the vicinity of large SO_2-emitting sources in the rest of the state are meeting the health-based 1-hour SO_2 standard based on an assessment of available air quality data. Furthermore, based on EPA's 2010 promulgation of the 1-hour SO_2 standard, states were required to submit a SIP revision to EPA to ensure their SIPs have the necessary provisions to provide for the implementation, attainment, and maintenance of the standard pursuant to section 110(a)(1) and 110(a)(2) of the CAA. Among other elements, this revision must include necessary or appropriate SO_2 emission limits and standards, an appropriate air quality monitoring network, and a

[6] At this time, EPA is not prescribing any additional measures for the Sullivan County Area under CAA section 179(d)(2).

[7] Sections 110(a)(1) and (2) of the CAA require each state to adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA. This includes CAA section 110(a)(2)(D), which requires SIPs to (i) contain adequate provisions prohibiting any source or other type of emissions activity within a state from emitting any air pollutants in amounts which will (I) contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any other state, or (II) interfere with measures required to prevent significant deterioration of air quality or to protect visibility. EPA has considered or will consider the adequacy of Tennessee's SIP for these interstate provisions separately. EPA approved the interstate provisions of Tennessee's SIP for the 2010 SO_2 NAAQS of 110(a)(2)(D)(i)(II) on November 28, 2016, and September 24, 2018 (*see* 81 FR 85410 and 83 FR 48237, respectively), and intends to act on the section110(a)(2)(D)(i)(I) interstate transport SIP provisions separately.

permitting program to prevent any construction of new sources or source modifications from deteriorating air quality in areas meeting the NAAQS.

III. Final Action

EPA is taking final action to determine that the Sullivan County Area failed to attain the 2010 1-hour primary SO_2 NAAQS by the applicable attainment date of October 4, 2018. As a result of this determination, the State of Tennessee is required under CAA section 179(d) to submit revisions to the Tennessee SIP for the Sullivan County, Tennessee SO_2 nonattainment area to, among other elements, provide for the attainment of the respective standard as expeditiously as practicable but no later than April 5, 2027. At this time, EPA is not prescribing additional measures for the SO_2 SIP revisions under CAA section 179(d)(2). Tennessee is required under CAA section 179(d) to submit a SIP revision meeting the requirements of sections 110 and 172 of the CAA to EPA by April 5, 2023.

IV. Statutory and Executive Order Reviews

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

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

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

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

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

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more, as described in UMRA (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments. This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector.

E. Executive Order 13132: Federalism

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

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The finding of failure to attain SO_2 NAAQS does not apply to tribal areas, and the rule does not impose a burden on Indian reservation lands or other areas where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Thus, this rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because the effect of this action is to trigger additional planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action triggers additional planning requirements under the CAA.

K. Congressional Review Act

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

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Pollution, Sulfur dioxide.

Dated: March 30, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart RR—Tennessee

■ 2. Amend § 52.2231 by adding paragraph (g) to read as follows:

§ 52.2231 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(g) Effective May 5, 2022, EPA has determined that the Sullivan County SO_2 nonattainment area (NAA) has failed to attain the 2010 1-hour primary sulfur dioxide (SO_2) national ambient air quality standard (NAAQS) by the applicable attainment date of October 4, 2018. This determination triggers the requirements of CAA section 179(d) for the State of Tennessee to submit a revision to the Tennessee State Implementation Plan (SIP) for the Sullivan County SO_2 NAA to EPA by April 5, 2023. The SIP revision must, among other elements, provide for the attainment of the 1-hour primary SO_2 NAAQS in the Sullivan County SO_2 NAA as expeditiously as practicable but no later than April 5, 2027.

* * * * *

[FR Doc. 2022–07090 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0362; FRL–9502–02–R4]

Air Plan Approval; Kentucky; 2015 8-Hour Ozone Nonattainment New Source Review Permit Program Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, on October 15, 2020. EPA is approving Kentucky's certification that existing Nonattainment New Source Review (NNSR) permitting regulations meet the nonattainment planning requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) for Bullitt and Oldham Counties in the Louisville, KY-IN 2015 8-hour ozone Marginal nonattainment area and portions of Boone, Kenton, and Campbell Counties in the Cincinnati, OH-KY Marginal nonattainment area. This action is being approved pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This rule is effective May 5, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2021–0362. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams-Miles, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303–8960. The telephone number is (404) 562–9144. Ms. Williams-Miles can also be reached via electronic mail at *WilliamsMiles.Pearlene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 6, 2018, EPA issued a final rule entitled "Implementation of the 2015 National Ambient Air Quality Standards for ozone: State Implementation Plan Requirements" (SIP Requirements Rule), which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS. *See* 83 FR 62998; 40 CFR part 51, subpart CC.

Based on the nonattainment designation for the 2015 8-hour ozone NAAQS, Kentucky was required to develop a SIP revision addressing the requirements of CAA sections 172(c)(5) and 173 for Kentucky's 2015 8-hour ozone Marginal nonattainment areas. *See* 42 U.S.C. 7502(c). Section 172(c)(5) of the CAA requires each state with a nonattainment area to submit a SIP revision requiring NNSR permits in the nonattainment area in accordance with the permitting requirements of CAA section 173. The minimum SIP requirements for NNSR permitting for the 2015 8-hour ozone NAAQS are located in 40 CFR 51.165. *See* 40 CFR 51.1314.

On October 15, 2020, Kentucky submitted a SIP revision addressing, among other things,[1] permit program requirements (*i.e.,* NNSR) for the 2015 8-hour ozone NAAQS for Kentucky's 2015 8-hour ozone Marginal nonattainment areas. Kentucky's October 15, 2020, SIP revision certifies that the version of 401 Kentucky Administrative Regulation 51:052, *Review of new sources in or impacting upon nonattainment areas,* in the SIP satisfies the federal NNSR requirements for the Kentucky 2015 8-hour ozone Marginal nonattainment areas.

On February 10, 2022, EPA published a Notice of Proposed Rulemaking (NPRM) proposing to approve the October 15, 2020, SIP revision regarding 2015 8-hour Ozone Nonattainment New Source Review Permit Program Requirements for Kentucky's 2015 8-hour ozone Marginal nonattainment areas. *See* 87 FR 7788. The February 10, 2022, NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the February 10, 2022, NPRM were due on or before March 14, 2022. EPA received no comments on the February 10, 2022, NPRM.

II. Final Action

EPA is approving Kentucky's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for Kentucky's 2015 8-hour ozone Marginal nonattainment areas, submitted on October 15, 2020. EPA has determined that Kentucky's submission fulfills the 40 CFR 51.1314 requirement and meets the requirements of CAA section 172(c)(5) and 173 and the minimum SIP requirements of 40 CFR 51.165.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves

[1] The other elements of Kentucky's submittal are being addressed in separate rulemakings.

state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: March 30, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

■ 2. In § 52.920, amend the table in paragraph (e) by adding an entry for ''2015 8-hour Ozone NAAQS Nonattainment New Source Review Requirements'' at the end of the table to reads as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanations
*	*	*	*	*
2015 8-hour Ozone NAAQS Nonattainment New Source Review Requirements.	Bullitt and Oldham Counties in the Louisville, KY-IN Marginal nonattainment area and portions of Boone, Campbell, and Kenton Counties in the Cincinnati, OH-KY Marginal nonattainment area.	10/15/2020	4/5/2022, [Insert citation of publication].	

[FR Doc. 2022–07126 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 87, No. 65
Tuesday, April 5, 2022

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 39

[Docket No. FAA–2022–0391; Project Identifier MCAI–2021–00980–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–841 and –941 airplanes. This proposed AD was prompted by a report of erroneous electronic centralized airplane monitoring (ECAM) warnings for low engine oil pressure, which can lead to a commanded shutdown of an engine. This proposed AD would require installing serviceable engine electronic control (EEC) software or EEC units having the serviceable software, limiting certain parts installation configurations, and prior or concurrent modification of EEC software, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 20, 2022.

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

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

For EASA material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this 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, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0391.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0391; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0391; Project Identifier MCAI–2021–00980–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0198, dated August 27, 2021 (EASA AD 2021–0198) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–841 and –941 airplanes.

This proposed AD was prompted by a report of erroneous ECAM warnings for low engine oil pressure during re-light tests for a Model A330–941 airplane, which it was later determined should not have occurred. The FAA is proposing this AD to address erroneous ECAM engine oil pressure warnings, which could lead to dual engine in-flight shutdown and result in reduced

control of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR part 51

EASA AD 2021–0198 specifies procedures for installing serviceable EEC software or EEC units having the serviceable software, limiting certain parts installation configurations, and prior or concurrent modification of engine electronic control (EEC) software. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0198 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021–0198 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0198 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0198 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0198. Service information required by EASA AD 2021–0198 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0391 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD would affect 11 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
21 work-hours × $85 per hour = $1,785	$0	$1,785	$19,635

The FAA has received no definitive data on which to base the cost estimates for the software update specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2022–0391; Project Identifier MCAI–2021–00980–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 20, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A330–841 and –941 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 73, Engine Fuel & Control.

(e) Unsafe Condition

This AD was prompted by a report of erroneous electronic centralized airplane monitoring (ECAM) warnings for low engine oil pressure, which can lead to a commanded shutdown of an engine. The FAA is issuing this AD to address erroneous ECAM engine oil pressure warnings, which could lead to dual engine in-flight shutdown and result in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0198, dated August 27, 2021 (EASA AD 2021–0198).

(h) Exceptions to EASA AD 2021–0198

(1) Where EASA AD 2021–0198 refers to its effective date or ''10 September 2021,'' this AD requires using the effective date of this AD.

(2) Where paragraphs (5) and (6) of EASA AD 2021–0198 refers to ''From 10 September 2021 . . . until 09 September 2023,'' this AD requires using ''from the effective date of this AD up to 24 months after the effective date of this AD.''

(3) Where paragraph (7) of EASA AD 2021–0198 refers to ''10 September 2023,'' this AD requires using 24 months after the effective date of this AD.

(4) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0198.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified 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 procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For EASA AD 2021–0198, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0391.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

Issued on March 29, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07095 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0390; Project Identifier MCAI–2021–00968–T]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Dassault Aviation Model FALCON 7X airplanes. This proposed AD was prompted by a report of a weak point identified in the Falcon 7X 'EASy' avionics architecture, which, coupled with theoretical generic input/output (I/O) card failure, could lead to misleading data on display units. This proposed AD would require revising the existing airplane flight manual (AFM) to provide emergency procedures for inconsistent or unreliable flight data and emergency and abnormal operations procedures for the GEN I/O internal module failure, and revising the operator's existing FAA-approved minimum equipment list (MEL) items for the multi-function probe heating, air data, and inertial reference systems, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. This proposed AD would also require revising the existing AFM to incorporate additional information in the emergency procedures. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 20, 2022.

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

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

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this 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, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0390.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0390; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0390; Project Identifier MCAI–2021–00968–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3226; email *Tom.Rodriguez@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0197, dated August 23, 2021 (EASA AD 2021–0197) (also referred to as the MCAI), to correct an unsafe condition for all Dassault Aviation Model FALCON 7X airplanes. The FAA notes that Model FALCON 7X airplanes with Dassault modification M1000 incorporated are commonly referred to as ''Model FALCON 8X'' as a marketing designation. This proposed AD was prompted by a report of a weak point identified in the Falcon 7X 'EASy' avionics architecture, which, coupled with theoretical generic I/O card failure, could lead to misleading data on display units. The FAA is proposing this AD to address this condition, which could reduce safety margins and lead to increased pilot workload, and consequent reduced controllability of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0197 specifies procedures for revising the existing AFM to provide emergency procedures for inconsistent or unreliable flight data and emergency and abnormal operations procedures for the GEN I/O internal module failure, revising the operator's existing MEL for the air data and inertial reference systems, and revising the operating suitability manual. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0197 described previously, 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 MCAI.'' This proposed AD also requires revising the existing AFM to incorporate additional information in the emergency procedures.

Difference Between This Proposed AD and the MCAI

EASA AD 2021–0197 requires operators to ''inform all flight crews, and, thereafter, ensure that each pilot has performed the training and operate the aeroplane accordingly'' for the AFM amendment, master minimum equipment list (MMEL) implementation, and Operational Suitability Manual-Flight Crew (OSM–FC) implementation required by that EASA AD. However, this proposed AD would not specifically require those actions for the reasons specified below:

For the AFM amendment: This proposed AD would not specifically require the ''inform all flight crews, and, thereafter, ensure that each pilot has performed the training and operate the aeroplane accordingly'' actions as those actions are already required by FAA regulations for the AFM. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 135.81(c)), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505(a)). FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. 14 CFR 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this proposed AD to operate the airplane according to the revised AFM would be redundant and unnecessary.

For the MMEL implementation: FAA regulations (14 CFR 91.213(a)(4)) require operators to provide pilots with access to all of the information contained in the operator's existing FAA-approved MEL. Compliance with such a requirement (''inform all flight crews, and, thereafter, ensure that each pilot has performed the training and operate the aeroplane accordingly'') for the

MMEL in an AD would be impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the airplane in such a manner would be unenforceable.

For the OSM–FC implementation: This proposed AD would not specifically require the ''inform all flight crews, and, thereafter, ensure that each pilot has performed the training and operate the aeroplane accordingly'' actions as this proposed AD would not require implementing the Dassault Falcon 7X Falcon 8X OSM–FC, DGT148654, Revision 6, dated July 2, 2021 (Dassault Falcon 7X Falcon 8X OSM–FC, Revision 6). Paragraph (4) of the EASA AD 2021–0197 does not apply to this proposed AD because Dassault Falcon 7X Falcon 8X OSM–FC, Revision 6, is not an FAA-approved document and therefore operators might not have that document as part of their training program. The FAA reviewed the actions in Dassault Falcon 7X Falcon 8X OSM–FC, Revision 6, and determined the information for Tp-118–EZII of the OSM–FC is necessary for flightcrew awareness and therefore must be included in the AFM. The FAA has included paragraph (i) in this proposed AD to require revising the existing AFM, as applicable, to incorporate the information for Tp-118–EZII of the OSM–FC, specified in figure 1 to paragraph (i) of this proposed AD, after sub-sub-section 2–200–70, ADS with IRS miscompare, of sub-section 2–200, Emergency Procedures, of Section 2—Emergency Procedures.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021–0197 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0197 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0197 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0197. Service information required by EASA AD 2021–0197 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0390 after the FAA final rule is published.

Interim Action

The FAA considers this proposed AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this proposed AD would affect 121 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$20,570

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2022–0390; Project Identifier MCAI–2021–00968–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 20, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Dassault Aviation Model FALCON 7X airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Unsafe Condition

This AD was prompted by a report of a weak point identified in the Falcon 7X 'EASy' avionics architecture, which, coupled with theoretical generic input/output (I/O) card failure, could lead to misleading data on display units. The FAA is issuing this AD to address this condition, which could reduce safety margins and lead to increased pilot workload, and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0197, dated August 23, 2021 (EASA AD 2021–0197).

(h) Exceptions to EASA AD 2021–0197

(1) Where EASA AD 2021–0197 refers to its effective date, this AD requires using the effective date of this AD.

(2) Whereas EASA AD 2021–0197 requires operators to ''inform all flight crews, and, thereafter, ensure that each pilot has performed the training and operate the aeroplane accordingly,'' this AD does not require those actions.

(3) Where paragraph (3) of EASA AD 2021–0197 specifies to ''implement the instructions of the MMEL–CP,'' this AD requires revising the operator's existing FAA-approved minimum equipment list (MEL) to incorporate that information (''the MMEL–CP'' as specified in EASA AD 2021–0197).

(4) Paragraph (4) of EASA AD 2021–0197 does not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2021–0197 does not apply to this AD.

(i) Airplane Flight Manual (AFM) Revision

Within 2 months after the effective date of this AD, revise the applicable existing AFM to incorporate the information specified in figure 1 to paragraph (i) of this AD after sub-sub-section 2–200–70, Emergency Procedures, ADS with IRS miscompare, of sub-section 2–200, Emergency Procedures, of Section 2—Emergency Procedures.

Figure 1 to paragraph (i) – *Training Areas of Special Emphasis for pilot (TASEp) Tp-118-EZII Info for AFM*

TASEp Tp-118-EZII Information

1) Potentially unreliable information exists on the iPFD and/or HUD
2) Aircraft must be flown by reference to SFD
3) Aircraft trajectory must be monitored on the iNAV
4) The iNAV may have misleading/confusing representations
5) Before using iNAV for aircraft trajectory monitoring, LH pilot side is to be selected
6) Pilot side selection has impacts on task sharing between Pilot Flying and Pilot Monitoring
7) Presence of both ADS and IRS CAS messages requires that newly developed single emergency procedure must be performed instead of performing separate ADS and IRS emergency procedures
8) There may be a time delay of up to 10 secs between the ADS and IRS MISCOMPARE messages during critical phases of flight
9) The special single emergency procedure is not available on ECL (paper checklist from AFM or CODDE2 is required)
10) Crew workload in this failure situation will be high

(j) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal

inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) For EASA AD 2021–0197, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0390.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *Tom.Rodriguez@faa.gov.*

Issued on March 29, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07099 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2022–0001; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BG36

Endangered and Threatened Wildlife and Plants; Lower Colorado River Distinct Population Segment of Roundtail Chub (Gila robusta); Gila Chub (Gila intermedia)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition finding; advance notice of proposed rulemaking.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a finding on a petition to list the Lower Colorado River basin distinct population segment (DPS) of the roundtail chub (*Gila robusta*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list the Lower Colorado River roundtail chub DPS as an endangered or threatened species. However, in conducting the necessary research to inform this petition finding, we have determined that we should consider removing the Gila chub (*Gila intermedia*) from the protections of the Act. Therefore, this document includes an advance notice of proposed rulemaking pertaining to removing the Gila chub, currently listed as endangered, from the List of Endangered and Threatened Wildlife. We ask the public to submit to us any information relevant to the status of these species or their habitats.

DATES: *Petition finding:* The finding in this document pertaining to the Lower Colorado River basin DPS of the roundtail chub (*Gila robusta*) was made on April 5, 2022.

Comment submission on the advance notice of proposed rulemaking: We will accept comments pertaining to Gila chub (*Gila intermedia*) that are received or postmarked on or before June 6, 2022. Comments submitted electronically using the Federal eRulemaking Portal must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Petition finding:* A detailed description of the basis for this finding is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2022–0001. Supporting information used to prepare this finding is available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Comment submission on the advance notice of proposed rulemaking: You may submit comments pertaining to Gila chub (*Gila intermedia*) by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R2–ES–2022–0001, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R2–ES–2022–0001, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Information regarding the Lower Colorado River roundtail chub DPS: We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Lower Colorado River roundtail chub DPS, whenever it becomes available, to the person listed below under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mark Lamb, Arizona Ecological Services Field Office, 9828 North 31st Ave. C3, Phoenix, AZ 85051–2517; telephone 602–242–0210. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving a petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded by pending proposals regarding other species. We must publish a notice of these 12-month findings in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act states that the term ''species'' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines an ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range and a ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether

any species is an endangered species or a threatened species because of any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;
(B) Overutilization for commercial, recreational, scientific, or educational purposes;
(C) Disease or predation;
(D) The inadequacy of existing regulatory mechanisms; or
(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.''

In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as the Service can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Lower Colorado River roundtail chub distinct population segment (DPS) meets the definition of an endangered species or a threatened species, we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. Petition evaluations may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public. Therefore, we reviewed the petition, information available in our files, and other available published and unpublished information.

The species assessment form for the species contains more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that the species does not meet the Act's definition of an endangered species or a threatened species. Additionally, a thorough review of the taxonomy, life history, ecology, and stressors to the Lower Colorado River roundtail chub DPS is presented in the species status assessment report (Service 2022, entire). This supporting information can be found on the internet at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2022–0001. The following is an informational summary for the finding in this document.

Previous Federal Actions

On August 9, 2002, we published a proposed rule to list the Gila chub (*Gila intermedia*), which historically was found throughout the Gila River basin in southern Arizona, southwestern New Mexico, and northeastern Sonora, Mexico, as endangered with critical habitat (67 FR 51948). On April 14, 2003, we received a petition from the Center for Biological Diversity (CBD) requesting that we list both the headwater chub (*Gila nigra*) and a DPS of the roundtail chub (*Gila robusta*) in the Lower Colorado River basin as an endangered or threatened species under the Act. The petition also requested designating critical habitat concurrently with the listing for both species. Following receipt of the 2003 petition, and pursuant to a stipulated settlement agreement, we published a 90-day finding on July 12, 2005 (70 FR 39981), stating that the petitioners had provided sufficient information to indicate that listing of both species may be warranted.

On November 2, 2005, we published a final rule listing the Gila chub (*Gila intermedia*) as endangered with critical habitat (70 FR 66664).

On May 3, 2006, we published a 12-month finding (71 FR 26007) that listing was not warranted for the Lower Colorado River roundtail chub DPS, and that listing for the headwater chub was warranted but precluded by higher priority listing actions. On September 7, 2006, we received a complaint from CBD for declaratory and injunctive relief, challenging our decision not to list the Lower Colorado River basin DPS of the roundtail chub as an endangered species under the Act. On November 5, 2007, in a stipulated settlement agreement, we agreed to commence a new status review of the petitioned Lower Colorado River basin DPS of the roundtail chub and to submit a 12-month finding to the **Federal Register** by June 30, 2009.

On July 7, 2009, we published a 12-month finding (74 FR 32352) on the Lower Colorado River roundtail chub DPS. The finding determined that the entity qualified as a DPS by satisfying the discreteness and significance elements of the Interagency Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Act (DPS Policy; 61 FR 4722,

February 7, 1996). However, we further concluded that listing of the Lower Colorado River roundtail chub DPS was warranted but precluded due to higher priority listing actions at the time. The DPS remained on the candidate list from 2009 to 2014 (74 FR 57804, November 9, 2009; 75 FR 69222, November 10, 2010; 76 FR 66370, October 26, 2011; 77 FR 69993, November 21, 2012; 78 FR 70103, November 22, 2013; 79 FR 72449, December 5, 2014).

On October 7, 2015, following completion of a species status assessment, we published a proposed rule to list the headwater chub and the Lower Colorado River roundtail chub DPS as threatened species under the Act (80 FR 60754). On April 7, 2017, we withdrew the 2015 proposed rule following a taxonomic revision that concluded the available evidence did not support species-level status for the headwater chub (*G. nigra*) and the Gila chub (*G. intermedia*), collapsing them into roundtail chub (*G. robusta*) (Page et al. 2017, p. 459) (82 FR 16981). However, despite this taxonomic revision, Gila chub was unaffected by the 2017 withdrawal and remains listed as endangered on the List of Endangered and Threatened Wildlife.

In 2018, CBD challenged our withdrawal of the proposed rule on the headwater chub and Lower Colorado River roundtail chub DPS. On March 31, 2021, the U.S. District Court found the withdrawal of the 2015 proposed rule was arbitrary and capricious because we withdrew the rule based on taxonomic revisions, but never fully reevaluated the petitioned entity, the DPS. In other words, the taxonomic revisions created a new biological entity in the Lower Colorado River basin that, under the Act, we were still obligated to assess under the original 2003 petition. The court vacated the withdrawal of the proposed rule and ordered that a new 12-month finding be completed by March 31, 2022. Importantly, the court order concerns only the Lower Colorado River basin DPS, since that was the portion of the roundtail chub range for which the Service was originally petitioned. This finding addresses that court order.

Summary of Finding

The original petition to list roundtail chub in the Lower Colorado River basin included populations found in the Bill Williams, Gila, and Little Colorado River basins, which are located in Arizona and New Mexico. Traditionally, the Colorado River basin has been divided into two sections, the Upper and Lower basins, that are demarcated by Lee's Ferry, which is located in northern Arizona downstream of Glen Canyon Dam. This demarcation combines the Bill Williams, Gila, and Little Colorado River basins into the traditional geographical definition of the Lower Colorado River basin.

In regard to roundtail chub populations in these basins, genetic research has revealed that roundtail chub in the Lower and Upper Colorado River basins are genetically distinct. This research has also found that roundtail chub from the Little Colorado River, traditionally geographically placed in the Lower Colorado River basin, belong to the same genetic lineage as roundtail chub in the Upper Colorado River basin. Therefore, as part of this finding, we separated roundtail chub occupying the Little Colorado River from those occupying the remainder of the Lower Colorado River basin (*i.e.,* Bill Williams and Gila River basins) and considered them a separate biological entity.

After reviewing the DPS Policy, we determined that the Lower Colorado River basin (*i.e.,* Bill Williams and Gila River basins) portion of the roundtail chub's range was both discrete and significant. This entity will hereafter be referred to as the ''Lower Colorado River roundtail chub DPS.'' Roundtail chub in the Little Colorado River do meet the threshold of discrete under the policy, but not the standard for significant. Therefore, this 12-month finding specifically addresses the status of roundtail chub only in the Lower Colorado River DPS. A more thorough examination of the DPS determination can be found in the species assessment form that accompanies this 12-month finding.

Within the Lower Colorado River DPS, roundtail chub exhibit a complex population structure determined by hydrological regimes and connections. Roundtail chub occupy a variety of aquatic habitats within this range, and the amount and complexity of available habitat influences population abundance and resiliency. Across the roundtail chub's range, there is variation in ecological settings and genetic diversity that represent potential adaptive capacity for the species.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Lower Colorado River roundtail chub DPS, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. We identified several influences that could affect the viability of the species. These influences include nonnative species and alterations to the hydrological regime, which have reduced the distribution and abundance of roundtail chub in the past and continue to impact populations today. These influences may be exacerbated by climate change into the future, which will affect precipitation patterns, drought, and water usage. Several Federal and State agencies and Tribal nations have been implementing conservation measures through best management practices, specific to the roundtail chub, to help sustain the species and its habitat where possible. These efforts have stabilized most existing populations and expanded the species' distribution through translocations. Since 2004, to increase population sizes and aid in population establishment and persistence, 20 populations of roundtail chub have been introduced, reintroduced, or expanded within the Lower Colorado River basin and at least 37 augmentations in 14 streams have occurred at locations occupied by roundtail chub.

Currently, we estimate that the Lower Colorado River basin roundtail chub DPS occupies around 34 percent of its historical range in the basin and has been extirpated from two of the nine major basins it historically occupied. Within its current range, 83 populations occupy a cumulative total of 1,146 miles (1,845 kilometers) of stream length. Most of these populations are stable or increasing, despite the co-occurrence of nonnative species across much of the range.

The factors most likely to influence the future status of roundtail chub in the Lower Colorado River basin are nonnative species, modification to the hydrological regime, and conservation management. Climate change is also expected to affect the Lower Colorado River basin roundtail chub DPS, mainly by altering the hydrological regime, which will influence the amount of habitat and periodicity of beneficial floods. In the species status assessment report, we modeled these effects to project trends in roundtail chub occupancy into the future (Service 2022, pp. 37–51).

While there may be some reduction in occupancy, we concluded that most sites that are currently occupied will likely continue to be so in the 50-year foreseeable future. Even under scenarios that incorporated climate change effects, most populations were predicted to remain extant, and these extant populations will be widely distributed across the species' range. All scenarios we examined contain a positive effect of management actions on Lower Colorado River roundtail chub DPS population

resiliency, and we anticipate these efforts will continue to benefit the species into the future. Overall, these results suggest that populations of this DPS will continue to be adequately resilient and retain sufficient intraspecific diversity to cope with changing environments in the future.

These findings were true for the Lower Colorado River roundtail chub DPS throughout its range as well as in our analysis of any potentially significant portions of its range. In evaluating any potentially significant portions of the species' range, we considered whether the threats are geographically concentrated in any portion of the DPS's range at a biologically meaningful scale. Based on the best available information, we found no concentration of threats in any portion of the DPS's range at a biologically meaningful scale. Therefore, no portion of the Lower Colorado River roundtail chub DPS's range provided a basis for determining that the species is in danger of extinction now or likely to become in danger of extinction within the foreseeable future in a significant portion of its range.

Accordingly, our review of the best available scientific and commercial information regarding the past, present, and future threats to the species indicates that the Lower Colorado River roundtail chub DPS is not in danger of extinction now nor likely to become endangered within the foreseeable future throughout all or a significant portion of its range and does not meet the definition of an endangered species or a threatened species in accordance with section 3(6) and section 3(20) of the Act. Therefore, we find that listing the Lower Colorado River roundtail chub DPS as an endangered or threatened species under the Act is not warranted at this time. A detailed discussion of the basis for this finding, including a summary of the changes in information that informed this finding relative to the 2015 proposed rule, can be found in the species assessment form, the revised species status assessment report (Service 2022, entire), and other supporting documents (see **ADDRESSES**, above).

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Lower Colorado River roundtail chub DPS to the person listed above under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor this species and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

Advance Notice of Proposed Rulemaking

As mentioned previously, the Gila chub (*Gila intermedia*) remains listed as endangered and was unaffected by the 2017 withdrawal of the 2015 proposed rule to list the headwater chub and the Lower Colorado River roundtail chub DPS as threatened species under the Act (82 FR 16981, April 7, 2017), despite the taxonomic revision concluding species-level status is not warranted for the Gila chub. Therefore, we hereby announce that we are considering issuing a proposed rule to remove Gila chub (*Gila intermedia*) from the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). This document seeks relevant comments from the public on the status of the species, its taxonomy, or its habitats that could serve to inform a new rulemaking action. While we are requesting information on our consideration of issuing a proposed rule to remove Gila chub from the List of Endangered and Threatened Wildlife here, if we determine issuing such a proposed rule is supported by the best information available, formal rulemaking will follow with the opportunity for additional review and comment.

As section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made ''solely on the basis of the best scientific and commercial data available,'' please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

You may submit your comments and materials concerning this advance notice of proposed rulemaking for the Gila chub by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

References Cited

A list of the references cited in this document is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2022–0001 in the species assessment form, or upon request from the person listed above under **FOR FURTHER INFORMATION CONTACT**.

Authors

The primary authors of this document are the staff members of the Fish and Wildlife Service's Species Assessment Team, Ecological Services Program.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–07165 Filed 4–4–22; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 87, No. 65

Tuesday, April 5, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 30, 2022.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 5, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Lacey Act Declaration Requirements; Plants and Plant Products.

OMB Control Number: 0579–0349.

Summary of Collection: The Lacey Act, first enacted in 1900 and significantly amended in 1988, is the United States' oldest Wildlife Protection Statute. The Act combats trafficking in ''illegal'' wildlife, fish, or plants. The Food, Conservation and Energy Act of 2008, which took effect May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). As of May 22, 2008, the Lacey Act made it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported, or sold in violation of the laws of the United States, a State, an Indian tribe, or any foreign law that protects plants. The Lacey Act also makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant covered by the Act.

Need and Use of the Information: APHIS uses the information from plant declarations to ensure compliance with the Lacey Act declaration requirements and to support Lacey Act enforcement efforts of investigating and prosecuting partner government agencies. Under the amended Lacey Act, importers are required to submit a declaration form (PPQ 505) for all plants. The PPQ 505B is the supplemental form which is provided the declarer if additional space is needed to enter the required information. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested. If species varies or is unknown, importers will have to declare the name of each species that may have been used to produce the product. This information will be used to support investigations into illegal logging practices by the Justice Department and also acts as a deterrent to illegal logging practices worldwide.

Description of Respondents: Business or other for-profit.

Number of Respondents: 24,070.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 481,778.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–07072 Filed 4–4–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Request for Applications for Appointment to the National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board's Pollinator Subcommittee

AGENCY: Research, Education, and Economics, Office of the Chief Scientist, Office of the Secretary, USDA.

ACTION: Request for applications for appointment.

SUMMARY: The Office of the Chief Scientist, NAREEE Advisory Board Office requests that qualified individuals interested in serving on the Pollinator Subcommittee apply for appointment.

DATES: The NAREEE Advisory Board Office will accept applications until 5 p.m. Eastern Time on May 31, 2022.

ADDRESSES: Please submit application packages via email to *nareee@usda.gov.* Save all materials in one file using the naming convention, ''Last Name_First Name_Pollinator Subcommittee Application'' and attach to the email. The NAREEE Advisory Board Office will send you an email that confirms receipt of your application and will notify you of the final status of your application once the Secretary of Agriculture selects the new members.

FOR FURTHER INFORMATION CONTACT: Kate Lewis, Executive Director/Designated Federal Official, or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; (202) 380–5373 or email: *nareee@usda.gov.*

SUPPLEMENTARY INFORMATION: This Subcommittee will be known as the USDA National Pollinator

Subcommittee; hereafter referred to as the Pollinator Subcommittee of the National Agricultural Research, Extension Education, and Economics (NAREEE) Advisory Board, which is implemented by the Research, Education, and Economics (REE) Mission Area. Most recently, the NAREEE Board was amended and extended through September 30, 2023 by the Agricultural Improvement Act of 2018. This amended charter is consistent with 7 U.S.C. 3123, as amended, and is in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. Further, USDA is charged by the 2018 Farm Bill, Title 10, Section 1672, Subsection 4, to identify annual strategic pollinator priorities and goals for the Department in the context of specific research mandates. USDA recommends the Pollinator Subcommittee be initiated in 2022 as the newest subcommittee of the NAREEE Advisory Board. The subcommittee is advisory in nature, and members will be asked to make pollinator health-related recommendations, reviews, and consultation to the NAREEE Advisory Board and subsequently to REE, other USDA mission areas, and federal pollinator coordinators. The NAREEE Advisory Board Office is requesting that individuals who are interested in and qualified to serve on the Pollinator Subcommittee apply for appointment. Please visit *https://nareeeab.ree.usda.gov/nominations* for additional information on vacant positions.

Candidates selected to the Pollinator Subcommittee may serve 1–3 years with terms anticipated to start in July 2022 (based on Secretarial action). The NAREEE Advisory Board requires a formal application, and each electronic package MUST include the following:

- AD–755 Form (accessed from this link)—the NAREEE Advisory Board Office will not consider applications submitted with incomplete AD–755 forms.
- A summary of the most important accomplishments that qualify you to serve on the Pollinator Subcommittee, in the form of five to seven (5–7) bullets in fewer than 125 words total;
- Resume or Curriculum Vitae (CV); and
- *Optional:* One to two (1–2) letters of recommendation addressed to the NAREEE Advisory Board Office are helpful, but not mandatory for consideration.

Your application package must comprise 25 pages or fewer to be considered by the NAREEE Advisory Board Office. Information contained in your application package should clearly indicate your qualifications to serve on the Pollinator Subcommittee. The NAREEE Advisory Board Office will review the information contained in the application packages to send to the Secretary of Agriculture. The Secretary of Agriculture will make selections based on candidates who will: (1) Work collaboratively in representing diverse USDA pollinator stakeholders and areas of study; (2) provide sound and informed scientific input on pollinator research priorities; and (3) produce and utilize accurate, scientifically informed input on the best available science pertaining to various aspects of pollinator health.

The Pollinator Subcommittee will formally meet (*i.e.,* public meeting) once per year by video conference and/or in person. The NAREEE Advisory Board does not pay Pollinator Subcommittee members for their time but may reimburse travel expenses such as airfare (USDA must book your flight), per diem to include hotel stays, and other transportation costs within federal travel guidelines when approved by the Designated Federal Officer.

USDA does not discriminate on the basis of race, color, religion, sex, national origin, sexual orientation, gender identity, marital status, political affiliation, disability and genetic information, age, membership in an employee organization, or other non-merit factor. USDA strives to achieve a widely diverse candidate pool for its recruitment for all Board and committee/subcommittee appointments. Federal Registered lobbyists and non-government contractors supporting pollinator policies or programmatic activities at USDA may not apply to be on the Pollinator Subcommittee. Entities that currently have cooperative agreements, grants, or other types of agreements for the purposes of research, education, and/or extension may apply.

Visit *https://nareeeab.ree.usda.gov/nominations* for additional information on vacant positions, application materials and submittal instructions. Any questions regarding member eligibility may be directed to *nareee@usda.gov.* Indicate ''Pollinator Subcommittee Eligibility'' in the email's subject line.

Candidates will be vetted by the White House Liaison Office prior to selection.

Dated: March 30, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–07073 Filed 4–4–22; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Cooperative Wildland Fire Management and Stafford Act Response Agreements

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the renewal without revision to an existing information collection, *Cooperative Wildland Fire Management and Stafford Act Response Agreements.*

DATES: Comments must be received in writing on or before June 6, 2022 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: timothy.melchert@usda.gov.*
- *Mail:* Timothy Melchert, USDA Forest Service, Fire and Aviation Management, Fire and Aviation Management, National Interagency Fire Center (NIFC), 3833 Development Avenue, Boise, ID 83705–5354.
- *Hand Delivery/Courier:* Timothy Melchert, USDA Forest Service, Fire and Aviation Management, Fire and Aviation Management, National Interagency Fire Center (NIFC), 3833 Development Avenue, Boise, ID 83705–5354.
- *Facsimile:* 202–205–1401.

The public may inspect the draft supporting statement and/or comments received at 3833 Development Avenue, Boise, ID 83705–5354 during normal business hours. Visitors are encouraged to call ahead to 208–387–5512 to facilitate entry to the building and ensure staff is available to make documents available for review. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to: *timothy.melchert@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Timothy Melchert, USDA Forest Service, Fire and Aviation Management 208–387–5887, or *timothy.melchert@usda.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Wildland Fire Management and Stafford Act Response Agreements.

OMB Number: 0596–0242.

Expiration Date of Approval: June 30, 2022.

Type of Request: Renewal without revision to an existing information collection.

Abstract: To allow the performance of specific activities in cooperation with Federal, State, local, and Tribal governments, Congress enacted authorities allowing the United States Department of Agriculture (USDA) and United States Department of the Interior (DOI) to enter into cooperative agreements with fire organizations to improve efficiency.

These include:

1. Facilitating the coordination and exchange of personnel, equipment, supplies, services, and funds among the parties.
2. Sustaining Wildland Fire Management activities, such as prevention, preparedness, communication and education, fuels treatment and hazard mitigation, fire planning.
3. Response strategies, tactics and alternatives, suppression and post-fire rehabilitation and restoration.
4. Allow for the parties to respond to presidentially declared emergencies or disasters.

The primary authorities allowing for the agreements are the Reciprocal Fire Protection Act, 42 U.S.C 1856, and the Stafford Act, 42 U.S.C. 5121. The proposed Cooperative Wildland Fire Management and Stafford Act Response Agreement template will allow authorized agencies to streamline coordination with other Federal, State, local, and Tribal governments in wildland fire protection activities, and to document in an agreement the roles and responsibilities among the parties, ensuring maximum protection of resources.

To negotiate, develop, and administer Cooperative Wildland Fire Management and Stafford Act Response Agreements, the USDA Forest Service, DOI Bureau of Land Management, DOI Fish and Wildlife Service, DOI National Park Service, and DOI Bureau of Indian Affairs must collect information from willing State, local, and Tribal governments from the pre-agreement to the closeout stage via telephone calls, emails, postal mail, and person-to-person meetings. There are multiple means to communicate responses, which include forms, optional forms, templates, electronic documents, in person, telephone, and email. The scope of information collected includes the project type, project scope, financial plan, statement of work, and cooperator's business information. Without the collected information, authorized Federal agencies would not be able to negotiate, create, develop, and administer cooperative agreements with stakeholders for wildland fire protection, approved fire severity activities, and presidentially declared emergencies or disasters. Authorized Federal agencies would be unable to develop or monitor projects, make payments, or identify financial and accounting errors.

The regulations governing Federal financial assistance relationships are not applicable to agreement templates under this information collection request. The regulations in 2 CFR 200 set forth the general rules that are applicable to all grants and cooperative agreements made by the Department of Agriculture and Department of the Interior. Because the Federal government's use of Cooperative Wildland Fire Management and Stafford Act Response Agreements entered into under cited Federal statutes are not financial assistance for the benefit of the recipient, but instead are entered into for the mutual benefit of the Federal government and the non-Federal cooperators, the assistance regulations in 2 CFR 200, as adopted and supplemented by the Department of Start Printed Page 59768 Agriculture and Department of Interior, are not applicable to such agreements.

This is an information collection request reinstatement. The Cooperative Wildland Fire Management and Stafford Act Response Agreement template can be viewed at *www.fs.fed.us/managing-land/fire/master-agreement-template.*

Estimate of Annual Burden: 4 to 24 hours annually per respondent.

Type of Respondents: State, local, and Tribal governments.

Estimated Annual Number of Respondents: 320.

Estimated Annual Number of Responses per Respondent: 1 to 4.

Estimated Total Annual Burden on Respondents: 47,040 hours.

Public Comment: Public comment is invited on (1) whether this information collection is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Jaelith Hall-Rivera,

Acting Deputy Chief, State and Private Forestry.

[FR Doc. 2022–07137 Filed 4–4–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Ask U.S. Panel

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 7, 2021, during a 60-day comment period and a 30-day comment period posted on March 1, 2022. This notice allows for an additional 30-day comment period on the topical survey questionnaires.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Ask U.S. Panel Pilot.

OMB Control Number: 0607–XXXX.

Form Number(s): Not yet determined.

Type of Request: Revision Request.

Number of Respondents: 1,700.

Average Hours per Response: Approximately 15 minutes per respondent.

Burden Hours: No additional burden hours are requested under this Revision request.

Needs and Uses: The Ask U.S. Panel (''the Panel'') Pilot will recruit a probability-based nationwide nationally-representative survey panel to test the methods to track public

opinion on a variety of topics of interest, and for conducting experimentation on alternative question wording and methodological approaches.

A large-scale field Pilot Test will be conducted to recruit members for the panel, based on a probability sample of U.S. adults. Once Pilot Panel members are recruited, they will receive a topical survey to complete. The current notice announces the content of the topical survey for both the general population and the Department of Defense samples.

This 30-day notice seeks comments on the proposed Topical Survey questionnaires only.

Affected Public: Individuals or households.

Frequency: Once.

Respondent's Obligation: Voluntary.

Legal Authority: The Pilot is being developed under a cooperative agreement awarded by the Census Bureau pursuant to the Consolidated Appropriations Act of 2021, Public Law 116–260, section 110. Data collection for the topical surveys are authorized under 13 U.S.C. 8(b), 131, 141, 161, 181, 182, and 193; and 10 U.S.C. 1782. The information collected in topical surveys is protected by title 13 of the United States Code for the General Population Survey and by the Privacy Act of 1974 (5 U.S.C. 552a) for the Department of Defense Survey.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–07104 Filed 4–4–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Chemical Weapons Convention Declaration and Report Handbook and Forms & Chemical Weapons Convention Regulations (CWCR)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 12, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Industry and Security, Department of Commerce.

Title: Chemical Weapons Convention Declaration and Report Handbook and Forms & Chemical Weapons Convention Regulations (CWCR).

OMB Control Number: 0694–0091.

Form Number(s): Form 1–1, Form, 1–2, Form 1–2A, Form 1–2B.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 779.

Average Hours per Response: 10 minutes to 12 hours.

Burden Hours: 14,813.

Needs and Uses: The Chemical Weapons Convention ((CWC or Convention) is a multilateral arms control and non-proliferation treaty that seeks to achieve an international ban on chemical weapons (CW). The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons. Furthermore, each State Party to the Convention is required to make initial and annual declarations on certain facilities which produce, process, consume, transfer, or import/export toxic chemicals and their precursors as specified in three lists or schedules of chemicals contained in the Convention's Annex on Chemicals. In addition to traditional CW agents, the Schedules include chemicals that have both large-scale commercial uses and CW applications (referred to as ''dual-use chemicals''). Information is also required on facilities which produce a broad class of chemicals referred to as ''Unscheduled Discrete Organic Chemicals,'' or ''UDOCs.'' Finally, information is also required from facilities subject to inspection by the Organization for the Prohibition of Chemical Weapons (OPCW). This information is in addition to information provided in initial and annual declarations.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Executive Order 13128 authorizes the Department of Commerce (DOC) to issue regulations necessary to implement the Act and U.S. obligations under Article VI and related provisions of the Convention.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0694–0093.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–07105 Filed 4–4–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–823, A–570–958]

Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From Indonesia and the People's Republic of China: Final Results of the Second Expedited Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these second expedited sunset reviews, the

Department of Commerce (Commerce) finds that revoking the antidumping duty (AD) orders on coated paper suitable for high-quality print graphics using sheet-fed presses (certain coated paper) from Indonesia and the People's Republic of China (China) would likely lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Second Sunset Reviews'' section of this notice.

DATES: Applicable April 5, 2022.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Smith, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2181.

SUPPLEMENTARY INFORMATION:

Background

The first and previous sunset reviews of the *Orders* [1] were initiated on October 1, 2015.[2] In the final results of the first expedited review, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping.[3]

On December 1, 2021, Commerce published the notice of initiation of the second expedited sunset reviews of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[4] Commerce received a notice of intent to participate from Verso Corporation; Sappi North America, Inc.; and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (collectively, domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i).[5] The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as domestic producers engaged in the production of certain coated paper in the United States.

Commerce received a substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[6] We received no substantive response from any other interested parties in this proceeding and no hearing was requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders.*

Scope of the Orders

The scope of the *Orders* covers certain coated paper and paperboard [7] in sheets suitable for high quality print graphics using sheet-fed presses; coated on one or both sides with kaolin (China or other clay), calcium carbonate, titanium dioxide, and/or other inorganic substances; with or without a binder; having a GE brightness level of 80 or higher,[8] weighing not more than 340 grams per square meter; whether gloss grade, satin grade, matte grade, dull grade, or any other grade of finish; whether or not surface-colored, surface-decorated, printed (except as described below), embossed, or perforated; and irrespective of dimensions (certain coated paper).

Certain coated paper includes (a) coated free sheet paper and paperboard that meets this scope definition; (b) coated groundwood paper and paperboard produced from bleached chemi-thermo-mechanical pulp (BCTMP) that meets this scope definition; and (c) any other coated paper and paperboard that meets this scope definition.

Certain coated paper is typically (but not exclusively) used for printing multi-colored graphics for catalogues, books, magazines, envelopes, labels and wraps, greeting cards, and other commercial printing applications requiring high quality print graphics.

Specifically excluded from the scope are imports of paper and paperboard printed with final content printed text or graphics.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 4810.14.11, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.6000, 4810.14.70, 4810.19.1100, 4810.19.1900, 4810.19.2010, 4810.19.2090, 4810.22.1000, 4810.22.50, 4810.22.6000, 4810.22.70, 4810.29.1000, 4810.29.5000, 4810.29.6000, 4810.29.70, 4810.32, 4810.39 and 4810.92. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Orders* is dispositive.

Analysis of Comments Received

All issues raised in these sunset reviews are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice.[9] The Issues and Decision Memorandum is a public document and is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Second Sunset Reviews

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping up to the following weighted-average dumping margins:

[1] *See Certain Coated Paper Suitable for High-Quality Graphics Using Sheet-Fed Presses from Indonesia: Antidumping Duty Order,* 75 FR 70205 (November 17, 2010); and *Certain Coated Paper Suitable for High-Quality Graphics Using Sheet-Fed Presses from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order,* 75 FR 70203 (November 17, 2010) (collectively, *Orders*).

[2] *See Initiation of Five-Year (''Sunset'') Reviews,* 80 FR 59133 (October 1, 2015).

[3] *See Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia and the People's Republic of China: Final Results of Expedited First Sunset Reviews of the Antidumping Duty Orders,* 81 FR 907 (January 8, 2016).

[4] *See Initiation of Five-Year (Sunset) Reviews,* 86 FR 68220 (December 1, 2021).

[5] *See* Domestic Interested Parties' Letters, ''Five-Year ('Sunset') Review Of Antidumping Duty Order On Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic Of China: Notice of Intent to Participate in Sunset Review,'' dated December 10, 2021; and ''Five-Year ('Sunset') Review Of Antidumping Duty Order On Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Notice of Intent to Participate in Sunset Review,'' dated December 15, 2021.

[6] *See* Domestic Interested Parties' Letters, ''Second Five-Year ('Sunset') Review Of Antidumping Duty Order On Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic Of China: Substantive Response to Notice of Initiation,'' dated January 3, 2022; and ''Second Five-Year ('Sunset') Review Of the Antidumping Order On Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia: Substantive Response to Notice of Initiation,'' dated January 3, 2022.

[7] ''Paperboard'' refers to certain coated paper that is heavier, thicker and more rigid than coated paper which otherwise meets the product description. In the context of certain coated paper, paperboard typically is referred to as ''cover,'' to distinguish it from ''text.''

[8] One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off of a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade.

[9] *See* Memorandum, ''Issues and Decision Memorandum for the Second Expedited Sunset Review of the Antidumping Duty Orders on Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from Indonesia and the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice.

Country	Weighted-average margin (percent)
Indonesia	20.13
People's Republic of China	135.84

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing the final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, 19 CFR 351.218, and 19 CFR 351.221(c)(5)(ii).

Dated: March 30, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Orders*
IV. History of the *Orders*
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margins Likely to Prevail
VII. Final Results of Second Sunset Reviews
VIII. Recommendation

[FR Doc. 2022–07139 Filed 4–4–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NIST Generic Clearance for Program Evaluation Data Collections

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), 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 preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before June 6, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Maureen O'Reilly, Management Analyst, NIST, by email to *PRAcomments@doc.gov.* Please reference OMB Control Number 0693–0033 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Maureen O'Reilly, Management Analyst, NIST, 100 Bureau Drive, MS 1710, Gaithersburg, MD 20899, 301–975–3189, *maureen.oreilly@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

In accordance with Executive Order 12862, the National Institute of Standards and Technology (NIST), a non-regulatory agency of the Department of Commerce, proposes to conduct a number of surveys—both quantitative and qualitative—designed to evaluate our current programs from a customer's perspective. NIST proposes to perform program evaluation data collections by means of, but not limited to, focus groups, reply cards that accompany product distributions, and Web-based surveys and dialogue boxes that offer customers the opportunity to express their views on the programs they are asked to evaluate. NIST will limit its inquiries to data collections that solicit strictly voluntary opinions and will not collect information that is required or regulated. Steps will be taken to assure anonymity of respondents in each activity covered under this request.

II. Method of Collection

NIST will collect this information by electronic means, when possible, as well as by mail, fax, telephone and person-to-person interviews.

III. Data

OMB Control Number: 0693–0033.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Estimated Number of Respondents: 40,000.

Estimated Time per Response: Varied, dependent upon the data collection method used. The response time may vary from two minutes for a response card or two hours for focus group participation. The average time per response is expected to be 30 minutes.

Estimated Total Annual Burden Hours: 20,000.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

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. 2022–07162 Filed 4–4–22; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB902]

Atlantic Highly Migratory Species; Initiation of 5-Year Essential Fish Habitat Review

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

ACTION: Notice of initiation of 5-year essential fish habitat (EFH) review; request for information.

SUMMARY: NMFS announces the initiation of a 5-year review of EFH for Atlantic highly migratory species (HMS) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Consistent with the regulatory provision stating that NMFS should periodically review and revise or amend the EFH provisions as warranted based on available information, the purpose of the 5-year review is to evaluate the EFH provisions of the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and determine whether updates to Atlantic HMS EFH are warranted. The review will be based on the best information or data available regarding Atlantic HMS and their habitats. NMFS requests public submissions of information that was not previously included in recent updates to Atlantic HMS EFH or has become available since publication of Final Amendment 10 to the 2006 Consolidated Atlantic HMS FMP (Amendment 10), which reviewed and updated HMS EFH in 2017.

DATES: To allow adequate time to conduct this review, NMFS must receive your information no later than June 6, 2022.

ADDRESSES: Electronic copies of information related to the Atlantic HMS EFH 5-Year Review may be obtained on the HMS Management Division website at: *https://www.fisheries.noaa.gov/action/essential-fish-habitat-5-year-review.*

You may submit information on this document, identified by NOAA–NMFS–2022–0036, via the Federal e-Rulemaking Portal. Go to *www.regulations.gov,* enter ''NOAA–NMFS–2022–0036'' into the search box, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

You may also submit information via email, with the subject ''Atlantic HMS EFH 5-Year Review'' to *NMFS.SF.HMSEFH@noaa.gov.*

Instructions: Comments and information 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 and information received are a part of the public record and may 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 and information (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jennifer Cudney (*jennifer.cudney@noaa.gov*) or Peter Cooper (*peter.cooper@noaa.gov*) by email, or by phone at (301) 427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries (tunas, billfish, swordfish, and sharks) are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS FMP and its amendments are implemented by regulations at 50 CFR part 635.

Section 303(a)(7) of the Magnuson-Stevens Act requires that FMPs describe and identify EFH based on the guidelines established by the Secretary under section 305(b)(1)(A) of the Magnuson-Stevens Act, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. NMFS published guidelines to implement the Magnuson-Stevens Act's EFH provisions in regulations at 50 CFR part 600, subpart J—Essential Fish Habitat and Subpart K—EFH Coordination, Consultations, and Recommendations. EFH is defined in section 3(10) of the Magnuson-Stevens Act as ''those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.'' The FMP regulations (50 CFR 600.815) addressing EFH state that fishery management councils and NMFS should periodically review and revise or amend the EFH provisions as warranted based on available information (§ 600.815(a)(10)).

In 2009, NMFS completed a 5-year review of EFH for Atlantic HMS in Final Amendment 1 to the 2006 Consolidated Atlantic HMS FMP (Amendment 1) (74 FR 28018, June 12, 2009). As a result of the 5-year review, in Amendment 1, NMFS updated and revised existing identifications and descriptions of EFH for Atlantic HMS, designated a Habitat Area of Particular Concern (HAPC) for bluefin tuna in the Gulf of Mexico, and updated the analysis of fishing and non-fishing impacts to EFH. In 2010, NMFS published a Final Environmental Impact Statement for Amendment 3 to the 2006 Consolidated Atlantic HMS FMP that designated EFH for smoothhound sharks using the same methodology in Final Amendment 1. In 2010, NMFS also published an interpretive rule and final action (75 FR 57698, September 22, 2010) that added roundscale spearfish to the definition of terms in the Atlantic HMS regulations to accurately reflect the latest species determinations and taxonomic classification nomenclature, and defined EFH for roundscale spearfish. On July 1, 2015, NMFS published a Notice of Availability regarding the completion of another 5-year review of EFH for Atlantic HMS and a Notice of Intent to initiate an amendment to revise Atlantic HMS EFH descriptions and designations (80 FR 37598). In Final Amendment 10 (82 FR 42329, September 7, 2017), NMFS updated and revised existing identifications and descriptions of EFH for Atlantic HMS; modified existing HAPCs for bluefin tuna and sandbar shark; created new HAPCs for lemon shark and sand tiger shark; and updated the analysis of fishing and non-fishing impacts to EFH.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best data available regarding Atlantic HMS and their habitats and that the best scientific information available is used in the description and identification of EFH consistent with National Standard 2 of the Magnuson-Stevens Act, NMFS is soliciting information from the public, government agencies, tribes, the scientific community, industry, environmental entities, and any other parties, concerning EFH of Atlantic HMS. Categories of requested information are based on the 10 EFH components identified in FMP regulations. These include: (1) Description and identification of EFH; (2) Fishing activities that may adversely affect EFH; (3) Non-Magnuson-Stevens Act fishing activities that may adversely affect EFH; (4) Non-fishing related activities that may adversely affect EFH; (5) Cumulative impacts analysis; (6) Conservation and enhancement; (7) Prey species; (8) Identification of HAPCs; (9) Research and information needs; and (10) Review and revision of EFH components of FMPs (§ 600.815(a)(1)–(10)). Any new information will be

considered during the 5-year review and in any related follow-up actions (if warranted) and may also be used in evaluating ongoing research and management of Atlantic HMS.

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

Dated: March 31, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–07167 Filed 4–4–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB906]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Dolphin Wahoo Advisory Panel (AP) on April 20 and 21, 2022.

DATES: The Dolphin Wahoo AP meeting will be held April 20–21, 2022. The meeting will be held from 1:30 p.m. until 5 p.m. EDT on April 20th and from 9 a.m. until 12 p.m. EDT on April 21st.

ADDRESSES:

Meeting address: The meeting will be held at the Crowne Plaza Hotel, 4831 Tanger Outlet Blvd., N Charleston, SC 29418; phone: (883) 744–4422.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

The meeting will also be available via webinar. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meeting at: *https://safmc.net/safmc-meetings/current-advisory-panel-meetings/.*

FOR FURTHER INFORMATION CONTACT: John Hadley, Fishery Management Plan Coordinator, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *john.hadley@safmc.net.*

SUPPLEMENTARY INFORMATION: Agenda items for the Dolphin Wahoo AP meeting include: Review of recent and developing Council actions; review of draft Framework Amendment 2 to the Dolphin Wahoo Fishery Management Plan that would extend the applicable range of the minimum size limit, modify recreational retention limits, and reduce or remove captain and crew bag limits for dolphin; input on the potential need for regional management and other future management changes; and an update of the fishery performance report for dolphin. The AP will also receive updates on the Council's Citizen Science Program, the Climate Change Scenario Workgroup, and address other business. The AP will provide recommendations for Council consideration as appropriate.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 31, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–07120 Filed 4–4–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Uniform Formulary Beneficiary Advisory Panel; Notice of Federal Advisory Committee meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel (UF BAP) will take place.

DATES: Open to the public Wednesday, April 6, 2022, 10:00 a.m.–1:00 p.m. (Eastern Standard Time).

ADDRESSES: The meeting will be held telephonically or via conference call. The phone number for the remote access on April 6, 2022 is: CONUS: 1–800–369–2046; OCONUS: 1–203–827–7030; PARTICIPANT CODE: 8546285.

These numbers and the dial-in instructions will also be posted on the Uniform Formulary Beneficiary Advisory Panel Website at: *https://www.health.mil/Military-Health-Topics/Access-Cost-Quality-and-Safety/Pharmacy-Operations/BAP.*

FOR FURTHER INFORMATION CONTACT: Designated Federal Official (DFO) Colonel Paul J. Hoerner, USAF, 703–681–2890 (voice), *dha.ncr.j-6.mbx.baprequests@mail.mil* (email). Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101. Website: *https://www.health.mil/Military-Health-Topics/Access-Cost-Quality-and-Safety/Pharmacy-Operations/BAP.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the DoD and the DFO, the UF BAP was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its April 6, 2022 meeting of the UF BAP. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., appendix) and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The Panel will review and comment on recommendations made to the Director, Defense Health Agency, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

Agenda

1. 10:00 a.m.–10:10 a.m. Sign In for UF BAP members
2. 10:10 a.m.–10:40 a.m. Welcome and Opening Remarks
   a. Welcome, Opening Remarks, and Introduction of UF BAP Members by Col Paul J. Hoerner, DFO, UF BAP
   b. Opening Remarks by UF BAP Co-Chair Senior Chief Petty Officer Jon R. Ostrowski, Non-Commissioned Officers Association
   c. Introductory Remarks by CDR Scott Raisor, Interim Chief, Formulary Management Branch
   d. Public Written Comments by CDR Raisor
3. 10:40 a.m.–11:45 a.m. Scheduled Therapeutic Class Reviews
   a. Oncological Agents: Renal Cell Carcinoma; Myelofibrosis; Epidermal Growth Factor Receptor (EGFR) plus Non-Small Cell Lung Cancer (NSCLC); Non-Bruton's Tyrosine Kinase Inhibitor (Non-BTKI) for Chronic Lymphocytic Leukemia (CLL)/Small Lymphocytic Lymphoma (SLL); and Poly Adenosine Diphosphate-Ribose (PARP) Inhibitors subclasses
   b. Binders-Chelators-Antidotes-Overdose Agents: Hypoglycemia Agents
4. 11:45 a.m.–12:30 p.m. Newly Approved Drugs Review
5. 12:30 p.m.–12:45 p.m. Pertinent

Utilization Management Issues
* Note that UF BAP discussion and vote will follow each section
6. 12:45 p.m.–1:00 p.m. Closing remarks
a. Closing Remarks by UF BAP Co-Chair Senior Chief Petty Officer Jon R. Ostrowski
b. Closing Remarks by Col Paul J Hoerner, DFO, UF BAP

Meeting Accessibility: Pursuant to section 10(a)(1) of the FACA and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of phone lines, this meeting is open to the public. Telephone lines are limited and available to the first 220 people dialing in. There will be 220 lines total: 200 domestic and 20 international, including leader lines.

Written Statements: Pursuant to 41 CFR 102–3.10, and section 10(a)(3) of FACA, interested persons or organizations may submit written statements to the UF BAP about its mission and/or the agenda to be addressed in this public meeting. Written statements should be submitted to the Uniform Formulary Beneficiary Advisory Panel's DFO. The DFO's contact information can be found in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Written comments or statements must be received by the UF BAP's DFO at least one (1) calendar day prior to the meeting so they may be made available to the UF BAP for its consideration prior to the meeting. The DFO will review all submitted written statements and provide copies to UF BAP.

Dated: March 30, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–07150 Filed 4–4–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Asian American and Native American Pacific Islander-Serving Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2022 for the Asian American and Native American Pacific Islander-Serving Institutions (AANAPISI) Program, Assistance Listing Number 84.031L. This notice relates to the approved information collection under OMB control number 1840–0798.

DATES:

Applications Available: April 5, 2022.

Deadline for Transmittal of Applications: June 6, 2022.

Deadline for Intergovernmental Review: August 3, 2022.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phaseout of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

FOR FURTHER INFORMATION CONTACT: Pearson Owens, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B109, Washington, DC 20202–4260. Telephone: (202) 453–7997. Email: *Pearson.Owens@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:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The AANAPISI Program provides grants to eligible institutions of higher education (IHEs) to enable them to improve and expand their capacity to serve Asian American and Native American Pacific Islander students. Institutions may use these grants to plan, develop, or implement activities that strengthen the institution's services leading to student success.

Background: It is well documented that the novel coronavirus 2019 (COVID–19) pandemic is having a negative impact on Asian American and Pacific Islander students. Hate crimes against Asian American and Pacific Islanders in the United States surged during the COVID–19 pandemic.[1] Anti-Asian racism is impacting the mental health of Asian American and Pacific Islanders as well.[2] While the population of Asian American and Pacific Islanders (AAPI) continues to grow on college campuses, research shows they are least likely to seek help. Only two out of 10 AAPI college students experiencing a mental health issue receives treatment.[3] To combat these problems, this competition includes two competitive preference priorities aimed at providing comprehensive student supports.

Priorities: This notice contains two competitive preference priorities. The priorities are from the Secretary's Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Competitive Preference Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional five points to an application for each priority, depending on how well the application meets one or more of these priorities. Applicants may apply to one or both priorities for a total of 10 additional points.

These priorities are:

Competitive Preference Priority 1: Meeting Student Social, Emotional, and Academic Needs (up to 5 points).

Projects that are designed to improve students' social, emotional, academic, and career development, with a focus on underserved students, in the following area:

(a) Creating a positive, inclusive, and identity-safe climate at institutions of higher education through one or more of the following activities:

(1) Fostering a sense of belonging and inclusion for underserved students.

(2) Implementing evidence-based practices for advancing student success for underserved students.

(3) Providing evidence-based professional development opportunities designed to build asset-based mindsets for faculty and staff on campus and that are inclusive with regard to race, ethnicity, culture, language, and disability status.

Competitive Preference Priority 2: Increasing Postsecondary Education Access, Affordability, Completion, and

[1] Sasha Zhou, Rachel Banawa and Hans Oh, The Mental Health Impact of Covid–19 Racial and Ethnic Discrimination Against Asian American and Pacific Islanders, *https://www.frontiersin.org/articles/10.3389/fpsyt.2021.708426/full.*

[2] Zara Abrams, The mental health impact of anti-Asian racism, *https://www.apa.org/monitor/2021/07/impact-anti-asian-racism.*

[3] Nathan Stewart, Supporting the health and well-being of Asian American and Pacific Islander college students *https://timely.md/blog/supporting-aapi-students-and-communities/.*

Post-Enrollment Success (up to 5 points).

Projects that are designed to increase postsecondary access, affordability, completion, and success for underserved students by addressing one or more of the following priority areas:

(a) Increasing postsecondary education access and reducing the cost of college by creating clearer pathways for students between institutions and making transfer of course credits more seamless and transparent.

(b) Increasing the number and proportion of underserved students who enroll in and complete postsecondary education programs, which may include strategies related to college preparation, awareness, application, selection, advising, counseling, and enrollment.

(c) Establishing a system of high-quality data collection and analysis, such as data on persistence, retention, completion, and post-college outcomes, for transparency, accountability, and institutional improvement.

(d) Supporting the development and implementation of student success programs that integrate multiple comprehensive and evidence-based services or initiatives, such as academic advising, structured/guided pathways, career services, credit-bearing academic undergraduate courses focused on career, and programs to meet basic needs, such as housing, childcare, transportation, student financial aid, and access to technological devices.

Note: Applicants addressing one or both of the competitive preference priorities must include in the one-page abstract submitted with the application a statement indicating that they have done so. If the applicant has addressed one or both competitive preference priorities, this information must also be listed on the AANAPISI Program Profile Form in the Application booklet.

Definitions: The definitions below are from 34 CFR 77.1 and the Supplemental Priorities.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Note: In developing logic models, applicants may want to use resources such as the Regional Educational Laboratory Program's (REL Pacific) Education Logic Model Application, available at *https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp,* to help design their logic models. Other sources include: *https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf, https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf,* and *https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf.*

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Underserved student means a student (which may include children in early learning environments, students in K–12 programs, students in postsecondary education or career and technical education, and adult learners, as appropriate) in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student of color.

(c) An English learner.

(d) A migrant student.

(e) A student without documentation of immigration status.

(f) A student who is the first in their family to attend postsecondary education.

(g) A student enrolling in or seeking to enroll postsecondary education for the first time at the age of 20 or older.

(h) A student who is working full-time while enrolled in postsecondary education.

(i) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.

(j) An adult student in need of improving their basic skills or an adult student with limited English proficiency.

Program Authority: 20 U.S.C. 1059g (title III, part A, of the Higher Education Act of 1965, as amended (HEA)).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Note: In 2008, the HEA was amended by the Higher Education Opportunity Act of 2008 (HEOA), Public Law 110–315. Please note that the regulations for the AANAPISI Program in 34 CFR part 607 have not been updated to reflect these statutory changes.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 607. (e) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants. Five-year Individual Development Grants and Cooperative Arrangement Development Grants will be awarded in FY 2022.

Note: A cooperative arrangement is an arrangement to carry out allowable grant activities between an institution eligible to receive a grant under this part and another eligible or ineligible IHE, under which the resources of the cooperating institutions are combined and shared to better achieve the purposes of this part and avoid costly duplication of effort.

Estimated Available Funds: $5,890,580.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Individual Development Grants:

Estimated Range of Awards: $350,000–$400,000 per year.

Estimated Average Size of Awards: $375,000 per year.

Maximum Award: We will not make an award exceeding $400,000 for a single budget period of 12 months.

Estimated Number of Awards: 12.

Cooperative Arrangement Development Grants:

Estimated Range of Awards: $450,000–$500,000 per year.

Estimated Average Size of Awards: $475,000 per year.

Maximum Award: We will not make an award exceeding $500,000 for a single budget period of 12 months.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* This program is authorized by title III, part A of the HEA. At the time of submission of their applications, applicants must certify their total undergraduate headcount enrollment and that 10 percent of the IHE's enrollment is Asian American or Native American Pacific Islander. An assurance form, which is included in the application materials for this competition, must be signed by an official for the applicant and submitted.

To qualify as an eligible institution under the AANAPISI Program, an institution must—

(i) Be accredited or pre-accredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(ii) Be legally authorized by the State in which it is located to be a junior or community college or to provide an educational program for which it awards a bachelor's degree; and

(iii) Be designated as an ''eligible institution,'' as defined in 34 CFR 600.2, by demonstrating that it (1) has an enrollment of needy students as described in 34 CFR 607.3, and (2) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

Note: The notice announcing the FY 2022 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on December 16, 2021 (86 FR 71470). The eligibility designation process was reopened and published in the **Federal Register** on February 7, 2022 (87 FR 6855). Only institutions that the Department determines are eligible, or which are granted a waiver under the process described in that notice, may apply for a grant in this program.

b. *Relationship between the Title III, Part A Programs and the Developing Hispanic-Serving Institutions (HSI) Program:*

A grantee under the Developing HSI Program, which is authorized under title V of the HEA, may not receive a grant under any HEA, title III, part A program. The title III, part A programs are the Strengthening Institutions Program, the Tribally Controlled Colleges and Universities Program, the Asian American and Native American Pacific Islander-Serving Institutions Program, the Alaska Native and Native Hawaiian-Serving Institutions Program, the Native American-Serving Nontribal Institutions Program, and the Predominantly Black Institutions Program. Furthermore, a current Developing HSI Program grantee may not give up its Developing HSI Program grant in order to be eligible to receive a grant under the AANAPISI Program or any title III, part A program as described in 34 CFR 607.2(g)(1).

An eligible HSI that is not a current grantee under the Developing HSI Program may apply for a FY 2022 grant under all title III, part A programs for which it is eligible, as well as receive consideration for a grant under the Developing HSI Program. However, a successful applicant may receive only one grant as described in 34 CFR 607.2(g)(1).

An eligible IHE that submits applications for an Individual Development Grant and a Cooperative Arrangement Development Grant in this competition may be awarded both in the same fiscal year. However, we will not award a second Cooperative Arrangement Development Grant to an otherwise eligible IHE for an award year for which the IHE already has a Cooperative Arrangement Development Grant award under the AANAPISI Program. A grantee with an Individual Development Grant or a Cooperative Arrangement Development Grant may be a subgrantee in one or more Cooperative Arrangement Development Grants. The lead institution in a Cooperative Arrangement Development Grant must be an eligible institution. Partners or subgrantees are not required to be eligible institutions.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching unless the grantee uses a portion of its grant for establishing or improving an endowment fund. If a grantee uses a portion of its grant for endowment fund purposes, it must match those grant funds with non-Federal funds (20 U.S.C. 1057(d)(1)–(2)).

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Grant funds must be used so that they supplement and, to the extent practical, increase the funds that would otherwise be available for the activities to be carried out under the grant and in no case supplant those funds (34 CFR 607.30(b)).

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a DUNS number to the implementation of the UEI. More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 607.10(c). We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages for Individual Development Grants and no more than 65 pages for Cooperative Arrangement Development Grants and (2) use the following standards below. If you are addressing one or both competitive preference priorities, we recommend that you limit your response to no more than an additional six pages total, three additional pages for Competitive Preference Priority 1 and three additional pages for Competitive Preference Priority 2. Please include a separate heading when responding to one or both competitive preference priorities.

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract and the bibliography. However, the recommended page limit does apply to all of the application narrative.

Note: The Budget Information-Non-Construction Programs Form (ED 524) Sections A–C are not the same as the narrative response to the Budget section of the selection criteria.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this competition are from 34 CFR 75.210. Applicants should address each of the following selection criteria separately for each proposed activity. The selection criteria are worth a total of 100 points; the maximum score for each criterion is noted in parentheses.

(a) *Need for project.* (Maximum 20 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (10 points)

(2) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (5 points)

(3) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (5 points)

(b) *Quality of the project design.* (Maximum 25 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points)

(3) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (10 points)

(c) *Quality of project services.* (Maximum 10 points) The Secretary considers the quality of the services to be provided by the proposed project.

(1) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (3 points)

(2) In addition, the Secretary considers:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (3 points)

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (4 points)

(d) *Quality of project personnel.* (Maximum 10 points) The Secretary considers the quality of the personnel who will carry out the proposed project.

(1) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (3 points)

(2) In addition, the Secretary considers:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator. (4 points)

(ii) The qualifications, including relevant training and experience, of key project personnel. (3 points)

(e) *Adequacy of resources.* (Maximum 5 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

(1) The extent to which the budget is adequate to support the proposed project. (3 points)

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (2 points)

(f) *Quality of the management plan.* (Maximum 15 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (5 points)

(2) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (5 points)

(3) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (5 points)

(g) *Quality of the project evaluation.* (Maximum 15 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (10 points)

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

A panel of three non-Federal reviewers will review and score each application in accordance with the selection criteria. A rank order funding slate will be made from this review. Awards will be made in rank order according to the average score received from the peer review and from the competitive preference priority addressed by the applicant.

In tiebreaking situations for development grants, under 34 CFR 607.23(b), we award one additional point to an application from an IHE that has an endowment fund of which the current market value, per FTE enrolled student, is less than the average current market value of the endowment funds,

per FTE enrolled student, at comparable type institutions that offer similar instruction. We award one additional point to an application from an IHE that has expenditures for library materials per FTE enrolled student that are less than the average expenditure for library materials per FTE enrolled student at similar type institutions. We also add one additional point to an application from an IHE that proposes to carry out one or more of the following activities:

(1) Faculty development.
(2) Funds and administrative management.
(3) Development and improvement of academic programs.
(4) Acquisition of equipment for use in strengthening management and academic programs.
(5) Joint use of facilities.
(6) Student services.

For the purpose of these funding considerations, we use 2019–2020 data.

If a tie remains after applying the tiebreaker mechanism above, priority will be given to applicants that have the lowest endowment values per FTE enrolled student.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the AANAPISI Program:

(a) The percentage of first-time, full-time degree-seeking undergraduate students at four-year AANAPISIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same AANAPISI.

(b) The percentage of first-time, full-time degree-seeking undergraduate students at two-year AANAPISIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same AANAPISI.

(c) The percentage of first-time, full-time degree-seeking undergraduate students

enrolled at four-year AANAPISIs who graduate within six years of enrollment.

(d) The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year AANAPISIs who graduate within three years of enrollment.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package 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.

Michelle Asha Cooper,

Deputy Assistant Secretary for Higher Education Programs, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Postsecondary Education.

[FR Doc. 2022–07155 Filed 4–4–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0159]

EDFacts Data Collection School Years 2022–23, 2023–24, and 2024–25 (With 2021–22 Continuation); Correction

AGENCY: Institute of Education Sciences, National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Correction notice.

SUMMARY: On March 29, 2022, the U.S. Department of Education published a 30-day comment period notice in the **Federal Register** with FR DOC# 2022–06553 (Page 18007, Column 1, Column 2, Column 3) seeking public comment for an information collection entitled, ''EDFacts Data Collection School Years 2022–23, 2023–24, and 2024–25 (With 2021–22 Continuation)''. Instructions were provided in the Addresses section for how to access the information collection on *Reginfo.gov*. The purpose of this notice is to provide further clarification on how to access the documents for review and comment. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

The PRA Coordinator, Strategic Collections and Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: March 31, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–07142 Filed 4–4–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD22–4–000]

Improving Winter-Readiness of Generating Units; Second Supplemental Notice of Technical Conference

As announced in the Notices of Technical Conference issued in this proceeding on November 18, 2021 and March 10, 2022, the Federal Energy Regulatory Commission (Commission) will convene a Joint Technical Conference with the North American Electric Reliability Corporation (NERC) and the Regional Entities in the above-referenced proceeding on Wednesday, April 27 and Thursday, April 28, 2022 from approximately 11:00 a.m. to 5:00 p.m. Eastern time each day. The conference will be held virtually via WebEx.

The purpose of this conference is to discuss how to improve the winter-readiness of generating units, including best practices, lessons learned, and increased use of the NERC Guidelines, as recommended in the Joint February 2021 Cold Weather Outages Report.[1]

The conference will be open for the public to attend electronically. Registration for the conference is not required and there is no fee for attendance. To join the conference, go to the web Calendar of Events for this event on FERC's website, *www.ferc.gov.* The link for the event will be posted at the top of the calendar page and will ''go live'' just prior to the conference start time. The conference will also be transcribed. Transcripts will be available for a fee from Ace Reporting, (202) 347–3700.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call toll-free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this technical conference, please contact Lodie White at *Lodie.White@ferc.gov* or (202) 502–8453. For information related to logistics, please contact Sarah McKinley at *Sarah.Mckinley@ferc.gov* or (202) 502–8368.

[1] *See The February 2021 Cold Weather Outages in Texas and the South Central United States—FERC, NERC and Regional Entity Staff Report* at pp 18, 192 (November 16, 2021), *https://www.ferc.gov/news-events/news/final-report-february-2021-freeze-underscores-winterization-recommendations.*

Dated: March 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07128 Filed 4–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER22–379–000; ER22–379–001]

Southwest Power Pool, Inc.; Notice of Conference Call

On Wednesday, April 6, 2022, Commission staff will hold a conference call with Southwest Power Pool, Inc. beginning at 3:00 p.m. (Eastern Time). The purpose of the conference call is to clarify the information provided in response to the deficiency letter issued on February 11, 2022 (Deficiency Letter). The discussion during the conference call will be focused principally on the responses to questions 3, 4, 5, and 7 in the Deficiency Letter.

All interested parties are invited to listen by phone. The conference call will not be webcasted or transcribed. However, an audio listen-only line will be provided. Those wishing to access the listen-only line must email Thomas Bayly at *Thomas.Bayly@ferc.gov* by 5:00 p.m. (Eastern Time) on Tuesday, April 5, 2022, with their name, email, and phone number, in order to receive the call-in information before the conference call. Please use the following text for the subject line, ''ER22–379–000 listen-only line registration.''

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1 (866) 208–3372 (voice) or (202) 208–1659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

For additional information, please contact Thomas Bayly at *Thomas.Bayly@ferc.gov.*

Dated: March 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07125 Filed 4–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–74–000.
Applicants: Magic Valley Energy Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Magic Valley Energy Center, LLC.
Filed Date: 3/30/22.
Accession Number: 20220330–5068.
Comment Date: 5 p.m. ET 4/20/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1910–023; ER10–1911–023.
Applicants: Duquesne Power, LLC, Duquesne Light Company.
Description: Amendment to March 3, 2022 Notice of Change in Status of Duquesne Light Company, et al.
Filed Date: 3/24/22.
Accession Number: 20220324–5217.
Comment Date: 5 p.m. ET 4/14/22.

Docket Numbers: ER22–1024–001.
Applicants: MATL LLP.
Description: Tariff Amendment: Amendment to Heartland TSR Filing ER22–1114 to be effective 4/13/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5001.
Comment Date: 5 p.m. ET 4/11/22.

Docket Numbers: ER22–1494–001.
Applicants: Duke Energy Florida, LLC.
Description: Tariff Amendment: Amendment to Cancellation Filing to be effective 5/30/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5066.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1495–000.
Applicants: El Paso Electric Company.
Description: § 205(d) Rate Filing: Service Agreement No. 367, EPE and Solar PV Development to be effective 3/29/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5000.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1496–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2646R9 Kansas Municipal Energy Agency NITSA NOA to be effective 3/1/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5013.
Comment Date: 5 p.m. ET 4/20/22.
Docket Numbers: ER22–1497–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1313R15 Oklahoma Gas and Electric Company NITSA and NOA to be effective 3/1/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5022.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1498–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Submission of Western Joint Dispatch Agreement for Guzman Energy to be effective 4/1/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5024.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1499–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: 2022 TACBAA Update to be effective 6/1/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5035.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1500–000.
Applicants: Sunflower Electric Power Corporation, Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Sunflower Electric Power Corporation submits tariff filing per 35.13(a)(2)(iii: Sunflower Electric Power Corporation Formula Rate Revisions to be effective 6/1/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5036.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1501–000.
Applicants: Midcontinent Independent System Operator, Inc., Union Electric Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2022–03–30_SA 3715 Ameren Missouri-Hannibal Construction Agreement to be effective 5/30/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5051.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1503–000.
Applicants: Pisgah Mountain, LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 5/30/2022.
Filed Date: 3/30/22.
Accession Number: 20220330–5069.
Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1504–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to Service Agreement No.

5472; Queue No. AC1–204 to be effective 8/13/2019.

Filed Date: 3/30/22.

Accession Number: 20220330–5071.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1505–000.

Applicants: WEB Silver Maple Wind, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 5/30/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5073.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1506–000.

Applicants: Midcontinent Independent System Operator, Inc.,Wabash Valley Power Association, Inc.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–03–30_Revisions to Schs 7, 8, and 9 to add WVPA in NIPSCO pricing zone to be effective 6/1/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5074.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1507–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: § 205(d) Rate Filing: O&R Undergrounding 3–30–2022 to be effective 4/1/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5086.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1508–000.

Applicants: Midcontinent Independent System Operator, Inc., Wabash Valley Power Association, Inc.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–03–30_Rate Schedule 56 WVPA–NIPSCO JPZ Revenue Allocation Agreement to be effective 6/1/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5091.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1509–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–03–30_SA 3381 Duke-Greensboro Solar Center GIA 1st Rev GIA (J903 S1004) to be effective 3/18/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5116.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1510–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: OATT Revised Attachment H–1 (Rev Depreciation Rates 2022) to be effective 6/1/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5122.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1511–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: § 205(d) Rate Filing: O&R Undergrounding 3–30–2022—Revised to be effective 4/1/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5123.

Comment Date: 5 p.m. ET 4/20/22.

Docket Numbers: ER22–1512–000.

Applicants: Tumbleweed Solar, LLC.

Description: § 205(d) Rate Filing: Certificates of Concurrence and Request for Waivers and Blanket Approvals to be effective 3/17/2022.

Filed Date: 3/30/22.

Accession Number: 20220330–5151.

Comment Date: 5 p.m. ET 4/20/22.

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: March 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07129 Filed 4–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Public Notice; Records Governing Off-the-Record Communications

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. CP21–57–000	3–21–2022	FERC Staff.[1]
2. CP21–57–000	3–21–2022	FERC Staff.[2]
3. CP21–57–000	3–21–2022	FERC Staff.[3]
4. CP21–57–000	3–21–2022	FERC Staff.[4]
5. CP21–57–000	3–21–2022	FERC Staff.[5]
6. CP21–57–000	3–21–2022	FERC Staff.[6]
7. CP21–57–000	3–21–2022	FERC Staff.[7]
8. CP21–57–000	3–21–2022	FERC Staff.[8]
9. CP21–57–000	3–21–2022	FERC Staff.[9]
10. CP21–57–000	3–21–2022	FERC Staff.[10]
11. CP21–57–000	3–21–2022	FERC Staff.[11]
12. CP21–57–000	3–21–2022	FERC Staff.[12]
13. CP21–57–000	3–21–2022	FERC Staff.[13]
14. CP21–57–000	3–21–2022	FERC Staff.[14]
15. CP21–57–000	3–21–2022	FERC Staff.[15]
16. CP21–57–000	3–21–2022	FERC Staff.[16]
17. CP21–57–000	3–21–2022	FERC Staff.[17]
18. CP21–57–000	3–22–2022	FERC Staff.[18]
19. CP21–57–000	3–22–2022	FERC Staff.[19]
20. CP21–57–000	3–22–2022	FERC Staff.[20]
21. CP21–57–000	3–22–2022	FERC Staff.[21]
22. CP21–57–000	3–22–2022	FERC Staff.[22]
23. CP21–57–000	3–22–2022	FERC Staff.[23]
24. CP21–57–000	3–22–2022	FERC Staff.[24]
25. CP21–57–000	3–22–2022	FERC Staff.[25]
26. CP21–57–000	3–22–2022	FERC Staff.[26]
27. CP21–57–000	3–22–2022	FERC Staff.[27]
28. CP21–57–000	3–22–2022	FERC Staff.[28]
29. CP16–10–000, CP21–57–000	3–22–2022	FERC Staff.[29]
30. CP16–10–000, CP21–57–000	3–22–2022	FERC Staff.[30]
31. CP15–554–000, CP15–554–004, CP15–554–005, CP15–554–006, CP15–554–007, CP15–554–009, CP15–555–000, CP15–555–003, CP15–555–004, CP15–555–005, CP15–555–007.	3–23–2022	FERC Staff.[31]
32. CP21–57–000	3–23–2022	FERC Staff.[32]
33. P–14803–000	3–24–2022	FERC Staff.[33]
34. CP21–57–000	3–24–2022	FERC Staff.[34]
35. CP21–57–000	3–24–2022	FERC Staff.[35]
36. CP21–57–000	3–24–2022	FERC Staff.[36]
37. CP21–57–000	3–24–2022	FERC Staff.[37]
38. CP21–57–000	3–24–2022	FERC Staff.[38]
39. CP21–57–000	3–24–2022	FERC Staff.[39]
40. CP21–57–000	3–24–2022	FERC Staff.[40]
41. CP21–57–000	3–25–2022	FERC Staff.[41]
42. CP21–57–000	3–25–2022	FERC Staff.[42]
43. CP21–57–000	3–28–2022	FERC Staff.[43]
44. CP21–57–000	3–28–2022	FERC Staff.[44]
45. CP21–57–000	3–28–2022	FERC Staff.[45]
Exempt:		
None.		

[1] Emailed comments dated 3/19/22 from Colleen Wysser-Martin.
[2] Emailed comments dated 3/21/22 from Osh Morethstorm.
[3] Emailed comments dated 3/21/22 from Sandra Couch.
[4] Emailed comments dated 3/21/22 from Virgene Link-New.
[5] Emailed comments dated 3/21/22 from Elizabeth Struthers Malbon.
[6] Emailed comments dated 3/21/22 from Peter Curtis.
[7] Emailed comments dated 3/21/22 from G Weshinskey.
[8] Emailed comments dated 3/21/22 from Osh Morethstorm.
[9] Emailed comments dated 3/21/22 from Sandra Couch.
[10] Emailed comments dated 3/21/22 from Virgene Link-New.
[11] Emailed comments dated 3/19/22 from Colleen Wysser-Martin.
[12] Emailed comments dated 3/21/22 from Peter Curtis.
[13] Emailed comments dated 3/21/22 from Linda Greene.
[14] Emailed comments dated 3/21/22 from Sharon Paltin.
[15] Emailed comments dated 3/21/22 from Elizabeth Struthers Malbon.
[16] Emailed comments dated 3/21/22 from Buff Grace.
[17] Emailed comments dated 3/21/22 from Matt Anderson.
[18] Emailed comments dated 3/21/22 from Debby Bolen.
[19] Emailed comments dated 3/21/22 from Sheila Mazar.
[20] Emailed comments dated 3/21/22 from Shelia Mazar.
[21] Emailed comments dated 3/21/22 from Matt Anderson.
[22] Emailed comments dated 3/21/22 from Buff Grace.
[23] Emailed comments dated 3/21/22 from Debby Bolen.
[24] Emailed comments dated 3/21/22 from Linda Greene.
[25] Emailed comments dated 3/21/22 from Matt Anderson.
[26] Emailed comments dated 3/21/22 from Sharon Patlin.

[27] Emailed comments dated 3/22/22 from Joan Bowers.
[28] Emailed comments dated 3/22/22 from Joan Bowers.
[29] Emailed comments dated 3/15/22 from Steve Legge.
[30] Emailed comments dated 3/22/22 from Sid and Susan Madison.
[31] Memorandum regarding ex parte communications from July 17, 2020 with Marvin Lewis and Ted Glick.
[32] Emailed comments dated 3/23/22 from Padma Dyvine.
[33] Emailed comments dated 3/23/22 from David Everist.
[34] Emailed comments dated 3/22/22 from Joan Bowers.
[35] Emailed comments dated 3/22/22 from Sid and Susan Madison.
[36] Emailed comments dated 3/22/22 from Jennifer Valentine.
[37] Emailed comments dated 3/22/22 from Colleen Wysser-Martin.
[38] Emailed comments dated 3/23/22 from Padma Dyvine.
[39] Emailed comments dated 3/24/22 from Colleen Wysser-Martin.
[40] Emailed comments dated 3/24/22 from Colleen Wysser-Martin.
[41] Emailed comments dated 3/24/22 from Colleen Wysser-Martin.
[42] Emailed comments dated 3/25/22 from Vince.
[43] Emailed comments dated 3/27/22 from Ann Dorsey.
[44] Emailed comments dated 3/24/22 from an individual.
[45] Emailed comments dated 3/27/22 from Ann Dorsey.

Dated: March 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07130 Filed 4–4–22; 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: RP22–726–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Amendments to Existing Seminole Agreements to be effective 4/1/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5131.
Comment Date: 5 p.m. ET 4/11/22.

Docket Numbers: RP22–727–000.
Applicants: WTG Gas Marketing, LLC, WTG Midstream Marketing, LLC.
Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of WTG Gas Marketing, LLC, et al.
Filed Date: 3/29/22.
Accession Number: 20220329–5136.
Comment Date: 5 p.m. ET 4/11/22.

Docket Numbers: RP22–728–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedules LSS and SS–2 Tracker Filing eff 4/1/2022 to be effective 4/1/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5165.
Comment Date: 5 p.m. ET 4/11/22.

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: March 30, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07127 Filed 4–4–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Washoe Project, Stampede Division—Rate Order No. WAPA–201

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed non-firm power formula rate.

SUMMARY: The Sierra Nevada Region of the Western Area Power Administration (WAPA) proposes a minor rate adjustment for the non-firm power formula rate for the Washoe Project, Stampede Division. The proposed rate will go into effect on October 1, 2022, and will remain in effect through September 30, 2027. The proposed rate is unchanged from the existing Washoe Project formula rate in Rate Schedule SNF–7, which expires on September 30, 2022.

DATES: A consultation and comment period will begin April 5, 2022 and end June 6, 2022. Sierra Nevada Region will present a detailed explanation of the proposed non-firm power formula rate and other modifications at a public information forum on the following date and time:

1. Friday, April 22, 2022, from 9 a.m. PDT to no later than 12 p.m. PDT.

Sierra Nevada Region will accept oral and written comments at a public comment forum on the following date and time:

1. Friday, April 22, 2022, starting at 1 p.m. PDT, to remain open until all comments are acknowledged, or no later than 4 p.m. PDT.

Sierra Nevada Region will conduct both the public information forum and public comment forum via WebEx. Instructions for participating in the forums via WebEx will be posted on Sierra Nevada Region's website at least 14 days before the public information and comment forums at *https://www.wapa.gov/regions/SN/rates/Pages/Rate-Case-2022-WAPA-201.aspx.*

The Sierra Nevada Region will accept written comments at any time during the consultation and comment period.

ADDRESSES: Written comments and requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the proposed non-firm power formula rate submitted by WAPA to FERC for approval should be sent to: Ms. Sonja Anderson, Regional Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, California 95630, or email: *SNR-RateCase@wapa.gov.* WAPA will post information about the proposed non-firm power formula rate and written comments received to its website at: *https://www.wapa.gov/regions/SN/rates/Pages/Rate-Case-2022-WAPA-201.aspx.*

FOR FURTHER INFORMATION CONTACT: Ms. Autumn Wolfe, Rates Manager, Sierra Nevada Region, Western Area Power Administration, (916) 353–4686 or email: *SNR-RateCase@wapa.gov.*

SUPPLEMENTARY INFORMATION: On April 16, 2009, FERC approved and confirmed the Sierra Nevada Region Washoe Project, Stampede Division's non-firm power formula rate, Rate Schedule SNF–7, under Rate Order No. WAPA–136, on a final basis through July 31, 2013.[1] FERC subsequently approved two consecutive 5-year rate extensions in Docket Nos. EF13–5–000 and EF17–1–000, extending the rate through September 30, 2022.[2]

The existing non-firm power formula rate provides sufficient revenue to recover annual costs within the cost recovery criteria set forth in Department of Energy (DOE) Order RA 6120.2. The proposed rate is unchanged from the existing Washoe Project formula rate in Rate Schedule SNF–7, which expires on September 30, 2022. WAPA intends the proposed non-firm power formula rate to go into effect on October 1, 2022. The proposed non-firm power formula rate would remain in effect until September 30, 2027, or until WAPA changes the non-firm power formula rate through another public rate process pursuant to 10 CFR part 903, whichever occurs first.

The Stampede Powerplant has two units with a maximum hourly operating capability of 3,650 kilowatts (kW) and an estimated annual generation of 11 million kilowatt-hours (kWh). Since the Stampede Powerplant has an installed capacity of less than 20,000 kW and generates less than 100 million kWh annually for sale, the proposed rate constitutes a minor rate adjustment under the applicable regulations.[3]

History of the Washoe Project, Stampede Division

Stampede Dam and Reservoir are located on the Little Truckee River in Sierra County, California, about 11 miles northeast of the town of Truckee. The Washoe Project was designed to improve the regulation of runoff from the Truckee and Carson River system and to provide supplemental irrigation water and drainage, as well as water for municipal, industrial, fishery use, flood protection, fish and wildlife benefits and recreation. The power generation is used principally to provide energy for two Federal fish hatcheries: Lahontan National Fish Hatchery and Marble Bluff Fish Hatchery.

When the Stampede Dam and Reservoir project was first authorized, under Public Law 84–858, on August 1, 1956, hydroelectric power development was included. During the period 1966–1970, when Stampede Dam was built, power facilities were not constructed because the power function was not economically justified. Provisions were made to facilitate the addition of power facilities at a later date.

In July 1976, a preliminary reevaluation of a powerplant at Stampede was conducted and published in a special U.S. Department of Interior, Bureau of Reclamation (Reclamation) report, *Adding Powerplants at Existing Federal Dams in California.* In the report, Reclamation recommended construction of a Stampede Powerplant. As a result, definitive plan studies were initiated in Fiscal Year 1977, and construction of the powerplant was completed in 1987. A one-half-mile, 60-kilovolt transmission line, owned by Sierra Pacific Power company, interconnects the Stampede power facilities with WAPA's transmission system.

Under section 205(c) of the Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990, Congress declared all Washoe Project costs non-reimbursable except the Stampede Powerplant.[4] This was necessary because a 1982 court order requires that Stampede be operated for the benefit of endangered or threatened fish at Pyramid Lake.[5] The energy generated by the powerplant has a priority reservation for designated Washoe Project loads. All remaining energy generation is sold on a non-firm basis under the conditions outlined in Sierra Nevada Region's contract with a third-party contractor. Energy generated at Stampede Powerplant is dependent on the run of the river and is therefore considered non-firm.

Since the Washoe Project has no Federally owned transmission lines, Sierra Nevada Region contracted with Truckee Donner Public Utility District and the City of Fallon (TDF) to accept Stampede generation and serve project use loads. Energy in excess of project use loads is integrated with the Central Valley Project (CVP) and marketed under the 2004 and 2025 Power Marketing Plans. Under the proposed Rate Schedule WSH–1, each year any remaining reimbursable expenses that exceed the revenue collected under the TDF contract are transferred to CVP and incorporated into the CVP power revenue requirement (PRR). CVP customers that participate in the Renewable Energy Credit (REC) program receive a share of the Stampede RECs annually based on the annual percentage of revenue share they transfer to the Washoe Project.

Stampede Non-Firm Power Formula Rate

There are no changes from the existing formula rate to the proposed formula rate. The proposed formula rate for Stampede's non-firm power is designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, reimbursable operation and maintenance expenses, and other expenses. The proposed formula rate for Stampede power is:

Stampede Annual Transferred PRR = Stampede Annual PRR − Stampede Revenue

Where:

Stampede Annual Transferred PRR = Stampede Annual PRR as identified as a cost transferred to the CVP.

Stampede Annual PRR = the total PRR for Stampede required to repay all annual costs, including interest, and the investment within the allowable period.

Stampede Revenue = Revenue from applying the Stampede Energy Exchange Account (SEEA) rate to project generation.

The SEEA is an annual energy exchange account for Stampede energy. Under the contract, TDF accepts delivery of all energy generated from Stampede and integrates this generation into its resource portfolio. The monthly calculation of revenue from Stampede energy received by TDF is credited into the SEEA at the SEEA rate. WAPA can use the SEEA to benefit project use facilities and market energy from Stampede to CVP preference entities.

In the SEEA, the revenues from sales (generation revenues) made at the SEEA rate are reduced by the project use, station service power costs, and SEEA administrative costs. WAPA applies the ratio of project use cost to the generation revenue recorded in the SEEA to determine a non-reimbursable percentage. One hundred percent minus the non-reimbursable percentage establishes a reimbursable percentage. This reimbursable percentage is then applied to the appropriate power-related costs to determine the reimbursable costs for repayment. The reimbursable costs are then netted against generation revenues made at the SEEA rate.

Legal Authority

Existing DOE procedures for public participation in power and transmission

[1] *U.S. Dep't of Energy—W. Area Power Admin. (Washoe Project, Stampede Division),* 127 FERC ¶ 62,043 (2009). Rate Order No. WAPA–136, issued June 14, 2008, had placed the rate into effect on an interim basis effective August 1, 2008.

[2] 144 FERC ¶ 62,213 (2013) and 159 FERC ¶ 62,047 (2017).

[3] See 10 CFR 903.2(e).

[4] *See* Public Law 101–618, 104 Stat. 3289, 3307 (1990).

[5] *See Carson-Truckee Water Conservancy Dist.* v. *Watt,* 549 F. Supp. 704, 710 (D. Nev. 1982), *aff'd in part and vacated in part sub nom. Carson-Truckee Water Conservancy Dist.* v. *Clark,* 741 F.2d 257, 260 (9th Cir. 1984).

rate adjustments (10 CFR part 903) were published on September 18, 1985, and February 21, 2019.[6] The proposed action constitutes a minor rate adjustment, as defined by 10 CFR 903.2(e)(2). In accordance with 10 CFR 903.15(a) and 10 CFR 903.16(a), Sierra Nevada Region will hold a public information and public comment forum for this minor rate adjustment. Sierra Nevada Region will review and consider all timely public comments at the conclusion of the consultation and comment period and make amendments or adjustments to the proposal as appropriate. Proposed rates will then be approved on an interim basis.

WAPA is establishing the non-firm power formula rate for Washoe Project, Stampede Division in accordance with section 302 of the DOE Organization Act (42 U.S.C. 7152).[7]

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S4–2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4–DEL–OE1–2021–2, also effective December 8, 2021, the Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00–002.10–05, effective July 8, 2020, the Assistant Secretary for Electricity further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the December 2021 delegations, remains valid.

[6] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

[7] This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (Ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the project involved.

Availability of Information

All brochures, studies, comments, letters, memorandums, or other documents that Sierra Nevada Region initiates or uses to develop the proposed non-firm power formula rate are available for inspection and copying at the Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, California 95630. Many of these documents and supporting information are also available on WAPA's website at *https://www.wapa.gov/regions/SN/rates/Pages/Rate-Case-2022-WAPA-201.aspx.*

Ratemaking Procedure Requirements

Environmental Compliance

WAPA is in the process of determining whether an environmental assessment or an environmental impact statement should be prepared or if this action can be categorically excluded from those requirements.[8]

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority

This document of the Department of Energy was signed on March 22, 2022, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 31, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–07121 Filed 4–4–22; 8:45 am]

BILLING CODE 6450–01–P

[8] In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321–4347; the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9614–01–OA]

Request for Nominations for a Science Advisory Board Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office requests public nominations of scientific experts to form a panel to review the new cloud-based Environmental Benefits and Mapping (BenMAP) tool, an open-source computer program that calculates estimated air pollution-related deaths and illnesses and their associated economic value. BenMAP is a shorthand title referring to the EPA's Environmental Benefits Mapping and Analysis Program, which has recently been updated to a new software platform built with Java code for the interface. The panel will review the latest available public release version of the BenMAP software.

DATES: Nominations should be submitted by April 26, 2022 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Notice and request for nominations may contact Dr. Bryan Bloomer, Designated Federal Officer (DFO), EPA Science Advisory Board via telephone/voice mail (202) 564–4222, or email at *bloomer.bryan@epa.gov.* General information concerning the EPA SAB can be found at the EPA SAB website at *https://sab.epa.gov.* For information concerning BenMAP, please contact Dr. Peter Maniloff by email at *maniloff.peter@epa.gov* or phone (919) 541–5548.

SUPPLEMENTARY INFORMATION:

Background: The SAB (42 U.S.C. 4365) is a chartered Federal Advisory Committee that provides independent scientific and technical peer review, advice, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2) and related regulations. The SAB Staff Office is forming an expert panel, the BenMAP Review Panel, under the auspices of the Chartered SAB. The BenMAP Review Panel will provide advice through the chartered SAB. The SAB and the BenMAP Review Panel will comply with the provisions of FACA and all

appropriate SAB Staff Office procedural policies.

The BenMAP Review Panel will conduct the review of BenMAP as requested by the EPA's Office of Air and Radiation. This panel is one of two separate, but related, panels that will evaluate two different aspects of EPA's overall health benefits assessment methods. The panel being formed with this Notice will review the new cloud-based version of BenMAP and will investigate how the BenMAP software implements EPA's methods to quantify estimated health benefits of air quality changes. The goal of this review will be to focus, in particular, on the user interface, software engineering and documentation (*i.e.,* does the tool correctly perform the intended analytics and yield defensible, scientifically sound and consistent results?). The panel being formed with the nominations solicited with this Notice will be asked to examine the software code in the new cloud-based version of BenMAP and independently evaluate model construction and operations. Thus, panelists for this review will need the appropriate software experience and environmental/health/economic modeling assessment experience to conduct this review. The panelists will have access to a publicly available but non-final cloud-based version of BenMAP and the legacy desktop version of BenMAP, as well as the computer code and design documentation for each. Subsequently, a second SAB panel (to be formed soon via a separate FRN soliciting nominations) will evaluate specific aspects of the methodology EPA uses to quantify estimated health benefits of air quality changes, including how EPA selects human health endpoints to quantify and selects among risk estimates from epidemiologic studies, among others.

Request for Nominations: The SAB Staff Office is seeking nominations of nationally and internationally recognized scientists with demonstrated expertise in the following disciplines: Software development (including expertise in Java, User Interfaces, database/data-management, and cloud computing in the Amazon Web Services [AWS] platform); Geographic Information Systems and Geostatistics; Demographics; Risk Assessment; Statistics/Biostatistics; Atmospheric Modeling; Photochemical Air Quality Modeling; Economics Modeling (including expertise in Non-Market Valuation). As noted above, the panel will need to have the appropriate computational expertise to examine the software code in the cloud-based version of BenMAP and independently evaluate model construction and operations. The panel will be asked to evaluate the performance of the cloud-based version of BenMAP by examining the computer code and documentation, running specific cases, comparing cloud-based platform results to results generated using the legacy desktop version, and any other associated model performance elements as needed.

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals in the areas of expertise described above for possible service on the SAB panel. Individuals may self-nominate. Nominations should be submitted in electronic format (preferred) using the online nomination form on the SAB website at *https://sab.epa.gov* (see the ''Public Input on Membership'' list under ''Committees, Panels, and Membership'' following the instructions for ''Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed,'' provided on the SAB website (see the ''Nomination of Experts'' link under ''Current Activities'' at *https://sab.epa.gov*). To be considered, nominations should include the information requested below. EPA values and welcomes diversity. All qualified candidates are encouraged to apply regardless of sex, race, disability or ethnicity. Nominations should be submitted in time to arrive no later than April 26, 2022.

The following information should be provided on the nomination form: Contact information for the person making the nomination; contact information for the nominee; and the disciplinary and specific areas of expertise of the nominee. Nominees will be contacted by the SAB Staff Office and will be asked to provide a recent curriculum vitae and a narrative biographical summary that include the following: Current position, educational background; research activities; sources of research funding for the last two years; and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB website, should contact the DFO at the contact information noted above. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** Notice, and additional experts identified by the SAB Staff Office, will be posted in a List of Candidates for the panel on the SAB website at *https://sab.epa.gov.* Public comments on the List of Candidates will be accepted for 21 days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office a balanced review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In forming the expert panel, the SAB Staff Office will consider public comments on the Lists of Candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Selection criteria to be used for panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a loss of impartiality; (e) skills working in committees, subcommittees and advisory panels; and, (f) for the panel as a whole, diversity of expertise and scientific points of view.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the ''Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees'' (EPA Form 3110–48). This confidential form is required and allows government officials to determine whether there is a statutory conflict between a person's public responsibilities (which include membership on an EPA federal advisory committee) and private interests and activities, or the appearance of a loss of impartiality, as defined by federal regulation. The form may be viewed and downloaded through the ''Ethics Requirements for Advisors'' link on the SAB website at *https://sab.epa.gov.* This form should not be submitted as part of a nomination.

The approved policy under which the EPA SAB Office selects members for subcommittees and review panels is described in the following document: *Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board* (EPA–SAB–EC–02–010), which is posted on the SAB website at *https://sab.epa.gov.*

Thomas H. Brennan,

Director, Science Advisory Board Staff Office.

[FR Doc. 2022–07084 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9721–01–OA]

Meeting of the Local Government Advisory Committee's Small Communities Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), EPA hereby provides notice of a meeting of the Local Government Advisory Committee's (LGAC) Small Communities Advisory Subcommittee (SCAS) on the date and times described below. This meeting will be open to the public. For information on public attendance and participation, please see the registration information under **SUPPLEMENTARY INFORMATION**.

DATES: The SCAS will meet virtually April 20th, 2022, starting at 1:00 p.m. through 2:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Edlynzia Barnes, Designated Federal Officer (DFO), at *LGAC@epa.gov* or 312–886–6249.

Information on Accessibility: For information on access or services for individuals requiring accessibility accommodations, please contact Edlynzia Barnes by email at *LGAC@epa.gov.* To request accommodation, please do so five (5) business days prior to the meeting, to give EPA as much time as possible to process your request.

SUPPLEMENTARY INFORMATION: Following the passage of the historic Bipartisan Infrastructure Law (BIL), the U.S. Environmental Protection Agency (EPA) will be making significant investments in the health, equity, and resilience of American communities. With unprecedented funding to support our national infrastructure, EPA will improve people's health and safety, help create good-paying jobs, and increase climate resilience throughout the country.

As EPA works to implement the BIL, EPA has asked the SCAS for their input on how the Agency can best:

- Support clean and sustainable air, water, and land priorities for small and rural communities.
- Support capacity needs/advancement for small and rural communities.
- Ensure long-lasting communication between EPA and local officials from small and rural communities.
- Ensure small communities are positioned to benefit from this generational investment in environmental infrastructure.

During this meeting the SCAS will deliberate initial recommendations for the charge questions noted above.

All interested persons are invited to attend and participate. The SCAS will hear comments from the public from 2:05–2:15 p.m. (EDT). Individuals or organizations wishing to address the Subcommittee will be allowed a maximum of five (5) minutes to present their point of view. Also, written comments should be submitted electronically to *LGAC@epa.gov* for the SCAS. Please contact the DFO at the email listed under **FOR FURTHER INFORMATION CONTACT** to schedule a time on the agenda by April 17, 2022. Time will be allotted on a first-come first-served basis, and the total period for comments may be extended if the number of requests for appearances requires it.

Registration: The meeting will be held virtually through an online audio and video platform. Members of the public who wish to participate should register by contacting the Designated Federal Officer (DFO) at *LGAC@epa.gov* by April 15, 2022. The agenda and other supportive meeting materials will be available online at *https://www.epa.gov/ocir/small-community-advisory-subcommittee-scas* and can be obtained by written request to the DFO. In the event of cancellation for unforeseen circumstances, please contact the DFO or check the website above for reschedule information.

Julian Bowles,

Director, State and Local Relations, Office of Congressional and Intergovernmental Relations.

[FR Doc. 2022–07190 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0262; FRL–9667–01–OCSPP]

Pesticide Registration Review; Spirodiclofen Proposed Interim Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim decision for the registration review of spirodiclofen.

DATES: Comments must be received on or before June 6, 2022.

ADDRESSES: Submit your comments to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV. using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* Veronica Dutch, Chemical Review Manager, Pesticide Re-Evaluation Division (7408P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–2352; email address: *dutch.veronica@epa.gov.*

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–0701; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the information under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that

you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim decisions for spirodiclofen. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of spirodiclofen pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim decision for spirodiclofen as shown in the following table and opens a 60-day public comment period on the proposed interim registration review decision.

TABLE—PROPOSED INTERIM DECISION BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and number	Docket ID No.	Chemical review manager and contact information
Spirodiclofen (Case 7443)	EPA–HQ–OPP–2014–0262	Veronica Dutch, *dutch.veronica@epa.gov*, (202) 566–2352.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the docket describe EPA's rationales for conducting additional risk assessments for the registration review of spirodiclofen, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. This proposed interim registration review decision is supported by the rationale included in those documents. Following public comment, the Agency will issue an interim or final registration review decision for spirodiclofen.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for spirodiclofen. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a ''Response to Comments Memorandum'' in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

(Authority: 7 U.S.C. 136 *et seq.*)

Dated: March 30, 2022.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2022–07076 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2021–0669; FRL–9116–02–OAR]

Phasedown of Hydrofluorocarbons: Notice of 2022 Set-Aside Pool Allowance Allocations for Production and Consumption of Regulated Substances Under the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice that on March 31, 2022, the Agency issued hydrofluorocarbon allowances to applicants that met the applicable

criteria from the set-aside pool established in EPA's 2021 final rule titled *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act.* In accordance with this final rule, the Agency redistributed allowances remaining in the set-aside pool to entities that received general pool production and consumption allowances on October 1, 2021. Both the set-aside allocation and the general pool reallocation were announced on the Agency's website on March 31, 2022, and entities were notified either by letter or electronic mail of the allocation decisions. The Agency also provided notice to certain companies on March 31, 2022, that the Agency intends to retire an identified set of those companies' allowances in accordance with the administrative consequences provisions established in the final rule.

FOR FURTHER INFORMATION CONTACT: Andy Chang, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202–564–6658; email address: *chang.andy@epa.gov.* You may also visit EPA's website at *https://www.epa.gov/climate-hfcs-reduction* for further information.

SUPPLEMENTARY INFORMATION: In EPA's rulemaking titled *Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act* (86 FR 55116, Oct. 5, 2021), EPA established a set-aside pool of allowances and codified at 40 CFR 84.15 criteria related to eligibility for the set-aside pool allowances, and how EPA would determine the level of allowances to allocate to each eligible entity. On March 31, 2022, EPA issued allowance allocations consistent with this section and posted the updated list of allowance holders on its website at *https://www.epa.gov/climate-hfcs-reduction.* The set-aside pool was established for three general categories of applicants: Application-specific end users (40 CFR 84.15(b)(1)), entities that imported regulated substances [1] in 2020 that were not required to report under 40 CFR part 98 (*i.e.,* the Greenhouse Gas Reporting Program (GHGRP)) and were not issued allowances as of October 1, 2021 (40 CFR 84.15(c)(1)), and new market entrants (40 CFR 84.15(c)(2)).

Under 40 CFR 84.15, application-specific allowances from the set-aside pool are subject to the same conditions for such allowances in 40 CFR 84.13. These allowances are drawn from both the production and consumption set-aside allowance pools, and EPA is issuing application-specific allowances from the set-aside pool to applicants that qualify as end users in the applications established by the American Innovation and Manufacturing (AIM) Act. The following applications were eligible for application-specific allowances under the set-aside pool: Propellants in metered dose inhalers (MDI), defense sprays, structural composite preformed polyurethane foam for marine use and trailer use, etching of semiconductor material or wafers and the cleaning of chemical vapor deposition chambers within the semiconductor manufacturing sector, and onboard aerospace fire suppression.

Consistent with the provisions in 40 CFR 84.15, EPA has allocated set-aside pool application-specific allowances to the entities listed in Table 1.

TABLE 1—SET-ASIDE APPLICATION-SPECIFIC ALLOWANCES FOR CALENDAR YEAR 2022

Applicant	Application	Number of application-specific allowances issued (MTEVe)
Armstrong Pharmaceuticals	Metered Dose Inhalers	111,059.3
AstraZeneca Pharmaceuticals	Metered Dose Inhalers	2,122.7
Aurobindo Pharma USA	Metered Dose Inhalers	71,177.4
Invagen Pharmaceuticals	Metered Dose Inhalers	28,121.3
Odin Pharmaceuticals	Metered Dose Inhalers	9,473.8
Wabash National Corporation	Structural Composite Foam	36,686.6
IBM Corporation	Semiconductors	1,440.0
NXP Semiconductor	Semiconductors	5,040.8
The Research Foundation for The State University of New York OBO SUNY Polytechnic Institute.	Semiconductors	1,245.4
SkyWater Technology	Semiconductors	15,689.3
Skyworks Solutions	Semiconductors	6,978.5
Proteng Distribution	Onboard aerospace fire suppression	12,075.0
Total		301,110.1

EPA received three applications by the deadline of December 6, 2021, for allowances under the second set-aside category. Under the provisions at 40 CFR 84.15(c)(1), in order to be eligible for this category an applicant had to:

(1) Import regulated substances in 2020;

(2) not be required to report under 40 CFR part 98 (*i.e.,* the GHGRP); and

(3) not receive allowances from EPA on October 1, 2021.

All three applicants, MEK Chemical Corporation, Siemens Industry, and Wegochem International, were denied allowances because they are ineligible under 40 CFR 84.15(c)(1). The entities were required to report to the GHGRP under 40 CFR part 98.

Under the third set-aside category, for new market entrants, 45 entities submitted applications by the deadline of December 6, 2021. EPA is denying applications from seven entities, CAILLECH LLC, ChemPenn, LLC, ComStar International Inc., ISOSTU LLC, J&J AC Supply Inc, Kim Stilwell, and Peter Williams DBA New Era Group, because they are ineligible under 40 CFR 84.15(c)(2). The applicants were ineligible for at least one of the following reasons:

[1] *Regulated substance* means a hydrofluorocarbon listed in the table contained in subsection (c)(1) of the AIM Act and a substance included as a regulated substance by the Administrator under the authority granted in subsection (c)(3). The list of regulated substances is available at Appendix A to 40 CFR part 84.

(1) Did not submit complete applications,

(2) were not newly importing regulated substances, or

(3) shared corporate or common ownership, corporate affiliation in the past five years, or familial relations with entities receiving allowances on October 1, 2021.

Consistent with the provisions in 40 CFR 84.15, EPA has allocated allowances for new market entrants to the entities listed in Table 2.

TABLE 2—SET-ASIDE NEW MARKET ENTRANT ALLOWANCES FOR CALENDAR YEAR 2022

Applicant name	Number of consumption allowances issued (MTEVe)
Ability Refrigerants	200,000.0
A.C.S. Reclamation & Recovery (Absolute Chiller Services)	200,000.0
ACT Commodities	77.8
Advance Auto Parts	190,699.1
AFK & Co	193,335.9
AFS Cooling	200,000.0
AllCool Refrigerant Reclaim	200,000.0
American Air Components	200,000.0
Automart Distributors DBA Refrigerant Plus	200,000.0
CC Packaging	194,000.0
Certified Refrigerant Services	200,000.0
Chemp Technology	200,000.0
Creative Solution	200,000.0
Cross World Group	200,000.0
EDX Industry	200,000.0
Fireside Holdings DBA American Refrigerants	199,978.5
Freskoa USA	200,000.0
Golden Refrigerant	200,000.0
Hungry Bear	200,000.0
Kidde-Fenwal	200,000.0
Lina Trade	200,000.0
Meraki Group	200,000.0
Metalcraft	161,000.0
North American Refrigerants	200,000.0
O23 Energy Plus	200,000.0
Perfect Score Too DBA Perfect Cycle	37,876.0
Reclamation Technologies	200,000.0
RTR Suppliers	198,000.0
Saalok	200,000.0
Sciarra Laboratories	8,700.0
SDS Refrigerant Services	200,000.0
Summit Refrigerants	200,000.0
SynAgile Corporation	1,125.1
TradeQuim	200,000.0
Tyco Fire Products	200,000.0
USA United Suppliers of America DBA USA Refrigerants	200,000.0
USSC Acquisition Corp	131,451.0
Wesco HMB	200,000.0
Total	6,716,243.4

EPA notes the restrictions in 40 CFR 84.15(e)(3) that new market entrants are allocated up to 0.2 MMTEVe (200,000 MTEVe) for calendar year 2022. Accordingly, entities that requested more than 200,000 MTEVe as a new market were allocated the regulatory maximum of 200,000 MTEVe. And, in accordance with 40 CFR 84.15(f)(1) set-aside allowances allocated to new market entrants cannot be transferred.

After making the allocations noted in Tables 1 and 2, there were 2,198,889.9 production allowances and 482,646.5 consumption allowances remaining in the set-aside pool. In accordance with 40 CFR 84.15(e)(4), those allowances have been distributed to the October 1, 2021, general pool allowance holders on a pro rata basis. EPA has made this pro rata distribution as shown in Tables 3 and 4.

TABLE 3—SET-ASIDE PRODUCTION ALLOWANCES DISTRIBUTED PURSUANT TO 40 CFR 84.15(e)(4)

Entity	Number of production allowances issued (MTEVe)
Arkema	265,221.2
Chemours	491,227.0
Honeywell International	1,114,441.9

TABLE 3—SET-ASIDE PRODUCTION ALLOWANCES DISTRIBUTED PURSUANT TO 40 CFR 84.15(e)(4)—Continued

Entity	Number of production allowances issued (MTEVe)
Iofina Chemical	11.4
Mexichem Fluor DBA Koura	327,988.4

TABLE 4—SET-ASIDE CONSUMPTION ALLOWANCES DISTRIBUTED PURSUANT TO 40 CFR 84.15(e)(4)

Entity	Number of consumption allowances issued (MTEVe) [1]
A-Gas	5,926.5
Advanced Specialty Gases	526.9
Air Liquide USA	920.6
Altair Partners	5,390.0
Arkema	57,387.2
Artsen	1,897.6
AutoZone Parts	4,592.1
AW Product Sales & Marketing	359.2
Bluon	61.8
Chemours	61,647.9
Combs Gas	2,378.4
ComStar International	690.8
Daikin America	5,763.4
Electronic Fluorocarbons	192.6
First Continental International	1,421.7
FluoroFusion Specialty Chemicals	4,713.8
GlaxoSmithKline	990.5
Harp USA	1,413.8
Honeywell International	152,348.3
Hudson Technologies	5,518.1
ICool USA	6,291.7
IGas Holdings	47,912.0
Iofina Chemical	2.3
Lenz Sales & Distribution	2,050.4
Linde	983.4
Mexichem Fluor DBA Koura	47,053.8
Mondy Global	588.6
National Refrigerants	36,577.3
Nature Gas Import and Export	1,513.6
Refrigerants, Inc	49.0
RMS of Georgia	2,994.0
Showa Chemicals of America	135.7
Solvay Fluorides	2,035.9
Technical Chemical	1,798.9
Transocean Offshore Deepwater Drilling	0.0
Tulstar Products	1,355.7
Walmart	4,211.6
Waysmos USA	1,171.7
Weitron	11,705.0
Wilhelmsen Ships Service	74.6

[1] Numbers may not sum due to rounding.

This allocation of set-aside allowances should not be construed to limit the ability of EPA to apply administrative consequences under 40 CFR 84.35, or to limit the ability of the United States to exercise any authority to pursue enforcement action under the AIM Act and 40 CFR part 84, or under other federal laws or regulations.

For example, if future information reveals an entity provided false, inaccurate, or misleading information or did not disclose financial or familial relationships between a new entrant and another allowance holder, EPA may pursue administrative consequences and refer the entity for any and all appropriate enforcement actions.

On March 31, 2022, EPA also provided notice to three entities of the Agency's intent to take administrative consequences in accordance with 40 CFR 84.35 and retire an identified set of those companies' allowances. Using this authority, EPA can retire, revoke, or withhold the allocation of allowances, or ban a company from receiving, transferring, or conferring allowances.

Judicial Review

The AIM Act provides that certain sections of the Clean Air Act (CAA) ''shall apply to'' the AIM Act and ''any rule, rulemaking, or regulation promulgated by the Administrator of [EPA] pursuant to [the AIM Act] as though [the AIM Act] were expressly included in title VI of [the CAA].'' Id. § 7675(k)(1)(C). Among the applicable

sections of the CAA is section 307, id. § 7607, which includes provisions on judicial review. Section 307(b)(1) provides, in part, that petitions for review must be filed in the United States Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of ''nationally applicable regulations promulgated, or final actions taken, by the Administrator,'' or (ii) when such action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' For locally or regionally applicable final actions, the CAA reserves to the EPA complete discretion whether to invoke the exception in (ii).

This final action is ''nationally applicable'' within the meaning of CAA section 307(b)(1). In the alternative, to the extent a court finds this final action to be locally or regionally applicable, the Administrator is exercising the complete discretion afforded to him under the CAA to make and publish a finding that this action is based on a determination of ''nationwide scope or effect'' within the meaning of CAA section 307(b)(1).[2] This final action consisted of the Agency issuing hydrofluorocarbon allowances to applicants that met the applicable criteria from the set-aside pool and redistributing allowances remaining in the set-aside pool to entities that received general pool production and consumption allowances on October 1, 2021. The applicants and entities are located throughout the country in varying judicial circuits.[3] This final action is based on a common core of factual findings concerning the eligibility of applicants to the set-aside pool. For these reasons, this final action is nationally applicable or, alternatively, the Administrator is exercising the complete discretion afforded to him by the CAA and hereby finds that this final action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1) and is hereby publishing that finding in the **Federal Register**.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit within 60 days from the date this final action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review, nor does it extend the time within which a petition for judicial review must be filed and shall not postpone the effectiveness of such rule or action.

Hans Christopher Grundler,

Director, Office of Atmospheric Programs.

[FR Doc. 2022–07152 Filed 4–4–22; 8:45 am]

BILLING CODE 6560–50–P

[2] In deciding whether to invoke the exception by making and publishing a finding that this final action is based on a determination of nationwide scope or effect, the Administrator has also taken into account a number of policy considerations, including his judgment balancing the benefit of obtaining the D.C. Circuit's authoritative centralized review versus allowing development of the issue in other contexts and the best use of Agency resources.

[3] In the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that the ''nationwide scope or effect'' exception applies would be appropriate for any action that has a scope or effect beyond a single judicial circuit. See H.R. Rep. No. 95–294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402–03.

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 May 5, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Bank First Corporation, Manitowoc, Wisconsin;* to acquire Denmark Bancshares, Inc., and thereby indirectly acquire Denmark State Bank, both of Denmark, Wisconsin.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org*:

1. *Omni Bank Group, Inc., Little Rock, Arkansas;* to become a bank holding company by acquiring Community State Bank, Bradley, Arkansas.

Board of Governors of the Federal Reserve System, March 31, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–07164 Filed 4–4–22; 8:45 am]

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FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Procurement Solicitation Package (FR 1400; OMB No. 7100–0180).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB

inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Supplier Registration System.

Agency form number: FR 1400A.

OMB control number: 7100–0180.

Frequency: On occasion.

Respondents: Businesses and individuals.

Estimated number of respondents: 250.

Estimated average hours per response: 1.

Estimated annual burden hours: 250.

General description of report: The Board is continuously seeking suppliers who are interested in doing business with the Board through various outreach events, minority/diversity conferences, meetings, and events targeted to either a specific industry classification of suppliers or an upcoming acquisition. Suppliers are encouraged during these efforts to register in the Board's Supplier Registration System (FR 1400A). A supplier searching the internet can also find the registration system via the Board's public website and elect to register.[1] The Supplier Registration System collects pertinent information on their firm and the capabilities they can offer to the Board. While completion of the registration process does not guarantee future opportunities with the Board, it does bring a supplier's capabilities to the attention of procurement staff whose role is to match supplier capabilities with specific acquisition activities when contracting opportunities arise.

Report title: Solicitation Package.

Agency form number: FR 1400B.

OMB control number: 7100–0180.

Frequency: On occasion.

Respondents: Businesses and individuals.

Estimated number of respondents: 300.

Estimated average hours per response: 81.

Estimated annual burden hours: 24,300.

General description of report: In announcing an acquisition, Board staff contacts suppliers registered in the Board's system via electronic mail or by telephone, and provides the documents and applicable attachments included in the Solicitation Package (FR 1400B). The FR 1400B includes:

- A cover letter,
- A Solicitation, Offer, and Award Form (Attachment A) which outlines pertinent dates for the supplier as well as requires the supplier to input contact information and a summary of proposed pricing,
- A Supplier Information Form (Attachment N) that requires supplier contact information, demographic, and payment information so that the supplier can be properly established in the contract writing system and receive payment upon the receipt of a proper and valid invoice,
- A description, provided by the Board, of the goods or services desired,
- A statement of how the Board will evaluate the prospective suppliers,
- A statement of how the Board will evaluate the proposal,
- Solicitation instructions (how to prepare and submit the proposal, including all deadlines),
- Contract terms (work standards, inspections, work delays, work change orders, payment, taxes, and compliance with small business and labor laws), and
- Representations and certifications suppliers must make in order to participate in the solicitation.

The Solicitation Package may also include the Past Performance Data Sheet and Past Performance Questionnaire (Attachment I) if past performance is an evaluation factor. This questionnaire requests information on up to three previous contracts that are recent and relevant to the solicitation, such as a description of the work, the period of performance when the work was completed, the agency for which the work was performed, and an estimated total dollar amount of the effort.

Report title: Supplier Risk Management Offeror Questionnaire.

Agency form number: FR 1400C.

OMB control number: 7100–0180.

Frequency: On occasion.

Respondents: Businesses and individuals.

Estimated number of respondents: 60.

Estimated average hours per response: 4.

Estimated annual burden hours: 240.

General description of report: For solicitations that require the supplier to process, store, or transmit data from the Board, suppliers must complete the Supplier Risk Management Offeror Questionnaire (FR 1400C). This questionnaire requires suppliers to specify the security controls surrounding the supplier's security protocols and proposed application, if applicable, that will be used to process, store, or transmit the data.[2]

Report title: Subcontracting Report.

Agency form number: FR 1400D.

OMB control number: 7100–0180.

Frequency: On occasion.

Respondents: Businesses and individuals.

Estimated number of respondents: 20.

Estimated average hours per response: 1.

Estimated annual burden hours: 40.

General description of report: For solicitations that involve contracts that have subcontracting opportunities and are expected to exceed $100,000, or $300,000 for construction solicitations, non-covered company[3] suppliers must submit a subcontracting plan in the supplier's own format. The subcontracting plan provides information on the nature of subcontracted activities, including the percentage of subcontracted work, and identity of subcontractors, including the subcontractors' size and ownership status, the company will use if awarded the effort. If a supplier is awarded a contract following a Subcontracting Solicitation, the supplier must provide semiannual Subcontracting Reports (FR 1400D) to the Board to document compliance with section 342(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[4]

[1] *https://www.federalreserve.gov/secure/vendorregistration/.*

[2] Security controls are defined and prioritized based on the Federal Information Security Modernization Act of 2014 (FISMA) and the National Institute of Standards and Technology (NIST) Special Publication 800–53 (Security Controls and Assessment Procedures for Federal Information Systems and Organizations).

[3] A ''covered company'' is a firm qualified as a small business concern under the Small Business Act (15 U.S.C. 632) and regulations thereunder, including (1) business concerns that meet the size eligibility standards set forth in 13 CFR 121; (2) small business concerns owned and controlled by service-disabled veterans as defined by 15 U.S.C. 632(q); (3) qualified HUBZone small business concerns pursuant to 15 U.S.C. 632(p) and 13 CFR 126; (4) socially and economically disadvantaged small business concerns as defined by 15 U.S.C. 637 and certified as such under 13 CFR 125; and (5) small business concerns owned and controlled by women as defined by 15 U.S.C. 632(n).

[4] 12 U.S.C. 5452(e) requires the Board to submit an annual report to Congress regarding the total amounts paid by the agency to contractors since the previous report, the successes achieved and challenges faced by the agency in operating minority and women outreach programs, the challenges the agency may face in hiring qualified minority and women employees and contracting with qualified minority-owned and women-owned businesses, and any other information, findings,

Legal authorization and confidentiality: The filing requirements under the FR 1400 are authorized by sections 10 and 11 of the Federal Reserve Act (FRA) [5] and section 342(c) of the Dodd-Frank Act.[6] Registering in the Supplier Registration System (FR 1400A) is voluntary. The remaining portions of the FR 1400 (FR 1400B, FR 1400C, and FR 1400D) are required to obtain a benefit for prospective suppliers to the Board.

A prospective supplier may request confidential treatment of information submitted as part of its Procurement Solicitation Package under exemption 4 of the Freedom of Information Act (FOIA), which protects commercial or financial information that is both customarily and actually treated as private.[7] In addition, a prospective supplier may request confidential treatment of information pursuant to exemption 6 of the FOIA, which protects personal information, the disclosure of which would ''constitute a clearly unwarranted invasion of privacy.'' [8] Determinations of confidentiality based on exemption 4 or exemption 6 of the FOIA would be made on a case-by-case basis.

Current actions: On November 23, 2021, the Board published a notice in the **Federal Register** (86 FR 66557) requesting public comment for 60 days on the extension, without revision, of the Procurement Solicitation Package. The comment period for this notice expired on January 24, 2022. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, April 1, 2022.

Margaret Shanks,

Deputy Secretary of the Board.

[FR Doc. 2022–07223 Filed 4–4–22; 8:45 am]

BILLING CODE 6210–01–P

conclusions, and recommendations for legislative or agency action.

[5] Section 10(3) and section 11 of the FRA authorize the Board to manage its buildings and staff. 12 U.S.C. 243 and 248(1). Section 10(4) of the FRA authorizes the Board to determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid. 12 U.S.C. 244.

[6] 12 U.S.C. 5452(c) (requiring the Board to develop and implement standards and procedures for the review and evaluation of contract proposals and for hiring service providers that include a component that gives consideration to the diversity of a prospective supplier and the fair inclusion of women and minorities in the workforce of such supplier and any subcontractor).

[7] 5 U.S.C. 552(b)(4).

[8] 5 U.S.C. 552(b)(6).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10416]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 6, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10416 Blueprint for Approval of State-Based Exchange

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Blueprint for Approval of State-based Exchange; *Use:* The Patient Protection and Affordable Care Act (ACA) and its implementing regulations provide states with flexibility in the design and operation of Exchanges to ensure states are implementing Exchanges that best meet the needs of their consumers. States can choose to establish and operate a State-based Exchange (SBE) or a State-based Exchange on the Federal Platform (SBE–FP). To ensure a state can operate a successful and compliant SBE or SBE–FP, it is critical that states provide CMS with a complete and thorough Exchange

Blueprint Application, Declaration of Intent Letter, and attest to demonstrate operational readiness. The information collected from states will be used by CMS, IRS, SSA and reviewed by other Federal agencies to determine if a state can implement a complete and fully operational Exchange. *Form Number:* CMS–10416 (OMB control number: 0938–1172); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal governments; *Number of Respondents:* 4; *Total Annual Responses:* 21; *Total Annual Hours:* 126. (For policy questions regarding this collection contact Shilpa Gogna at 301–492–4257.)

Dated: March 30, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–07100 Filed 4–4–22; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Therapeutic Development and Preclinical Studies.

Date: April 14, 2022.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard D Schneiderman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, Bethesda, MD 20817, 301–402–3995, *richard.schneiderman@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: March 30, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07115 Filed 4–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Regulatory Science A.

Date: May 5, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451.4251, *Armaz.aschrafi@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: March 31, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07149 Filed 4–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Stem Cell III.

Date: April 29, 2022.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2W200, Bethesda, MD 20892, (301) 496–9667 *prasadnb@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 30, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07110 Filed 4–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Therapeutic Development and Preclinical Studies.

Date: April 14, 2022.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard D. Schneiderman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, Bethesda, MD 20817, 301–402–3995, *richard.schneiderman@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: March 30, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07116 Filed 4–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Functional Genomics of Alzheimer's Disease.

Date: June 1, 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 (Virtual Meeting).

Contact Person: Rajasri Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6477, *rajasri.roy@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 30, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07111 Filed 4–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Placed-based Health Inequalities in Mid-life.

Date: June 8–9, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajarsri Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6477, *rajasri.roy@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 30, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07112 Filed 4–4–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0202]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0010

AGENCY: Coast Guard, DHS.

ACTION: Sixty-Day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0010, Defect/Noncompliance Report and Campaign Update Report; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 6, 2022.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2022–0202] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 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.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2022–0202], and must be received by June 6, 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 received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Defect/Noncompliance Report and Campaign Update Report.

OMB Control Number: 1625–0010.

Summary: Manufacturers whose products contain defects which create a substantial risk of personal injury to the public or which fail to comply with an applicable U.S. Coast Guard safety standard are required to conduct defect notification and recall campaigns in accordance with 46 U.S.C. 4310. Regulations in 33 CFR 179 require manufacturers to submit certain reports to the Coast Guard about progress made in notifying owners and making repairs.

Need: According to 46 U.S.C. 4310(d) and (e) and 33 CFR 179.13(a)(2) the manufacturer shall provide the Commandant of the Coast Guard with an initial report consisting of certain information about the defect notification and recall campaign being conducted. Upon receipt of information from a manufacturer indicating the initiation of a recall, the Recreational Boating Product Assurance Branch assigns a recall campaign number, and sends the manufacturer a CG–4917 form for supplying the information. According to 33 CFR 179.15(a), a manufacturer who makes an initial report required by 33 CFR 179.13 shall send to the Commandant of the Coast Guard a follow-up report within 60 days after the initial report.

Forms:

- CG–4917, Defect/Noncompliance Report; and
- CG–4918, Campaign Update Report.

Respondents: Manufacturers of boats and certain items of ''designated'' associated equipment (inboard engines, outboard motors, or sterndrive engines).

Frequency: Quarterly.

Hour Burden Estimate: The estimated burden has decreased from 166.5 hours to 162 hours a year, due to a decrease in the estimated annual number of responses and a decrease of recalls.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: March 30, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–07153 Filed 4–4–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0156]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0067

AGENCY: Coast Guard, Homeland Security (DHS).

ACTION: Sixty-Day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0067, Claims under the Oil Pollution Act of 1990; without change.

Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before June 6, 2022.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2022–0156] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 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.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2022–0156], and must be received by June 6, 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 received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Claims under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0067.

Summary: This information collection provides the means to develop and submit a claim to the National Pollution Funds Center to seek compensation for removal costs and damages incurred resulting from an oil discharge or substantial threat of discharge. This collection also provides the requirements for a responsible party to advertise where claims may be sent after an incident occurs.

Need: This information collection is required by 33 CFR part 136, for implementing 33 U.S.C. 2713(e) and 33 U.S.C. 2714(b).

Forms: None.

Respondents: Claimants.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 2,620 hours to 1,557 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. chapter 35, as amended.

Dated: March 30, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–07154 Filed 4–4–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0025]

Report of Diversion (CBP Form 26)

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

ACTION: 30-Day notice and request for comments; extension with change of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than May 5, 2022) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (Volume 86 FR Page 71652) on December 17, 2021, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Report of Diversion.
OMB Number: 1651–0025.
Form Number: CBP Form 26.
Current Actions: CBP plans to automate CBP Form 26. No change to the information being collected and no change to burden hours previously reported.
Type of Review: Extension with change of an existing information collection.
Affected Public: Businesses.
Abstract: CBP Form 26, *Report of Diversion,* is used to track vessels traveling coastwise from U.S. ports to other U.S. ports when a change occurs in scheduled itineraries. This form is initiated by the vessel owner or agent to notify and request approval by CBP for a vessel to divert while traveling coastwise from a U.S. port to another U.S. port, or a vessel traveling to a foreign port having to divert to a U.S. port when a change occurs in the vessel itinerary. CBP Form 26 collects information such as the name and nationality of the vessel, the expected port and date of arrival, and information about any related penalty cases, if applicable. This information collection is authorized by 46 U.S.C. 60105 and is provided for in 19 CFR 4.91. CBP Form 26 is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=26.*
Proposed Change: This form is anticipated to be submitted electronically as part of the maritime forms automation project through the Vessel Entrance and Clearance System (VECS), which will eliminate the need for any paper submission of any vessel entrance or clearance requirements under the above referenced statutes and regulations. VECS will still collect and maintain the same data but will automate the capture of data to reduce or eliminate redundancy with other data collected by CBP.
Type of Information Collection: CBP Form 26.
Estimated Number of Respondents: 1,400.
Estimated Number of Annual Responses per Respondent: 2.
Estimated Number of Total Annual Responses: 2,800.
Estimated Time per Response: 5 minutes.
Estimated Total Annual Burden Hours: 233.

Dated: March 30, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–07071 Filed 4–4–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2228]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before July 5, 2022.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2228, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/*

prelimdownload and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Penobscot County, Maine (All Jurisdictions) **Project: 16–01–0930S Preliminary Date: November 12, 2020**	
City of Bangor	City Hall, 73 Harlow Street, Bangor, ME 04401.
City of Brewer	City Hall, 80 North Main Street, Brewer, ME 04412.
City of Old Town	City Hall, 265 Main Street, Old Town, ME 04468.
Penobscot Indian Nation	Penobscot Tribal Office, 12 Wabanaki Way, Indian Island, ME 04468.
Town of Bradley	Town Office, 165B Main Street, Bradley, ME 04411.
Town of Carmel	Municipal Building, 1 Safety Lane, Carmel, ME 04419.
Town of Clifton	Municipal Office, 135 Airline Road, Clifton, ME 04428.
Town of Corinth	Municipal Office, 31 Exeter Road, Corinth, ME 04427.
Town of Dixmont	Town Office, 758 Western Avenue, Dixmont, ME 04932.
Town of Eddington	Town Office, 906 Main Road, Eddington, ME 04428.
Town of Etna	Municipal Building, 17 Shadow Lane, Etna, ME 04434.
Town of Exeter	Town Office, 1221 Stetson Road, Exeter, ME 04435.
Town of Glenburn	Town Office, 144 Lakeview Road, Glenburn, ME 04401.
Town of Hampden	Town Office, 106 Western Avenue, Hampden, ME 04444.
Town of Hermon	Town Office, 333 Billings Road, Hermon, ME 04401.
Town of Holden	Town Office, 570 Main Road, Holden, ME 04429.
Town of Kenduskeag	Town Office, 4010 Broadway, Kenduskeag, ME 04450.
Town of Levant	Town Office, 691 Town House Road, Levant, ME 04456.
Town of Milford	Town Office, 62 Davenport Street, Milford, ME 04461.
Town of Newburgh	Municipal Office, 2220 Western Avenue, Newburgh, ME 04444.
Town of Orono	Town Office, 59 Main Street, Orono, ME 04473.
Town of Orrington	Municipal Office, 1 Municipal Way, Orrington, ME 04474.
Town of Plymouth	Town Office, 1947 Moosehead Trail Highway, Plymouth, ME 04969.
Town of Stetson	Town Office, 394 Village Road, Stetson, ME 04488.
Town of Veazie	Town Office, 1084 Main Street, Veazie, ME 04401.

[FR Doc. 2022–07298 Filed 4–4–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2022–0017]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Committee management; notice of Federal Advisory Committee meeting.

SUMMARY: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, April 26, 2022, via virtual conference. The meeting will be open to the public.

DATES: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, April 26, 2022, from 10 a.m. to 11:30 a.m. EDT. Please note that the virtual conference may end early if the Committee has completed its business.

ADDRESSES: The meeting will be held via a virtual forum (conference information will be posted on the Privacy Office website in advance of the meeting at *www.dhs.gov/privacy-advisory-committee*), or call (202) 343–1717, to obtain the information. For information on services for individuals with disabilities, or to request special assistance during the meeting, please contact Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

To facilitate public participation, we invite public comment on the issues to be considered by the Committee as listed in the **SUPPLEMENTARY INFORMATION** section below. A public comment period will be held during the meeting, and speakers are requested to limit their comments to 3 minutes. If you would like to address the Committee at the meeting, we request that you register in advance by contacting Sandra L. Taylor at the address provided below. The names and affiliations of individuals who address the Committee will be included in the public record of the meeting. Please note that the public comment period may end before the time indicated, following the last call for comments. Advanced written comments or comments for the record, including persons who wish to submit comments and who are unable to participate or speak at the meeting, should be sent to Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, by April 18, 2022. All submissions must include the Docket Number (DHS–2022–0017) and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PrivacyCommittee@hq.dhs.gov.* Include the Docket Number (DHS–2022–0017) in the subject line of the message.
- *Fax:* (202) 343–4010.
- *Mail:* Sandra L. Taylor, Designated Federal Officer, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue SE, Mail Stop 0655, Washington, DC 20598.

Instructions: All submissions must include the words ''Department of Homeland Security Data Privacy and

Integrity Advisory Committee'' and the Docket Number (DHS–2022–0017). Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy & Security Notice found via a link on the homepage of *www.regulations.gov.*

The DHS Privacy Office encourages you to register for the meeting in advance by contacting Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, at *PrivacyCommittee@hq.dhs.gov.* Advance registration is voluntary. The Privacy Act Statement below explains how DHS uses the registration information you may provide and how you may access, or correct information retained by DHS, if any.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov* and search for docket number DHS–2022–0017.

FOR FURTHER INFORMATION CONTACT: Sandra L. Taylor, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue SE, Mail Stop 0655, Washington, DC 20598, by telephone (202) 343–1717, by fax (202) 343–4010, or by email to *PrivacyCommittee@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA). The DHS Data Privacy and Integrity Advisory Committee provides advice at the request of the Secretary of Homeland Security and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within DHS that relate to personally identifiable information, as well as data integrity, transparency, information sharing, and other privacy-related matters. The Committee was established by the Secretary of Homeland Security under the authority of 6 U.S.C. 451.

Proposed Agenda

The Committee will discuss and vote on recommendations from two taskings issued by the DHS Chief Privacy Officer on October 27, 2020. The first tasking required the Committee to consider DHS's transition to cloud service technologies and the enhanced capabilities this transition has provided the Department during the COVID–19 telework environment to determine whether there are any privacy risks. The second tasking requires that the Committee provide written guidance on best practices to ensure the effective implementation of privacy requirements for information sharing across the DHS enterprise. If you wish to submit written comments, you may do so in advance of the meeting by submitting them to Docket Number (DHS–2022–0017) at *www.regulations.gov* or by forwarding them to the Committee at the locations listed under the **ADDRESSES** section. The final agenda will be posted on or before April 18, 2022, on the Committee's website at *www.dhs.gov/dhs-data-privacy-and-integrity-advisory-committee-meeting-information.*

Privacy Act Statement

DHS's Use of Your Information Authority: DHS requests that you voluntarily submit this information under its following authorities: The Federal Records Act, 44 U.S.C. 3101; the FACA, 5 U.S.C. appendix; and the Privacy Act of 1974, 5 U.S.C. 552a.

Principal Purposes: When you register to attend a DHS Data Privacy and Integrity Advisory Committee meeting, DHS collects your name, contact information, and the organization you represent, if any. We use this information to contact you for purposes related to the meeting, such as to confirm your registration, to advise you of any changes in the meeting, or to assure that we have sufficient materials to distribute to all attendees. We may also use the information you provide for public record purposes such as posting publicly available transcripts and meeting minutes.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–002 Mailing and Other Lists System of Records Notice (November 25, 2008, 73 FR 71659).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to contact you for purposes related to the meeting.

Accessing and Correcting Information: If you are unable to access or correct this information by using the method that you originally used to submit it, you may direct your request in writing to the DHS Deputy Chief FOIA Officer at *foia@hq.dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Lynn Parker Dupree,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2022–07147 Filed 4–4–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0040]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Employment Authorization

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 June 6, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0040 in the body of the letter, the agency name and Docket ID USCIS–2005–0035. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2005–0035.

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–2005–0035 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:* Application for Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–765; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–765 collects information needed to determine if an alien is eligible for an initial EAD, a replacement EAD, or a subsequent EAD upon the expiration of a previous EAD under the same eligibility category. Aliens in many immigration statuses are required to possess an EAD as evidence of work authorization. To be authorized for employment, an alien must be lawfully admitted for permanent residence or authorized to be so employed by the Immigration and Nationality Act (INA) or under regulations issued by DHS. Pursuant to statutory or regulatory authorization, certain classes of aliens are authorized to be employed in the United States without restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. USCIS may determine the validity period assigned to any document issued evidencing an alien's authorization to work in the United States. These classes of aliens authorized to accept employment are listed in 8 CFR 274a.12. USCIS also collects biometric information from certain EAD applicants to verify the applicant's identity, check or update their background information, and produce the EAD card. An applicant for employment authorization can apply for a Social Security Number (SSN) and Social Security card using Form I–765.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–765 (paper) is 2,178,820 and the estimated hour burden per response is 4.5 hours; the estimated total number of respondents for the information collection I–765 (electronic) is 107,180 and the estimated hour burden per response is 4 hours; the estimated total number of respondents for the information collection Form I–765WS is 302,000 and the estimated hour burden per response is .50 hours; the estimated total number of respondents for the information collection Biometric Processing is 302,353 and the estimated hour burden per response is 1.17 hours; the estimated total number of respondents for the information collection Passport-Style Photographs is 2,286,000 and the estimated hour burden per response is .50 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 11,881,376 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $400,895,820.

Dated: March 30, 2022.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–07086 Filed 4–4–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0102]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Form G–639; Online FOIA Request

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 May 5, 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–2008–0028. All

submissions received must include the OMB Control Number 1615–0102 in the body of the letter, the agency name and Docket ID USCIS–2008–0028.

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 December 29, 2021, at 86 FR 74097, allowing for a 60-day public comment period. USCIS did receive two 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–2008–0028 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 Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Form G–639; Online FOIA Request.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–639; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. FOIA requests may be submitted in any written form. However, Form G–639 and the Online FOIA Request process are convenient tools for individuals to provide the data necessary for identification of a particular record requested under FOIA. Submitting a FOIA request via Form G–639 or the Online FOIA Request process ensures expeditious handling of FOIA requests.

(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 Form G–639 (paper) is 123,425 and the estimated hour burden per response is 0.67 hours. The estimated total number of respondents for the information collection Online FOIA Request is 123,425 and the estimated hour burden per response is 0.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 144,407 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,635,124.

Dated: March 30, 2022.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–07087 Filed 4–4–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[223.LLAK941200.L14400000.ET0000; AA–26417]

Notice of Proposed Withdrawal Extension and Opportunity for a Public Meeting; Sitka Magnetic Observatory Site; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior proposes to extend the duration of the withdrawal created by an Executive Order as modified by Public Land Order (PLO) No. 6458 and extended by PLO No. 7581 for an additional 20-year term. The E.O. as modified and extended withdrew 117.13 acres of public land from all forms of appropriation under the public-land laws, including the mining laws, but not from mineral leasing, for the Sitka Magnetic Observatory site, and reserved the site for use by the United States Geological Survey (USGS) as a magnetic and seismological observation in Sitka, Alaska. This notice announces to the public an opportunity to comment on the proposal and request a public meeting for the 20-year withdrawal extension.

DATES: Comments and requests for a public meeting must be received by July 5, 2022.

ADDRESSES: All comments and meeting requests should be sent to the Alaska State Director, Bureau of Land Management (BLM) Alaska State Office, 222 West Seventh Avenue, No. 13, Anchorage, Alaska 99513–7504 or by email at *blm_ak_state_director@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Chelsea Kreiner, BLM Alaska State Office, (907) 271–4205, email *ckreiner@blm.gov* or you may contact the BLM office at the address noted above. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States

should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: At the request of the USGS, the Secretary of the Interior proposes that Executive Order (E.O.) 8854 (6 FR 4181) as modified by PLO No. 6458 (48 FR 40232 (1983)) and extended by PLO No. 7581 (68 FR 52613 (2003)), which are incorporated herein by reference, be extended for an additional 20-year term.

A complete description of the public land affected, along with all other records pertaining to this extension, can be examined in the BLM Alaska State Office at the address shown above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this withdrawal extension. All interested persons who desire a public meeting on this withdrawal extension must submit a written request to the BLM Alaska State Director at the address in the **ADDRESSES** section above. If the authorized officer determines that a public meeting will be held, a notice of the date, time, and place will be published in the **Federal Register** and local newspapers having general circulation in the vicinity of the land at least 30 days before the scheduled date of the meeting, which may be held virtually at the discretion of the authorized officer.

The withdrawal extension application will be processed in accordance with the regulations set-forth in 43 CFR 2310.4 and subject to section 810 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3120).

For a period until July 5, 2022, all persons who wish to submit comments, suggestions, or objections in connection with this proposed withdrawal extension may present their views in writing to the BLM Alaska State Director at the address indicated above. 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 the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2310.4)

Thomas Heinlein,

Acting Alaska State Director.

[FR Doc. 2022–07063 Filed 4–4–22; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS00000. L13400000.KH0000; MO# 4500160406]

Notice of Competitive Offer and Notice of Segregation for Solar Energy Development on Public Land, Clark County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Las Vegas Field Office is announcing that it will accept competitive bids to determine a preferred right-of-way applicant for solar energy development on a 1,635-acre parcel of public land, referred to as the Dry Lake East Designated Leasing Area, located in Clark County, Nevada. The BLM also announces the segregation of the 1,635-acre parcel of public lands from appropriation under the public land laws, including the Mining Law, but not the Mineral Leasing or Material Sales Acts, for a period of 2 years from the date of publication of this notice, subject to valid existing rights. This segregation will facilitate the orderly administration of the public lands while the BLM considers potential solar development on the described parcel.

DATES: The competitive offer will be held at 1:00 p.m. Pacific Time (PT) on May 20, 2022. All sealed bids must be received by the Las Vegas Field Office at the address listed in the **ADDRESSES** section by 10:00 a.m. PT on May 20, 2022. The segregation for the lands identified in this notice is effective on April 5, 2022.

ADDRESSES: Sealed bids may be mailed or hand delivered to the Bureau of Land Management, Attention: Energy and Infrastructure Team, 4701 North Torrey Pines Drive, Las Vegas, NV 89130. Electronic bid submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Beth Ransel, Supervisory Project Manager, at (702) 515–5000 or *BLM_NV_SND_EnergyProjects@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: *Competitive Offering Information:* The BLM Las Vegas Field Office is conducting a competitive process to determine a preferred right-of-way applicant to submit a right-of-way application, plan of development, and application fee for a parcel of land described as the Dry Lake East Designated Leasing Area. As provided for in 43 CFR 2804.30(b), a sealed bid competitive bidding procedure will be used to determine a preferred right-of-way applicant for the Dry Lake East Designated Leasing Area.

Bidders may submit sealed bids for the parcel, consisting of approximately 1,635 acres of public lands legally described in this Notice. The BLM has determined the minimum bid for the parcel to be $37,780. The minimum bid represents 10 percent of the acreage rent ($33,823); the acreage rent is calculated by multiplying the number of acres being offered times the annual per acre zone rate from the solar energy acreage rent schedule (43 CFR 2806.52(a)). In addition, the minimum bid includes an administrative fee of $3,957 (approximately $2.42 per acre) to cover the BLM's costs of preparing for and conducting the competitive offer. In addition to the minimum bid, bidders may also offer a bonus bid of any dollar amount.

To submit a bid, you must provide the bidder's name and personal or business address. Each bid can only contain the name of one bidder (*i.e.,* citizen, association or partnership, corporation, or municipality). For your bid to receive consideration, you must submit a complete bid package, including a Technical and Financial Capability Certification, Sealed Bid Statement, payment for the minimum bid and at least 20 percent of the bonus bid. All bidding documents must be enclosed in a sealed envelope with the bidder's name and return address on the outside. Include the following notation on the front lower left-hand corner of the sealed envelope: ''SEALED BID—DO NOT OPEN.'' The Technical and Financial Capability Certification form, Sealed Bid Statement form, and a complete description of the bid process are contained in an Invitation for Bids package available at the following location: *https://eplanning.blm.gov/eplanning-ui/project/86813.*

The successful bidder will be determined by highest total bid. All bidders will be notified within 10 calendar days after the bidding closes of whether they were the successful bidder.

If you are the successful bidder, within 15 calendar days after notification you must submit the balance of the bonus bid to the BLM Las

Vegas Field Office. If you are the successful bidder, the BLM will select you as the preferred right-of-way applicant only if you: (1) Satisfy the qualifications in 43 CFR 2803.10; (2) make the required payments listed above; and (3) do not have any trespass action pending against you for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. If the listed requirements are not satisfied within the 15-day time period, the BLM will not select the identified successful bidder as the preferred right-of-way applicant and will keep all money that has been submitted. In that event, the BLM may identify the next highest bidder as the successful bidder (then follow requirements as noted above for successful bidder) or re-offer the lands through another competitive process.

The administrative fee portion of the minimum bid will be retained by the agency to recover administrative costs for conducting the competitive bid and related processes. The remainder of the minimum bid and bonus bid will be deposited with the U.S. Treasury. Neither amount will be returned or refunded to the successful bidder(s) under any circumstance. If you are not the successful bidder, the BLM will return or refund the bid amount submitted with your bid.

Any required payments submitted must be made by a certified check, postal money order, bank draft, or cashier's check made payable in U.S. dollars to ''Department of the Interior—Bureau of Land Management''.

If there is no bid received for the parcel, then no preferred right-of-way applicant will be identified and no application will be processed for solar energy development under the procedures listed in this notice. In the case of tied bids, the BLM may re-offer the lands competitively to the tied bidders or to all prospective bidders.

Within 30 days of notification of the auction result, the successful bidder must submit a right-of-way application that conforms with all application requirements found at 43 CFR 2804.12. Within 60 days of notification of the auction result, the successful bidder must submit a plan of development that conforms with the BLM's Solar Energy Development Plan of Development template. The preferred right-of-way applicant will be required to reimburse the United States for the cost of processing an application consistent with the requirements of the regulations at 43 CFR 2804.14. The cost recovery fees are based on the amount of time the BLM estimates it will take to process the right-of-way application and issue a decision. The BLM will begin processing the right-of-way application once the cost recovery fees are received as required by the regulations. Processing of the right-of-way application will be done in accordance with applicable law, regulation, and policy. Additional fees may be required as part of approval of a right-of-way grant, including mitigation-related fees.

Only interests in issued right-of-way grants are assignable under the existing regulations at 43 CFR 2807.21. The interest acquired by the successful high bidder or preferred right-of-way applicant from this auction may not be assigned or sold to another party prior to the issuance of a right-of-way grant. The successful bidder may, however, continue to pursue their application if the successful bidder becomes a wholly-owned subsidiary of a new third party.

Segregation: Regulations found at 43 CFR 2091.3–1(e) and 2804.25(f) allow the BLM to segregate public lands for potential rights-of-way when initiating a competitive process for solar energy development from the operation of the public land laws, including the Mining Law, by publication of a **Federal Register** notice. The BLM uses this authority to preserve its ability to approve, approve with modifications, or deny proposed rights-of-way, and to facilitate the orderly administration of the public lands. This segregation is subject to valid existing rights, including existing mining claims located before this segregation notice. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which would not impact lands identified in this notice may be allowed with the approval of a BLM authorized officer during the segregation period. As provided in the regulations, the segregation of lands in this notice will not exceed 2 years from the date of publication unless extended for an additional 2 years through publication of a new notice in the **Federal Register**. The segregation period will terminate and the land will automatically reopen to appropriation under the public land laws, including the mining law at the earliest of the following dates: Upon issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a right-of-way; without further administrative action at the end of the segregation provided for in the **Federal Register** notice initiating the segregation; or upon publication of a **Federal Register** notice terminating the segregation. Upon termination of the segregation of these lands, all lands subject to this segregation would automatically reopen to appropriation under the public land laws, including the mining law.

Legal Description for Parcel: The subject parcel is legally described as follows—

Mount Diablo Meridian, Nevada

T. 17 S., R. 64 E.,
- Sec. 32, those portions of the S½NE¼ lying westerly of the westerly right-of-way of CC–0360, those portions of the SE¼NW¼ lying southeasterly of the southeasterly right-of-way boundary of NEV–045565, and those portions of the S½ lying southeasterly of the southeasterly right-of-way boundary of NEV–045565 and westerly of the westerly right-of-way boundary of CC–0360.

T. 18 S., R. 64 E.,
- Sec. 5, those portions lying westerly of the westerly right-of-way boundary of CC–0360;
- Sec. 6, that portion of lot 8 lying southeasterly of the southeasterly right-of-way boundary of NEV–045565, that portion of the SE¼NE¼ lying southeasterly of the southeasterly right-of-way boundary of NEV–045565, and S½SE¼SE¼;
- Sec. 7, lots 12, 18, 19, 20, and 29, NE¼NE¼, S½NE¼, N½SE¼SW¼, N½SE¼, N½SW¼SE¼, and N½SE¼SE¼;
- Sec. 8, those portions of the N½ and NW¼SW¼ lying northerly and northwesterly of the northerly and northwesterly right-of-way boundary of CC–0360.

The area described contains 1,635 acres, more or less, according to the BLM National Public Land Survey System CadNSDI and the official plats of the surveys of the said land, on file with the BLM.

Shonna Dooman,

Field Manager—Las Vegas Field Office.

[FR Doc. 2022–07078 Filed 4–4–22; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033675; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Nebraska State Historical Society DBA History Nebraska, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: History Nebraska, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or

representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to History Nebraska. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to History Nebraska at the address in this notice by May 5, 2022.

FOR FURTHER INFORMATION CONTACT: Dave Williams, History Nebraska, Nebraska State Archeology Office, 5050 North 32nd Street, Lincoln, NE 68504, telephone (402) 219–2759, email *dave.williams@nebraska.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of History Nebraska, Lincoln, NE, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In October of 1991, two cultural items were removed from archeological site 25ST21 in Stanton County, NE. The objects were collected from the surface of the site during an archeological research survey conducted by the University of Nebraska-Lincoln, Department of Anthropology. Site 25ST21 is a known cemetery associated with a village occupied by members of the Omaha Tribe of Nebraska in the 1820s and 1830s. At an unknown date, these objects were transferred to History Nebraska. The two unassociated funerary objects include one lot of glass beads (13 beads) and one lot of wampum beads (three beads).

The age of the bead types is consistent for the period when the Omaha Tribe of Nebraska was interring their dead at this cemetery site. Consequently, these objects are reasonably believed to be funerary objects that were disinterred from subsurface graves through animal activity or cultivation.

Determinations Made by History Nebraska

Officials of History Nebraska have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the two cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Omaha Tribe of Nebraska.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dave Williams, History Nebraska, Nebraska State Archeology Office, 5050 North 32nd Street, Lincoln, NE 68504, telephone (402) 219–2759, email *dave.williams@nebraska.gov,* by May 5, 2022. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Omaha Tribe of Nebraska may proceed.

History Nebraska is responsible for notifying the Omaha Tribe of Nebraska that this notice has been published.

Dated: March 30, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–07172 Filed 4–4–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033676; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Nebraska State Historical Society DBA History Nebraska, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: History Nebraska has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to History Nebraska. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to History Nebraska at the address in this notice by May 5, 2022.

FOR FURTHER INFORMATION CONTACT: David Williams, State Archeologist, History Nebraska, 5050 North 32nd Street, Lincoln, NE 68504, telephone (402) 219–2759, email *dave.williams@nebraska.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of History Nebraska, Lincoln, NE. The human remains and associated funerary objects were removed from Antelope County, Boone County, Cass County, Cedar County, Cherry County, Custer County, Dixon County, Frontier County, Gage County, Harlan County, Lancaster County, Nance County, Nemaha County, Platte County, Stanton County, Washington County, and two unknown counties in NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by History Nebraska professional staff in consultation with representatives of the Iowa Tribe of Kansas and Nebraska; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Ponca Tribe of Nebraska; Santee Sioux Nation, Nebraska; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Winnebago Tribe of Nebraska.

The following Indian Tribes were invited to consult but did not participate: Apache Tribe of Oklahoma; Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Cheyenne and Arapaho Tribes, Oklahoma [*previously* listed as Cheyenne-Arapaho Tribes of Oklahoma]; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Crow Tribe of Montana; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Iowa Tribe of Oklahoma; Kaw Nation, Oklahoma; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota; Northern Arapaho Tribe of the Wind River Reservation, Wyoming [*previously* listed as Arapaho Tribe of the Wind River Reservation, Wyoming]; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe [*previously* listed as Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota]; Ponca Tribe of Indians of Oklahoma; Prairie Band Potawatomi Nation [*previously* listed as Prairie Band of Potawatomi Nation, Kansas]; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; Standing Rock Sioux Tribe of North & South Dakota; Wichita and Affiliated Tribes (Wichita, Keechi, Waco, & Tawakonie), Oklahoma; and the Yankton Sioux Tribe of South Dakota.

Hereafter, all the Indian Tribes listed in this section are referred to as ''The Tribes.''

History and Description of the Remains

In June of 2021, human remains representing, at minimum, two individuals were removed from archeological site 25AP108 in Antelope County, NE. The human remains were discovered during housing construction. Pursuant to state law, the Nebraska State Patrol turned these remains over to History Nebraska to determine whether they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to two adult males. No known individuals were identified. No associated funerary objects are present.

In the spring of 2019, human remains representing, at minimum, one individual were removed from Boone County, NE. The human remains were exposed in a stream during a flood event. Pursuant to state law, the Boone County Sherriff's Office turned these human remains over to History Nebraska to determine whether they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult male. No known individual was identified. No associated funerary objects are present.

In August of 2020, human remains representing, at minimum, one individual were removed from Boone County, NE. The human remains were exposed in a stream during an erosional event. Pursuant to state law, the Boone County Sherriff's Office turned these human remains over to History Nebraska to determine whether they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult female. No known individual was identified. No associated funerary objects are present.

In 1949, human remains representing, at minimum, one individual were removed from site 25CC55, in Cass County, NE, by History Nebraska following disturbance from topsoil removal for limestone quarrying. The age and sex of the individual are indeterminate. No known individual was identified. The one associated funerary object is a mussel shell bead.

At an unknown date, human remains representing, at minimum, one individual were removed found at an unknown location in Cass County, NE, by a Mr. Kunkel, who later donated the human remains to History Nebraska. No known individual was identified. The one associated funerary object is a ceramic body sherd.

Sometime between 1958 and 1969, human remains representing, at minimum, eight individuals, were removed from site 25CD22, in Cedar County, NE. The human remains were excavated by the property owner and the University of Nebraska-Lincoln. Sometime in the 1970s, the human remains were sent to the Smithsonian Institution's National Museum of Natural History for study. In November of 2021, following a request by staff at the Smithsonian, these human remains were transferred to History Nebraska for curation/disposition. The human remains belong to one juvenile male, four adult males, and three adult females. No known individuals were identified. The 62 associated funerary objects are two mussel shell fragments, one complete mussel shell, 14 fire-cracked rocks/pebbles, two ceramic body sherds, three stone endscrapers, nine pieces of stone flaking debris, 30 mammal bones, and one bird bone.

At an unknown date, human remains representing, at minimum, one individual were removed from Cherry County, NE, by managers of a ranch. In July of 2018, the human remains were donated to History Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The age and sex of the individual cannot be determined. No known individual was identified. No associated funerary objects are present.

In 1925, human remains representing, at minimum, one individual were removed from a location west of Broken Bow in Custer County, NE, by Dr. G.E. Pennington. In 1962, Dr. Pennington donated the human remains to History Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from near Maskell in Dixon County, NE, and later donated to History Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to one adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one

individual were removed from Section 31 T5N R 25W in Frontier County, NE, and later donated to History Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult male. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location along the Blue River in Gage County, NE. The human remains were later donated by the Gage County Sherriff to History Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location near the town of Orleans in Harlan County, NE. In 2021, the human remains were donated to History Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The age and sex of the individual cannot be determined. No known individual was identified. The 65 associated funerary objects include three pieces of turquoise or amazonite, one mussel shell bead, one fragment of mica, and 60 small rocks or chipped stone flakes.

In the spring of 1935, human remains representing, at minimum, one individual were removed from the Schrader site (25LC1) in Lancaster County, NE, by History Nebraska during excavations sponsored by the Works Progress Administration (WPA). Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The age and sex of the individual cannot be determined. No known individual was identified. No associated funerary objects are present.

In 2019, human remains representing, at minimum, one individual were removed from Nance County, NE. The human remains were exposed in a stream during a flood event. Pursuant to state law, the Nance County Sherriff's Office turned over these remains to History Nebraska to determine if they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult female. No known individual was identified. No associated funerary objects are present.

In May of 2021, human remains representing, at minimum, one individual were removed from site 25NC165 in Nance County, NE. The human remains were discovered eroding from a stream bank. Pursuant to state law, the Nance County Sherriff's Office turned over these remains to History Nebraska to determine if they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult female. No known individual was identified. The seven associated funerary objects are three ceramic body sherds, one elk metapodial hide flesher, one bison horn core, one iron fragment, and one piece of ochre.

Sometime in the 1950s, human remains representing, at minimum, one individual were removed from along the Missouri River in Nemaha County, NE. In the spring of 2021, a physical anthropologist at the University of Nebraska-Lincoln analyzed these human remains. Subsequently, the human remains were turned over to History Nebraska for disposition. The human remains belong to a female of indeterminate age. No known individual was identified. No associated funerary objects are present.

In the spring of 2020, human remains representing, at minimum, one individual were removed from a private residence in Platte County, NE. Pursuant to state law, the Platte County Sherriff's Office turned over these human remains to History Nebraska to determine if they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult female. No known individual was identified. No associated funerary objects are present.

On March 26, 2019, human remains representing, at minimum, one individual were removed from an unknown location in Stanton County, NE. The human remains were found along a riverbank following a flood event. Pursuant to state law, the Stanton County Sherriff's Office turned over these human remains to History Nebraska to determine if they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

On April 27, 2019, human remains representing, at minimum, one individual were removed from an Elkhorn River bank following a flood event in Stanton County, NE. Pursuant to state law, the Stanton County Sherriff's Office turned over these human remains to History Nebraska to determine if they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

In the spring of 2019, human remains representing, at minimum, one individual were removed from an unknown location in Washington County, NE. Pursuant to state law, the Washington County Sherriff's Office turned over these remains to History Nebraska to determine if they were of forensic interest. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

In 1996, human remains representing, at minimum, one individual, were removed from an unknown location in NE. The human remains were transferred anonymously from New York state to History Nebraska together with a note indicating they had been removed from Nebraska. Examination by a physical anthropologist determined the human remains to be Native American and not of forensic interest. The human remains belong to a child of indeterminate sex. No known individual was identified. The three associated funerary objects are two copper alloy bracelets and one string of glass beads of various colors.

In the 1950s, human remains representing, at minimum, one individual were discovered and removed during drilling at an unknown location in western NE. In the spring of 2021, a physical anthropologist at the University of Nebraska-Lincoln analyzed these human remains. Subsequently, the human remains were turned over to History Nebraska for disposition. The human remains belong to a Native American male of indeterminate age. No known individual was identified. The one associated funerary object is a pair of wire spectacles.

All the human remains listed in this notice were determined to be Native American based on archeological context, burial patterns, osteology, and

associated diagnostic artifacts. Based on oral tradition and archeological evidence, History Nebraska has determined there is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects listed in this notice and The Tribes.

Determinations Made by History Nebraska

Officials of History Nebraska have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 30 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 140 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dave Williams. State Archeologist, History Nebraska, 5050 North 32nd Street, Lincoln, NE 68504, telephone (402) 219–2759, email *dave.williams@nebraska.gov,* by May 5, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

History Nebraska is responsible for notifying The Tribes that this notice has been published.

Dated: March 30, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–07171 Filed 4–4–22; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1309]

Certain Core Orientation Systems, Products Containing Core Orientation Systems, Components Thereof, and Methods of Using the Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 1, 2022, under section 337 of the Tariff Act of 1930, as amended, on behalf of Australian Mud Company Pty Ltd. of Australia and Reflex USA LLC of Chandler, Arizona. A supplement was filed on March 9, 2022. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain core orientation systems, products containing core orientation systems, components thereof, and methods of using the same by reason of infringement of certain claims of U.S. Patent No. 7,584,055 (''the '055 patent''). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute. The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2021).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 30, 2022, *ordered that* —

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 16–18, 22, and 23 of the '055 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''products and systems for determining the orientation of a core that is drilled from the earth, components thereof (*e.g.* down hole tools and devices, handheld devices, and other components included in core orientation kits), and products containing the same (*e.g.* core drills and inner tube assemblies)'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Australian Mud Company Pty Ltd., 216 Balcatta Road, Balcatta, Western Australia 6021, Telephone: +61 (0) 8 9445 4020

Reflex USA LLC, 2250 E Germann Road, Suite 3, Chandler, Arizona 85286

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Boart Longyear Group Ltd., 2455 South 3600 West, West Valley City, UT 84119

Boart Longyear Limited, 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport, South Australia 5950, Australia

Boart Longyear Company, 2455 South 3600 West, West Valley City, UT 84119

Boart Longyear Manufacturing and Distribution Inc., 2455 South 3600 West, West Valley City, UT 84119
Longyear TM, Inc., 2455 South 3600 West, West Valley City, UT 84119
Globaltech Corporation Pty Ltd., 833 Abernethy Road, Forrestfield, Western Australia 6058, Australia
Globaltech Pty Ltd., 833 Abernethy Road, Forrestfield, Western Australia 6058, Australia
Granite Construction Incorporated, 585 West Beach Street, Watsonville, California 95076
International Directional Services LLC, 12030 East Riggs Road, Chandler, Arizona 85249

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or cease and desist orders or both directed against the respondents.

By order of the Commission.

Issued: March 30, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–07098 Filed 4–4–22; 8:45 am]

BILLING CODE 7020–02–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 Botulinum Toxin Products and Processes for Manufacturing or Relating to Same, DN 3611*; 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 Medytox Inc. on March 30, 2022. 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 botulinum toxin products and processes for manufacturing or relating to same. The complainant names as respondents: Hugel, Inc. of Korea; Hugel America, Inc. of Irvine, CA; and Croma Pharma GmbH of Austria. 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. 3611'') 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, 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: March 31, 2022.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2022–07175 Filed 4–4–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

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 Mobile Electronic Devices, DN 3610;* 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 Maxell, Ltd. on March 30, 2022. 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 mobile electronic devices. The complainant names as respondents: Lenovo Group Ltd. of China; Lenovo (United States) Inc. of Morrisville, NC; and Motorola Mobility LLC of Libertyville, IL. 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. 3610'') 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, 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: March 31, 2022.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2022–07163 Filed 4–4–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1260]

Certain Toner Supply Containers and Components Thereof (II); Commission Determination To Review in Part an Initial Determination Granting Complainants' Motion for Summary Determination of Violations of Section 337; Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined to review in part an initial determination (''ID'') issued by the presiding chief administrative law judge (''CALJ'') granting summary determination of violations of section 337. The Commission requests briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On April 13, 2021, the Commission instituted this investigation based on a complaint filed by Canon Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Melville, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, ''Canon''). 86 FR 19287–88 (Apr. 13, 2021). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) (''section 337''), based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner supply containers and components thereof by reason of infringement of certain claims of thirteen patents: U.S. Patent Nos. 10,209,667; 10,289,060; 10,289,061; 10,295,957; 10,488,814; 10,496,032; 10,496,033; 10,514,654; 10,520,881; 10,520,882; 8,565,649 (''the '649 patent''); 9,354,551 (''the '551 patent''); and 9,753,402 (''the '402 patent''). *Id.* at 19287. The complaint further alleges that a domestic industry (''DI'') exists. *Id.*

The Commission instituted two separate investigations based on the complaint and defined the scope of the present investigation as whether there is a violation of section 337 based on the allegations of infringement as to the asserted claims of the '649, '551, and '402 patents (collectively, the ''Asserted Patents'') as to the accused products identified in the notice of investigation (''NOI''). *Id.* The NOI named eleven respondents: (1) Sichuan XingDian Technology Co., Ltd. (''Sichuan XingDian'') of Sichuan, China; (2) Sichuan Wiztoner Technology Co., Ltd. (''Sichuan Wiztoner'') of Sichuan, China; (3) Anhuiyatengshangmaoyouxiangongsi (''Yatengshang'') of Ganyuqu, China; (4) ChengDuXiangChangNanShi YouSheBeiYouXianGongSi (''ChengDuXiang'') of SiChuanSheng, China; (5) Digital Marketing Corporation d/b/a Digital Buyer Marketing Company (''Digital Buyer'') of Los Angeles, California; (6) Do It Wiser, LLC d/b/a Image Toner of Wilmington, Delaware; (7) Hefeierlandianzishang wuyouxiangongsi (''Erlandianzishang'') of Chengdushi, China; (8) MITOCOLOR INC. (''TopInk'') of Rowland Heights, California; (9) Xianshi yanliangqu canqiubaihuodianshanghang of Shanxisheng, China; (10) Zhuhai Henyun Image Co., Ltd. of Zhuhai, China (collectively, the ''Defaulting Respondents''); and (11) Shenzhenshi Keluodeng Kejiyouxiangognsi (''KenoGen'') of Guangdong, China. *Id.* The Office of Unfair Import Investigations (''OUII'') is also named as a party. *Id.* at 19287–88. The question of whether there is a violation of section 337 based on the allegations of infringement as to the asserted claims of the remaining patents is the subject of the severed investigation based on the same complaint, Inv. No. 337–TA–1259. *See* 86 FR 19284–86 (Apr. 13, 2021).

On May 27, 2021, the Commission granted Canon's motion to amend the complaint and NOI to change the identification of Do It Wiser, LLC d/b/a Image Toner to Do It Wiser, Inc. d/b/a Image Toner (hereinafter, ''Do It Wiser'') and to make related changes in paragraph 31 of the complaint. Order No. 6 (May 17, 2021), *unreviewed by* 86 FR 29806–07 (June 3, 2021).

On September 7, 2021, the Commission terminated the following asserted claims from the investigation based on Canon's withdrawal of the complaint as to those claims: (i) Claim 2 of the '649 patent; (ii) claims 2, 3, 6, and 7 of the '551 patent; and (iii) claims 25–27, 39–41, and 46 of the '402 patent. Order No. 10 (Aug. 12, 2021), *unreviewed by* Comm'n Notice (Sept. 7, 2021).

Also on September 7, 2021, the Commission terminated respondent KenoGen from the investigation based on Canon's withdrawal of the complaint as to KenoGen. Order No. 12 (Aug. 13, 2021), *unreviewed by* Comm'n Notice (Sept. 7, 2021). As a result, the ten Defaulting Respondents are the only respondents remaining in this investigation.

On October 29, 2021, the Commission found the Defaulting Respondents in default for failing to respond to the complaint and NOI and failing to show cause why they should not be found in default. Order No. 15 (Sept. 29, 2021), *unreviewed by* Comm'n Notice (Oct. 29, 2021).

On October 1, 2021, Canon filed a motion seeking summary determination that the Defaulting Respondents have violated section 337 and requesting that the CALJ recommend that the Commission issue a general exclusion order (''GEO''), issue cease and desist orders (''CDOs'') against certain respondents, and set a 100 percent bond for any importations of infringing goods during the period of Presidential review. On October 25, 2021, OUII filed a response supporting Canon's motion and requested remedial relief. No Defaulting Respondent filed a response to Canon's motion.

On February 11, 2022, the CALJ issued the subject ID granting Canon's motion and finding violations of section 337 by the Defaulting Respondents. Specifically, the ID finds that: (i) The Commission has subject matter, personal, and in rem jurisdiction in this investigation; (ii) Canon has standing to assert the Asserted Patents; (iii) Canon has satisfied the importation requirement as to all Defaulting Respondents; (iv) the accused products practice claims 1, 6, 7, 12, 25, and 26 of the '649 patent, claims 1, 4, and 5 of the '551 patent, and claims 1, 15–18, 32, 36, and 37 of the '402 patent; (v) Canon has satisfied the technical prong of the DI requirement with respect to the Asserted Patents; (vi) Canon has satisfied the economic prong of the DI requirement with respect to the Asserted Patents; and (vii) no claim of the Asserted Patents has been shown invalid. The CALJ's recommended determination on remedy and bonding recommended that the Commission: (i) Issue a GEO; (ii) issue CDOs against eight respondents (*i.e.,* Digital Buyer, Do It Wiser, TopInk, Sichuan XingDian, Sichuan Wiztoner, Yatengshang, ChengDuXiang, and Erlandianzishang); and (iii) set a 100 percent bond for any importations of infringing products during the period of Presidential review. No party petitioned for review of the subject ID.

The Commission did not receive any submissions on the public interest from the parties pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission also did not receive any submissions on the public interest from members of the public in response to the Commission's **Federal Register** notice. 87 FR 9379–80 (Feb. 18, 2022).

Having reviewed the record in this investigation, including the subject ID, the Commission has determined to review the subject ID in part with respect to the ID's analysis of the economic prong of the domestic industry requirement. The Commission has determined not to review the remainder of the ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of: (1) An exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on: (1) The public health and welfare; (2) competitive conditions in the U.S. economy; (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation; and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties, interested government agencies, and any other interested parties are invited to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should include views on the recommended determination by the CALJ on remedy and bonding.

In their initial written submissions, Canon and OUII are requested to submit proposed remedial orders for the Commission's consideration. Canon is further requested to identify the dates the Asserted Patents expire, to provide the HTSUS subheadings under which the subject articles are imported, and to supply identification information for all known importers of the subject articles.

Initial written submissions, including proposed remedial orders, must be filed no later than close of business on April 13, 2022. Reply submissions must be filed no later than the close of business on April 20, 2022. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (Inv. No. 337–TA–1260) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in

confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on March 30, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 30, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–07097 Filed 4–4–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1209 (Modification)]

Certain Movable Barrier Operator Systems and Components Thereof; Commission Determination To Amend the Notice of Investigation and Institute a Modification Proceeding; Issuance of a Modified Limited Exclusion Order and a Modified Cease and Desist Order; Termination of the Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to amend the notice of investigation to clarify that the scope of the investigation includes garage door openers, gate operators, and commercial operators. The Commission has also determined to institute a modification proceeding and modify the limited exclusion order (''LEO'') and the cease and desist order (''CDO'') (collectively, ''the remedial orders'') issued in this investigation to explicitly recite garage door openers, gate operators, and commercial operators in the definition of covered products or articles. The modification proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On August 10, 2020, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on a complaint filed by Overhead Door Corporation of Lewisville, Texas and GMI Holdings Inc. of Mount Hope, Ohio (collectively, ''Complainants''). *See* 85 FR 48264–65 (Aug. 10, 2020). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain movable barrier operator systems and components thereof by reason of infringement of U.S. Patent Nos. 8,970,345 (''the '345 patent''); 7,173,516 (''the '516 patent''); 7,180,260 (''the '260 patent''); 9,483,935 (''the '935 patent''); 7,956,718 (''the '718 patent''); and 8,410,895 (''the '895 patent''). *See id.* The notice of investigation states that the scope of the investigation is defined as ''garage door systems and components thereof, remote controls, wireless transmitters, and software for operating the garage door systems.'' *See id.* The notice of investigation names The Chamberlain Group, Inc. (''Respondent'') of Oak Brook, Illinois as the respondent in this investigation. *See id.* The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On February 10, 2021, the Commission terminated the investigation as to the '516 patent based on the withdrawal of the allegations in the complaint as to that patent. *See* Order No. 10 (Jan. 19, 2021), *unreviewed by* Comm'n Notice (Feb. 10, 2021).

On September 14, 2021, the presiding Administrative Law Judge issued a final initial determination finding a violation of section 337 with respect to the '345, '935, '260, '718, and '895 patents.

On February 9, 2022, the Commission issued a final determination finding a violation of section 337, based on Respondent's infringement of the asserted claims of the '935 patent, the '718 patent, and the '895 patent, but not the '345 and '260 patents. *See* 87 FR 8605–06 (Feb. 15, 2022). The Commission further determined, upon consideration of the public interest, to: (1) Issue an LEO against Respondent's infringing products and a CDO against the Respondent; and (2) set a bond during the period of Presidential review in the amount of one hundred (100) percent of the entered value of the infringing articles. *See id.*

On February 28, 2022, Complainants filed an expedited motion to clarify, or in the alternative, a petition for a modification proceeding requesting the Commission to confirm that the remedial orders cover garage door openers, gate operators, and commercial operators. On March 10, 2022, Respondent filed a response in opposition to Complainants' motion and/or petition. On March 17, 2022, Complainants filed a notice of supplemental facts in support of their motion and/or petition. On March 18, 2022, Respondent filed a response to

Complainants' notice of supplemental facts.

Having reviewed the record of the underlying violation investigation, as well as the parties' submissions in connection with the motion and/or petition, the Commission has determined to grant both forms of requested relief, *i.e.,* clarification and modification. Specifically, the Commission has determined to clarify that the notice of investigation and the remedial orders as originally issued cover garage door openers, gate operators, and commercial operators. In addition, to provide further clarity, the Commission has determined to amend the notice of investigation to define the accused products and the scope of the investigation as ''garage door systems and components thereof, *including garage door openers, gate operators, commercial operators,* remote controls, wireless transmitters, and software for operating the garage door systems.'' Furthermore, the Commission has determined to institute a modification proceeding and modifies the remedial orders to explicitly recite ''garage door openers, gate operators, and commercial operators'' in the definition of covered products or articles. The modification proceeding is terminated. A Commission opinion is issued herewith.

The Commission's vote on this determination took place on March 30, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 30, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–07096 Filed 4–4–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

210th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 210th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held via a teleconference on Monday, May 9, 2022.

The meeting will occur from 12:30 p.m. to approximately 4:30 p.m. (ET). The purpose of the open meeting is to set the topics to be addressed by the Council in 2022. Also, the ERISA Advisory Council members will receive an update from leadership of the Employee Benefits Security Administration (EBSA).

Instructions for public access to the teleconference meeting will be posted on the ERISA Advisory Council's web page at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council* prior to the meeting.

Organizations or members of the public wishing to submit a written statement may do so on or before Monday, May 2, 2022, to Christine Donahue, Executive Secretary, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf format to *donahue.christine@dol.gov.* Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Monday, May 2, 2022, will be included in the record of the meeting and made available through the EBSA Public Disclosure Room. No deletions, modifications, or redactions will be made to the statements received as they are public records.

Individuals or representatives of organizations wishing to address the ERISA Advisory Council should forward their requests to the Executive Secretary no later than Monday, May 2, 2022, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record.

Individuals who need special accommodations should contact the Executive Secretary no later than Monday, May 2, 2022, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641.

For more information about the meeting, contact the Executive Secretary at the address or telephone number above.

Signed at Washington, DC, this 30th day of March, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2022–07119 Filed 4–4–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of the Extended Benefit (EB) Program for New Jersey

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

This notice announces a change in benefit period eligibility under the EB program that has occurred since the publication of the last notice regarding the State's EB status (see **SUPPLEMENTARY INFORMATION** for more details).

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state ending an EB period, the State Workforce Agency will furnish a written notice to each individual who is currently filing a claim for EB of the forthcoming end of the EB period and its effect on the individual's rights to EB (20 CFR 615.13(c)(4)).

FOR FURTHER INFORMATION CONTACT: U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4524, Attn: Kevin Stapleton, 200 Constitution Avenue NW, Washington, DC 20210, telephone number (202) 693–3009 (this is not a toll-free number) or by email: *Stapleton.Kevin@dol.gov.*

SUPPLEMENTARY INFORMATION: Based on the data released by the Bureau of Labor Statistics on March 14, 2022, the seasonally-adjusted Total Unemployment Rate (TUR) for New Jersey fell below the 6.5% threshold necessary to remain ''on'' in EB. Therefore the payable period in EB for New Jersey will end on April 9, 2022. The trigger notice covering state eligibility for the EB program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.as.*

Signed in Washington, DC.

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022–07092 Filed 4–4–22; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Information Advisory Council

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of virtual meetings April 21, 2022, and May 11, 2022.

SUMMARY: Notice is hereby given that the Workforce Information Advisory Council (WIAC or Advisory Council) will meet for two days, virtually. Information for public attendance at the virtual meetings will be posted at *www.dol.gov/agencies/eta/wioa/wiac/meetings* several days prior to each meeting date. The meetings will be open to the public.

DATES: The meetings will take place April 21, and May 11, 2022. Each meeting will begin at 12:00 p.m. EDT and conclude at approximately 2:00 p.m. EDT. Public statements and requests for special accommodations or to address the Advisory Council must be received by April 19, 2022, for the April 21, 2022, meeting, and by May 9, 2022, for the May 11, 2022, meeting.

ADDRESSES: Information for public attendance at the virtual meetings will be posted at *www.dol.gov/agencies/eta/wioa/wiac/meetings* several days prior to each meeting date. If problems arise accessing the meetings, please contact Donald Haughton, Unit Chief in the Division of National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, at 202–693–2784.

FOR FURTHER INFORMATION CONTACT: Steven Rietzke, Chief, Division of National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–4510, 200 Constitution Ave. NW, Washington, DC 20210; Telephone: 202–693–3912; Email: *WIAC@dol.gov.* Mr. Rietzke is the WIAC Designated Federal Officer.

SUPPLEMENTARY INFORMATION:

Background: These meetings are being held pursuant to sec. 308 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) (Pub. L. 113–128), which amends sec. 15 of the Wagner-Peyser Act of 1933 (29 U.S.C. 491–2). The WIAC is an important component of the WIOA. The WIAC is a federal advisory committee of workforce and labor market information experts representing a broad range of national, State, and local data and information users and producers. The WIAC was established in accordance with provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. app.) and will act in accordance with the applicable provisions of FACA and its implementing regulation at 41 CFR 102–3. The purpose of the WIAC is to provide recommendations to the Secretary of Labor (Secretary), working jointly through the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics, to address: (1) The evaluation and improvement of the nationwide workforce and labor market information (WLMI) system and statewide systems that comprise the nationwide system; and (2) how the Department and the States will cooperate in the management of those systems. These systems include programs to produce employment-related statistics and State and local workforce and labor market information.

The Department of Labor anticipates the WIAC will accomplish its objectives by: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development. Additional information is available at *www.dol.gov/agencies/eta/wioa/wiac/meetings.*

Purpose: The WIAC is currently in the process of identifying and reviewing issues and aspects of the WLMI system and statewide systems that comprise the nationwide system and how the Department and the States will cooperate in the management of those systems. As part of this process, the Advisory Council meets to gather information and to engage in deliberative and planning activities to facilitate the development and provision of its recommendations to the Secretary in a timely manner.

The purpose of the April meeting will be to conduct a review of the sub-committee recommendations. The first sub-committee, titled ''Workers and Work,'' studied the dynamics between people seeking work and employers looking for workers. The second sub-committee, titled ''Data Sharing and Synchronization,'' conducted research on the systems and processes needed to improve the availability of information, with a special focus on how data can help DOL participate in these efforts, especially as they relate to workforce and worker benefits.

The purpose of the May meeting is to have the WIAC vote on the recommendations from both sub-committees. After the vote, the WIAC will then turn its attention to future LMI topics for consideration by the WIAC.

Agenda: The agenda topics for the April 21, 2022 meeting are: (1) Review and approve minutes from the previous meeting, (2) review and discussion of the sub-committee recommendations, (3) comment period for the general public, and (4) other business as needed. The agenda topics for the May 11, 2022 meeting are: (1) Review and approve minutes from the previous meeting, (2) formal approval of the sub-committee recommendations by the full WIAC, (3) comment period for the general public, and (4) other business as needed. A detailed agenda will be available at *www.dol.gov/agencies/eta/wioa/wiac/meetings* shortly before the meetings commence.

The Advisory Council will open the floor for public comment at approximately 1:30 p.m. EST on both meeting dates for approximately 15 minutes. However, that time may change at the WIAC chair's discretion.

Attending the meetings: Members of the public who require reasonable accommodations to attend any of the meetings may submit requests for accommodations via email to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line ''April–May 2022 WIAC Meeting Accommodations'' by the date indicated in the **DATES** section. Please include a specific description of the accommodations requested and phone number or email address where you may be contacted if additional information is needed to meet your request.

Public statements: Organizations or members of the public wishing to submit written statements may do so by mailing them to the person and address indicated in the **FOR FURTHER INFORMATION CONTACT** section by the date indicated in the **DATES** section or transmitting them as email attachments in PDF format to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line ''April–May 2022 WIAC Meeting Public Statements'' by the date indicated in the **DATES** section. Submitters may include their name and contact information in a cover letter for mailed statements or in the body of the email for statements transmitted electronically. Relevant statements received before the date indicated in the **DATES** section will be included in the record of each meeting. No deletions, modifications, or redactions will be made to statements received, as they are public records. Please do not include

personally identifiable information in your public statement.

Requests to Address the Advisory Council: Members of the public or representatives of organizations wishing to address the Advisory Council should forward their requests to the contact indicated in the **FOR FURTHER INFORMATION CONTACT** section, or contact the same by phone, by the date indicated in the **DATES** section. Oral presentations will be limited to 5–7 minutes, time permitting, and shall proceed at the discretion of the Advisory Council chair. Individuals with disabilities, or others who need special accommodations, should indicate their needs along with their request.

Angela Hanks,

Acting Assistant Secretary for Employment and Training Administration.

[FR Doc. 2022–07093 Filed 4–4–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, 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 MET Laboratories, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on April 5, 2022.

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; 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; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of MET Laboratories, Inc. (MET), as a NRTL. MET's expansion covers the addition of seventeen test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 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, or for 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 the preliminary finding and, 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 that details the scope of recognition. These pages are available from the agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

MET submitted an application to expand its NRTL scope of recognition on April 20, 2020 (OSHA–2006–0028–0082). The expansion application would add seventeen standards to MET's NRTL scope of 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 the application.

OSHA published the preliminary notice announcing MET's expansion application in the **Federal Register** on February 15, 2022 (87 FR 8612). The agency requested comments by March 2, 2022, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of MET's scope of recognition.

To obtain or review copies of all public documents pertaining to MET's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210. Docket No. OSHA–2006–0028 contains all materials in the record concerning MET's recognition. *Please note:* Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

II. Final Decision and Order

OSHA staff examined MET's expansion application, the capability to meet the requirements of the test standards, and other pertinent information. Based on the review of this evidence, OSHA finds that MET meets the requirements of 29 CFR 1910.7 for expansion of the NRTL scope of recognition, subject to the limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant MET's scope of recognition. OSHA limits the expansion of MET's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 62841–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 1: General Requirements.
UL 62841–2–2	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–2: Particular Requirements For Hand-Held Screwdrivers and Impact Wrenches.
UL 62841–2–4	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–4: Particular Requirements For Hand-Held Sanders And Polishers Other.
UL 62841–2–5	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Safety—Part 2–5: Particular Requirements for Hand-Held Circular Saws.
UL 62841–2–8	Safety Requirements for Particular Requirements for Hand-Held Shears and Nibblers.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 62841–2–9	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn and Garden Machinery—Safety—Part 2–9: Particular Requirements for Hand-Held Tappers and Threaders.
UL 62841–2–10	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Part 2–10: Particular Requirements for Hand-Held Mixers.
UL 62841–2–11	Safety Requirements for Particular Requirements for Hand-Held Reciprocating Saws.
UL 62841–2–14	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn And Garden Machinery—Safety—Part 2–14: Particular Requirements for Hand-Held Planers.
UL 62841–2–17	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–17: Particular Requirements for Hand-Held Routers.
UL 62841–2–21	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Part 2–21: Particular Requirements for Hand-Held Drain Cleaners.
UL 62841–3–1	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–1: Particular Requirements For Transportable Table Saws.
UL 62841–3–4	Safety Requirements for Particular Requirements for Transportable Bench Grinders.
UL 62841–3–6	Safety Requirements for Particular Requirements for Transportable Diamond Drills with Liquid System.
UL 62841–3–9	Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–9: Particular Requirements for Transportable Mitre Saws.
UL 62841–3–13	Electric Motor-Operated Hand-Held Tools, Transportable Tools And Lawn And Garden Machinery—Part 3–13: Particular Requirements for Transportable Drills.
UL 62841–4–2	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn And Garden Machinery—Safety—Part 4–2: Particular Requirements for Hedge Trimmers.

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 standards listed above as American National Standards. However, for convenience, the use of the designation of the standards-developing organization for the standard as opposed to the ANSI designation may occur. 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 a particular 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, MET must abide by the following conditions of the recognition:

1. MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in their operations as a NRTL, and provide details of the change(s);

2. MET must meet all the terms of the NRTL recognition and comply with all OSHA policies pertaining to this recognition; and

3. MET must continue to meet the requirements for recognition, including all previously published conditions on MET'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 MET, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 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, Sept. 18, 2020)), and 29 CFR 1910.7.

Signed at Washington, DC, on March 9, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–07091 Filed 4–4–22; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

[OMB Control No. 0348–NEW]

Agency Information Collection Activity: United States Digital Service (USDS), Office of Management and Budget Collection of Formative Research on Agency Service Delivery

AGENCY: United States Digital Service (USDS), Office of Management and Budget.

ACTION: Notice and request for public comment.

SUMMARY: The United States Digital Service (USDS) within the Office of Management and Budget is announcing an opportunity for public comment on a new proposed collection of information by the agency. In compliance with the Paperwork Reduction Act (PRA) of 1995, USDS has submitted the collection of information to the Office of Management and Budget (OMB) for review. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Consideration will be given to all comments received on or before May 5, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the

search function. Refer to ''OMB Control No. 0348–NEW.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Rachel Sauter, who may be reached at 202–881–7793 or *Rachel.E.Sauter@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: On December 1, 2021, at 86 FR 68287, USDS published a **Federal Register** notice providing an initial 60 days for the submission of comments on the proposed information collection. USDS received zero comments.

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 certain agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3507(a)(1)(D) of the PRA (44 U.S.C. 3507(a)(1)(D)) requires Federal agencies to publish a 30-day notice in the **Federal Register** notifying the public that a proposed collection of information has been submitted to OMB for review. To comply with that requirement, USDS is publishing this notice that it has submitted a proposed collection of information to OMB for generic clearance. OMB may not approve the proposed collection until after May 5, 2022.

Overview of This Information Collection

The mission of USDS is to deliver better government services through technology and design. In support of that mission, USDS engages directly with program applicants and beneficiaries, and other people who use or need to use the government systems and services we are helping to improve, and incorporates their feedback into our work and recommendations. By employing human-centered design practices like user research, USDS prioritizes the user's needs and learns what works as quickly as possible, saving time and money while improving services to the public. USDS deploys small, responsive groups of designers, engineers, product managers, and other specialists to work with and empower civil servants, working with many agencies simultaneously.

Under this generic clearance, USDS would engage in a variety of formative data collections with people who use or need to use government systems and services, such as program participants, practitioners, and service providers. The data collections would occur primarily through *Discovery Sprints,* which are short research projects designed to quickly understand complexities of systems or services in order to identify issues with service delivery, their root causes, and opportunities for improvement. Data collections would also occur during longer projects, as needed. USDS's research serves to provide further understanding of whether people engaging directly with government services are having an effective, efficient, and satisfying experience. USDS anticipates undertaking a variety of new research projects related to social safety net and general welfare programs, economic recovery efforts, healthcare, and more. Many Federal agencies and field offices find a need to learn more about the public's perceptions, experiences and expectations; early warnings of issues with service delivery; or areas where communication, training or changes in operations might improve delivery of products or services.

USDS envisions using a variety of techniques, including:

- Pre-study self-identification questionnaires
- Unmoderated comment cards/complaint forms
- Unmoderated qualitative user experience surveys (*e.g.,* post-transaction surveys; opt-out web surveys)
- Unmoderated information architecture evaluative methods (*e.g.,* card sorts; tree tests)
- Unmoderated content evaluative methods
- Long-term behavior and experience studies (*e.g.,* diary study)
- Focus groups
- User research studies (*e.g.,* user interviews; usability tests)
- Program assessment questionnaires

Overall, this research will be designed to fulfill the following goals: (1) Discover barriers to access that create inequities for users of government systems and services; (2) inform the development of USDS and agency research, (3) discover early warnings of issues with service delivery; and (4) focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between Federal agencies and the public. It will also allow feedback to contribute directly to the improvement of program management.

Following standard OMB requirements, USDS will submit a generic clearance information request for each individual data collection activity. Each request will include the individual instrument(s), a justification specific to the individual information collection, and any supplementary documents. OMB will attempt to review requests within 10 days of submission.

Information collected under this generic clearance will not be used to inform public policy (*e.g.,* who is eligible for or receives benefits and services); rather, the findings are meant to inform USDS and internal agency discussions about opportunities to improve service delivery. The information collected in this effort will not be the primary subject of any published agency reports. Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency. Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically representative results, but rather provide insight about the challenges that subsets of stakeholders face. All collections will be voluntary, non-controversial, and do not raise issues of concern to other Federal Agencies.

The information collected in this effort may be made public through methodological appendices or footnotes, reports on instrument development, instrument user guides, descriptions of respondent behavior, and other publications or presentations describing findings of methodological interest. The results of this pre-testing research may be prepared for presentation at professional meetings or publication in professional journals. When necessary, in presenting findings, we will describe the study methods and limitations with regard to generalizability, and results will be labeled as exploratory in nature.

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.

For further information contact: Rachel Sauter, 202–881–7793, *Rachel.E.Sauter@omb.eop.gov.*

Type of review: New.

Title of the collection of information: United States Digital Service (USDS), Office of Management and Budget Collection of Formative Research on Agency Service Delivery.

Affected public: Key stakeholder groups involved in specific Federal and State-administered programs; state or local government officials; participants

in specific Federal and State-administered programs or similar comparison groups; and experts in fields pertaining to specific Federal and State research and programs.

USDS estimates that the total burden of this information collection over a three-year period will be 20,676 hours. USDS estimates that the annual burden of this information collection is as follows, with one response per respondent:

ESTIMATED ANNUAL BURDEN

Type of collection	Number of respondents	Minutes per response	Total hours
Pre-study self-identification questionnaire	10,000	5	833
Unmoderated comment cards/complaint forms	2,500	5	208
Unmoderated qualitative user experience questionnaire	2,500	30	1,250
Unmoderated information architecture evaluative methods	800	60	800
Unmoderated content evaluative methods	800	60	800
Long-term behavior and experience studies	50	300	250
Focus groups	100	60	100
User research studies	2,500	60	2,500
Program assessment questionnaires	300	30	150
Total	19,550	610	6,892

Authority: USDS is undertaking the collections at the discretion of the agency, and under the general authority of 44 U.S.C. 3504 and the Information Technology Oversight and Reform (ITOR) fund, as provided by the Consolidated Appropriations Act, 2021, Division E, Title II, Pub. L. 116–230.

Mina Hsiang,

Administrator, United States Digital Service.

[FR Doc. 2022–07151 Filed 4–4–22; 8:45 am]

BILLING CODE 3110–05–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–028)]

National Space-Based Positioning, Navigation, and Timing Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board. This will be the 26th meeting of the PNT Advisory Board.

DATES: Wednesday, May 4, 2022, from 9:30 a.m.–5:30 p.m., Eastern Time; and Thursday, May 5, 2022, from 9:00 a.m.–12:00 p.m., Eastern Time.

ADDRESSES: Crowne Plaza Annapolis, Arundel Ballroom, 173 Jennifer Road, Annapolis, MD 21401.

FOR FURTHER INFORMATION CONTACT: Mr. James Joseph Miller, Designated Federal Officer, on (202) 262–0929 or *jj.miller@nasa.gov,* PNT Advisory Board, Space Operations Mission Directorate, NASA Headquarters, Washington, DC 20546.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the meeting room. In-person attendees will be requested to sign a register prior to entrance to the proceedings. Webcast details to watch the meeting remotely will be available on the PNT Advisory Board website at: *www.gps.gov/governance/advisory/.*

The agenda for the meeting will include the following:

- Updates from Newly Established PNT Advisory Board Subcommittees:
  - Communications and External Relations (CER) Subcommittee
  - Education and Science Innovation (ESI) Subcommittee
  - Emerging Capabilities, Applications and Sectors (ECAS) Subcommittee
  - International Engagement (IE) Subcommittee
  - Protect, Toughen and Augment (PTA) Subcommittee
  - Strategy, Policy and Governance (SPG) Subcommittee
- Update on U.S. Space-Based Positioning, Navigation and Timing (PNT) Policy and Global Positioning System (GPS) III program development
- Discuss potential improvements to current GPS signal capabilities (authentication, integrity, augmentation, etc.) and GPS user equipment (resistance to jamming, security, resilience, etc.)
- Review of regulatory constraints in the development of multi-GNSS capabilities for improved PNT
- Complementing GPS with other PNT sources
- Deliberations on any findings and recommendations
- Other PNT Advisory Board business and upcoming work plan schedule

For further information, visit the PNT Advisory Board website at: *https://www.gps.gov/governance/advisory/.*

It is imperative that the meeting be held on this date to meet the scheduling availability of key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–07101 Filed 4–4–22; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0066]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of three amendment requests. The amendment requests are for LaSalle County Station, Units 1 and 2; Quad Cities Nuclear

Power Station, Units 1 and 2; and Susquehanna Steam Electric Station, Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration (NSHC). Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by May 5, 2022. A request for a hearing or petition for leave to intervene must be filed by June 6, 2022. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by April 15, 2022.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0066. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Karen Zeleznock, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1118, email: *Karen.Zeleznock@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0066, facility name, unit number(s), docket number(s), application date, and subject 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–2022–0066.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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. Eastern Time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0066, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to

the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as discussed below, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to

digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. (ET) on the due date. Upon receipt of a transmission, the E-Filing system timestamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., (ET), Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Constellation Energy Generation, LLC; LaSalle County Station, Units 1 and 2; LaSalle County, IL

Docket No(s)	50–373, 50–374.
Application Date	June 30, 2021, as supplemented by letter dated November 4, 2021.
ADAMS Accession Nos	ML21265A538, ML21265A537, ML21265A536, ML21265A558; ML21312A457.
Location in Application of NSHC	Attachment 1 Pages 12 through 15.
Brief Description of Amendment(s)	The proposed amendment would change LaSalle County Station Technical Specifications 4.3.1, ''Criticality,'' and 5.6.5, ''Core Operating Limits Report (COLR).'' Specifically, the licensee is utilizing a new criticality safety analysis (CSA) methodology for performing the criticality safety evaluation for legacy fuel types in addition to the GNF3 reload fuel in the spent fuel pool. The licensee is also proposing a change to the new fuel vault (NFV) CSA to utilize the GESTAR II methodology for validating the NFV criticality safety for GNF3 fuel in the General Electric designed NFV racks.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer Associate General Counsel Constellation Energy Generation, LLC 4300 Winfield Road, Warrenville, IL 60565.
NRC Project Manager, Telephone Number	Bhalchandra Vaidya, 301–415–3308.

Constellation Energy Generation, LLC; Quad Cities Nuclear Power Station, Units 1 and 2; Rock Island County, IL

Docket No(s)	50–254, 50–265.
Application Date	October 25, 2021.
ADAMS Accession No	ML21298A168.
Location in Application of NSHC	Attachment 1, pages 8–11.

Brief Description of Amendment(s)	The proposed amendment would change the criticality safety analysis (CSA) methodology for performing the criticality safety evaluation for legacy fuel types in addition to the GNF3 reload fuel in the spent fuel pool at Quad Cities Nuclear Power Station, Units 1 and 2. The proposed change includes revising the Technical Specifications 4.3.1, ''Criticality.'' Additionally, the licensee also proposes to change the new fuel vault (NFV) CSA to utilize GESTAR II methodology for validating the criticality safety for GNF3 fuel in the General Electric designed NFV racks.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer, Associate General Counsel, Constellation Energy Generation, LLC, 4300 Winfield Road, Warrenville, IL 60555.
NRC Project Manager, Telephone Number	Booma Venkataraman, 301–415–2934.

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA

Docket No(s)	50–387, 50–388.
Application Date	January 5, 2022.
ADAMS Accession No	ML22005A183.
Location in Application of NSHC	Attachment 1, page 3–5.
Brief Description of Amendment(s)	The proposed amendment would adopt Technical Specification Task Force Traveler TSTF–564, ''Safety Limit MCPR [Minimum Critical Power Ratio],'' Revision 2, which would revise the Technical Specification safety limit on MCPR to reduce the need for cycle-specific changes to the value while still meeting the regulatory requirement for a safety limit.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Damon D. Obie, Esq, 835 Hamilton St., Suite 150, Allentown, PA 18101.
NRC Project Manager, Telephone Number	Audrey Klett, 301–415–0489.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Constellation Energy Generation, LLC; LaSalle County Station, Units 1 and 2; LaSalle County, IL

Constellation Energy Generation, LLC; Quad Cities Nuclear Power Station, Units 1 and 2; Rock Island County, IL

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: March 17, 2022.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

[FR Doc. 2022–06049 Filed 4–4–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2021–32]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filings, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 7, 2022.

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).:* CP2021–32; *Filing Title:* USPS Notice of Amendment to Parcel Select Contract 38, Filed Under Seal; *Filing Acceptance Date:* March 30, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* April 7, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–07124 Filed 4–4–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34550; File No. 812–15308]

Principal Exchange-Traded Funds, et al.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under Section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

Summary of Application: Applicants request an order (''Order'') that permits: (a) The Funds (as defined in the Applicants' application) to issue shares (''Shares'') redeemable in large aggregations only (''creation units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value; (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; and (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of creation units. The relief in the Order would incorporate by reference terms and conditions of the same relief of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

Applicants: Principal Exchange-Traded Funds, ALPS Distributors Inc., and Principal Global Investors, LLC.

Filing Date: The application was filed on February 9, 2022.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on, April 25, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a

[1] Fidelity Beach Street Trust, et al., Investment Company Act Rel. Nos. 33683 (November 14, 2019) (notice) and 33712 (December 10, 2019) (order). Applicants are not seeking relief under Section 12(d)(1)(J) of the Act for an exemption from Sections 12(d)(1)(A) and 12(d)(1)(B) of the Act (the ''Section 12(d)(1) Relief''), and relief under Sections 6(c) and 17(b) of the Act for an exemption from Sections 17(a)(1) and 17(a)(2) of the Act relating to the Section 12(d)(1) Relief, except as necessary to allow a Fund's receipt of Representative ETFs included in its Tracking Basket solely for purposes of effecting transactions in Creation Units (as these terms are defined in the Reference Order), notwithstanding the limits of Rule 12d1–4(b)(3). Accordingly, to the extent the terms and conditions of the Reference Order relate to such relief, they are not incorporated by reference herein other than with respect to such limited exception.

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: John Sullivan, *sullivan.john.I@principal.com.*

FOR FURTHER INFORMATION CONTACT: Terri Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated February 9, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Dated: March 30, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07077 Filed 4–4–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94558; File No. SR–NYSE–2022–15]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE Rule 6A

March 30, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 24, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 6A (''Trading Floor'') to exclude from the definition of Trading Floor the presence of fully enclosed telephone booths located in 18 Broad Street. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 6A (''Trading Floor'') to exclude from the definition of ''Trading Floor'' the presence of fully enclosed telephone booths located in 18 Broad Street.

The Exchange currently defines ''Trading Floor'' [4] in Rule 6A(a) to mean the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the ''Main Room'' and the ''Buttonwood Room.'' [5] Rule 6A(b) currently specifies that the Exchange's Trading Floor does not include (i) areas designated by the Exchange where NYSE American-listed options are traded, commonly known as the ''Buttonwood Room,'' which, for the purposes of the Exchange's Rules, are referred to as the ''NYSE American Options Trading Floor,'' or (ii) the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor.[6]

The telephone booths were installed in 2016 to facilitate communication by DMMs with issuers but can be used by anyone on the Trading Floor.[7] The telephone booths, however, have been underutilized. As a result, the Exchange has determined to completely remove the telephone booths at 18 Broad Street. To reflect this change, the Exchange proposes to delete the phrase ''the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor'' from Rule 6A(b). The Exchange does not anticipate that removal of the telephone booths will in any way impede a DMM's obligation to regularly communicate with their listed issuers.[8]

Once the telephone booths are removed, the area where the telephone booths are located will again be a part of the Trading Floor and would fall within the broader definition of Floor under Exchange rules. The Exchange will thus retain jurisdiction in this area to regulate conduct that is inconsistent with Exchange Rules and the federal securities laws and rules thereunder.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with, and further the objectives of, Section 6(b)(5) of the Securities Exchange Act of 1934 [9] (the ''Act''), in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Access to the Trading Floor is restricted at each entrance by turnstiles and only authorized visitors, members or member firm employees are permitted to enter.

[5] *See* NYSE Rule 6A. The term ''Trading Floor'' is distinct from the term ''Floor.'' The term ''Floor'' means the trading Floor of the Exchange and the premises immediately adjacent thereto, such as the various entrances and lobbies of the 11 Wall Street, 18 New Street, 8 Broad Street, 12 Broad Street and 18 Broad Street Buildings, and also means the telephone facilities available in these locations. *See* NYSE Rule 6.

[6] *See id. See also* Securities Exchange Act Release Nos. 59479 (March 2, 2009), 74 FR 10325 (March 10, 2009) (SR–NYSE–2009–23) (Notice of filing adopting NYSE Rule 6A and explaining that the proposed definition of ''Trading Floor'' will provide a more accurate description of the physical areas of the Floor where trading is actually conducted); and 78855 (September 15, 2016), 81 FR 64966 (September 21, 2016) (SR–NYSE–2016–31) (Approval of filing amending Rule 6A renaming the physical area formerly known as the ''Garage'' to the ''Buttonwood Room'' and excluding the physical area within fully enclosed telephone booths located in 18 Board Street from the definition of Trading Floor) (''2016 Filing'')).

[7] *See* 2016 Filing, 81 FR at 64966.

[8] *See* Rule 104(j).

[9] 15 U.S.C. 78f(b)(5).

change would exclude from the definition of Trading Floor the presence of fully-enclosed telephone booths that are located on the perimeter of the Trading Floor. The Exchange believes that excluding the presence of these telephone booths from the definition of Trading Floor is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because the area where the telephone booths are located will once again become a part of the Trading Floor and thus allow the Exchange to regulate conduct that is inconsistent with Exchange Rules and the federal securities laws and rules thereunder. The Exchange also believes that the proposed change would protect investors and the public interest because removing reference to telephone booths from the definition of Trading Floor would make the Exchange's rulebook more transparent and facilitate market participants' understanding of the rules applicable to them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any issues relating to competition. Rather, the proposed rule change would remove the physical area where telephone booths are located from the definition of Trading Floor and revert jurisdiction in that area back to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such 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 shall institute proceedings under Section 19(b)(2)(B) [14] of the Act 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–NYSE–2022–15 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–NYSE–2022–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2022–15 and should be submitted on or before April 26, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07080 Filed 4–4–22; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.00 percent for the April—June quarter of FY 2022.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted

by the constitution or laws of the given State.

John Wade,

Chief, Secondary Market Division.

[FR Doc. 2022–07107 Filed 4–4–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 11701]

Notice of Receipt of Request From the Government of the Islamic Republic of Pakistan Under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

ACTION: Notice.

SUMMARY: Notice of receipt of request from Pakistan for cultural property protection.

FOR FURTHER INFORMATION CONTACT: Anne Compton, Cultural Heritage Center, Bureau of Educational and Cultural Affairs: 202–632–6301; *culprop@state.gov.*

SUPPLEMENTARY INFORMATION: The Government of the Islamic Republic of Pakistan made a request to the Government of the United States on May 4, 2021, under Article 9 of the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.* Pakistan's request seeks U.S. import restrictions on archaeological and ethnological material representing Pakistan's cultural patrimony. The Cultural Heritage Center website provides instructions for public comment and additional information on the request, including categories of archaeological and ethnological material that may be included in import restrictions: *https://eca.state.gov/highlight/cultural-property-advisory-committee-meeting-april-26-27-2022.* This notice is published pursuant to authority vested in the Assistant Secretary of State for Educational and Cultural Affairs and pursuant to 19 U.S.C. 2602(f)(1).

Allison Davis,

Executive Director, Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–07123 Filed 4–4–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11702]

Cultural Property Advisory Committee; Notice of Meeting

ACTION: Notice of meeting.

SUMMARY: The Department of State announces the location, dates, times, and agenda for the next meeting of the Cultural Property Advisory Committee (''the Committee'').

DATES: The Committee will meet virtually April 26–27, 2022, from 10:00 a.m. to 5:00 p.m. (EDT).

Participation: The public may participate in, or observe, the open session on April 26, 2022, from 2:00 p.m. to 3:00 p.m. (EDT). More information below.

FOR FURTHER INFORMATION CONTACT: Allison Davis, Bureau of Educational and Cultural Affairs—Cultural Heritage Center, (202–702–1166) (*culprop@state.gov*).

SUPPLEMENTARY INFORMATION: The Assistant Secretary of State for Educational and Cultural Affairs calls a meeting of the Cultural Property Advisory Committee (''the Committee'') in accordance with the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*) (''the Act''). A portion of this meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h).

Meeting Agenda: The Committee will review the request by the Government of the Islamic Republic of Pakistan seeking import restrictions on archaeological and ethnological material.

The Open Session: The general public can observe the virtual open session on April 26, 2022. Registered participants can provide oral comments for a maximum of five (5) minutes. The Department provides specific instructions on how to observe or provide oral comments at the open session at *https://eca.state.gov/highlight/cultural-property-advisory-committee-meeting-april-26-27-2022.*

Oral Comments: Register to speak at the open session by sending an email with your name and organizational affiliation, as well as any requests for reasonable accommodation, to *culprop@state.gov* by April 19, 2022. Written comments are not required to make an oral comment during the open session.

Written Comments: The Committee will review written comments if received by April 19, 2022, at 11:59 p.m. (EDT). Written comments may be submitted in two ways, depending on whether they contain confidential information:

- *General Comments:* For general comments, use *http://www.regulations.gov,* enter the docket [DOS–2022–0008], and follow the prompts.
- *Confidential Comments:* For comments that contain privileged or confidential information (within the meaning of 19 U.S.C. 2605(i)(1)), please email submissions to *culprop@state.gov.* Include ''Pakistan'' in the subject line.
- *Disclaimer:* The Cultural Heritage Center website contains additional information about each agenda item, including categories of archaeological and ethnological material that may be included in import restrictions: *https://eca.state.gov/highlight/cultural-property-advisory-committee-meeting-april-26-27-2022.* Comments should relate specifically to the determinations specified in the Act at 19 U.S.C. 2602(a)(1). Written comments submitted via regulations.gov are not private and are posted at *https://www.regulations.gov.* Because written comments cannot be edited to remove any personally identifying or contact information, we caution against including any such information in an electronic submission without appropriate permission to disclose that information (including trade secrets and commercial or financial information that are privileged or confidential within the meaning of 19 U.S.C. 2605(i)(1)). We request that any party soliciting or aggregating written comments from other persons inform those persons that the Department will not edit their comments to remove any identifying or contact information and that they therefore should not include any such information in their comments that they do not want publicly disclosed.

Allison Davis,

Executive Director, Cultural Property Advisory Committee, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–07122 Filed 4–4–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on a Proposed Release of Airport Property for Non-Aeronautical Use at Curtis Field Airport, Brady, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a request from Curtis Field Airport to

release approximately 0.39 acres of airport property located on U.S. Route 377 on the eastern portion of the Airport property as shown on the approved Airport Layout Plan (ALP).

DATES: Comments must be received on or before May 5, 2022.

ADDRESSES: Send comments on this document to Mrs. Jessica Bryan, Federal Aviation Administration, Texas Airports District Office, 10101 Hillwood Parkway, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Perry, Airport Manager, Curtis Field Airport, 3825 N Bridge Street, Brady, TX 76825, telephone 325–597–2152; or Mrs. Jessica Bryan, Federal Aviation Administration, Texas Airports District Office, 10101 Hillwood Parkway, Fort Worth, TX 76177, telephone (817) 222–4039. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The proposal consists of 0.39 acres of airport property (Tract 1) which was part of 325.09 acres of land that was conveyed to the City of Brady via a Quitclaim Deed dated November 22, 1946, by the United States of America acting by and through the War Assets Administrator under the provisions of the Surplus Property Act of 1944. This portion of land is outside the forecasted need for aviation development and is not needed for indirect or direct aeronautical use. A water tower will be constructed on the converted parcel, as part of the City of Brady's water improvement project. This new water tower will increase water pressure and supply needed to support improvements to the City, the Airport, and Airport Operations. Approval does not constitute a commitment by the FAA to financially assist in the conversion of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the conversion of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999. In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

Issued in Fort Worth, TX, on March 30, 2022.

Ignacio Flores,

Director, Airports Division, FAA, Southwest Region.

[FR Doc. 2022–07081 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0549]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 65—Certification: Airmen Other Than Flight Crewmembers, Subpart C—Aircraft Dispatchers and Appendix A to Part 65—Aircraft Dispatcher Courses

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 24, 2021. The collection involves the information that each applicant for an aircraft dispatcher certificate or FAA approval of an aircraft dispatcher course must submit to the FAA. These applications, reports and training course materials are provided to the local Flight Standards District Office of the FAA that oversees the certificates and FAA approvals. The collection is necessary for the FAA to determine qualification and the ability of the applicant to safely dispatch aircraft. Without this collection of information, applicants for a certificate or course approval would not be able to receive certification or approval. The collection of information for those who choose to train aircraft dispatcher applicants is to protect the applicants by ensuring that they are properly trained.

DATES: Written comments should be submitted by May 5, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sandra L. Ray by email at: *Sandra.ray@faa.gov;* phone: 412–329–3088.

SUPPLEMENTARY INFORMATION: *Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0648.

Title: Part 65—Certification: Airmen Other Than Flight Crewmembers, Subpart C—Aircraft Dispatchers and Appendix A to Part 65—Aircraft Dispatcher Courses.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 24, 2021 (86 FR 33469). This collection involves the information that each applicant for an aircraft dispatcher certificate or FAA approval of an aircraft dispatcher course must submit to the FAA to comply with 14 CFR part 65, subpart C and Appendix A. These applications, reports and training course materials are provided to the responsible Flight Standards Office of the FAA that oversees the certificates and FAA approvals.

This collection involves the knowledge testing that each applicant for an aircraft dispatcher certificate must successfully complete or information required to obtain FAA approval of an aircraft dispatcher course in order to comply with 14 CFR part 65, subpart C and Appendix A. These applications, reports and training course materials are provided to the responsible Flight Standards Office of the FAA which oversees the certificates and FAA approvals.

The collection is necessary for the FAA to determine qualification and the ability of the applicant to safely dispatch aircraft. Without this collection of information, applicants for a certificate or course approval would not be able to receive certification or approval. The collection of information for those who choose to train aircraft dispatcher applicants is to protect the applicants by ensuring that they are properly trained.

Respondents: 51 Dispatch Schools and 918 Students.

Frequency: As required by regulation.

Estimated Average Burden per Response: Varies per requirement.

Estimated Total Annual Burden: 5,393.75 Hours.

Issued in Washington, DC, on March 30, 2022.

Sandra L. Ray,

Aviation Safety Inspector.

[FR Doc. 2022–07069 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0678]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 135—Operating Requirements: Commuter and on-Demand Operations and Rules Governing Persons on Board Such Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 10, 2021. The collection involves requirements for Air Carrier/Commercial Operators. The information to be collected shows compliance and applicant eligibility.

DATES: Written comments should be submitted by May 5, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sandra Ray by email at: *Sandra.ray@faa.gov;* phone: 412–329–3088

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0039.

Title: Part 135—Operating Requirements: Commuter and on-Demand Operations and Rules Governing Persons on Board Such Aircraft.

Form Numbers: N/A.

Type of Review: Renewal of an information collection.

Background: The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 10, 2021 (86 FR 43718). Title 49 U.S.C., section 44702 authorizes issuance of air carrier operating certificates. 14 CFR part 135 prescribes requirement for Air Carrier/Commercial Operators. Each operator which seeks to obtain, or is in possession of, an air carrier or FAA operating certificate must comply with the requirements of 14 CFR part 135 in order to maintain data which is used to determine if the carrier is operating in accordance with minimum safety standards. Air carrier and commercial operator certification is completed in accordance with 14 CFR part 119. Part 135 contains operations and maintenance requirements.

Respondents: Approximately 1,903 operators.

Frequency: As required by regulation.

Estimated Average Burden per Response: Varies per requirement.

Estimated Total Annual Burden: 1,356,461 Hours.

Issued in Washington DC on March 30, 2022.

Sandra L. Ray,

Aviation Safety Inspector, AFS–260.

[FR Doc. 2022–07066 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0486]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Safety Assurance System (SAS) External Portal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 16, 2021. The collection involves the use of the SAS external portal which is a web-based tool developed for applicants and certificate holders (also referred to as external users) to exchange information with Flight Standards (FS) employees. The information to be collected will be used to collaborate and communicate with their FS counterparts regarding initial certification applications, and requesting new programs for acceptance and approval.

DATES: Written comments should be submitted by May 5, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Wendy Johnson by email at: *Wendy.Johnson@faa.gov;* phone 571–421–4110.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0774.

Title: Safety Assurance System (SAS) External Portal.

Form Numbers: List of the following web-based forms:

- Submitting a Preapplication Statement of Intent (PASI) Form (FAA Form 8400–6) (14 CFR parts 121, 135 and 141);
- Submitting an Application for Repair Station (FAA Form 8310–3) (14 CFR part 145);

• Submitting an Application for Aviation Maintenance School Certificate and Ratings Application (FAA Form 8310–6) (14 CFR part 147)

Type of Review: Renewal of an information collection.

Background: The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 16, 2021 (FR 2021–0486). The SAS external portal is a web-based tool developed for applicants and certificate holders (also referred to as external users) to exchange information with Flight Standards (FS) employees, primarily the Certification Project Managers (CPMs), Principal Inspectors (PIs) and Training Center Program Managers (TCPMs). SAS external portal creates the ability for our external users to collaborate and communicate with their FS counterparts in the execution of the following functions:

• Submitting a Preapplication Statement of Intent (PASI) Form (FAA Form 8400–6) (14 CFR parts 121, 135 and 141);

• Submitting an Application for Repair Station (FAA Form 8310–3) (14 CFR part 145);

• Submitting an Application for Aviation Maintenance School Certificate and Ratings Application (FAA Form 8310–6) (14 CFR part 147);

• Submitting a Letter of Intent (14 CFR part 142);

• Submitting Element Design (ED) data collection tools (DCTs); and,

• Sharing of other documentation as needed.

Benefits to the certificate holder or applicant to use the external portal include:

• Ease of submission and expedited processing and tracking of documents/requests;

• Documents/requests are sent directly to the FS employees, which eliminates wait time for the entry of information by the PI/CPM; and,

• Access to DCTs.

Respondents: Applicant respondents—922. Certificate Holder respondents—7892.

Frequency: On occasion.

Estimated Average Burden per Response: Applicant respondents—135 hours. Certificate Holder respondents—90 hours.

Estimated Total Annual Burden: Applicants $7,027,935. Certificate Holders $40,104,456.

Issued in Minneapolis, MN on March 30, 2022.

Wendy I Johnson,

Assistant Program Office Manager, System Approach for Safety Oversight (SASO) Program Office, AFS–910.

[FR Doc. 2022–07082 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0409]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 60—Flight Simulation Device Initial and Continuing Qualification and Use

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves requirements necessary to ensure safety-of-flight by ensuring that complete and adequate training, testing, checking, and experience is obtained and maintained by those who operate under certain parts of FAA's regulations and use flight simulation in lieu of aircraft for these functions.

DATES: Written comments should be submitted by June 6, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Sandra L. Ray, 1187 Thorn Run Road, Suite 200, Coraopolis, PA 15108.

By fax: 412–239–3063.

FOR FURTHER INFORMATION CONTACT: Sandra L. Ray by email at: *Sandra.ray@faa.gov;* phone: 412–329–3088

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0680.

Title: Part 60—Flight Simulation Device Initial and Continuing Qualification and Use.

Form Numbers: T001A, T002, T004, T011, T011–FD2, T012, T023, T024, T025, T068, T069.

Type of Review: Renewal of an information collection.

Background: Title 49 U.S.C., section 44702 empowers and requires the Secretary of Transportation to issue operating certificates and to establish minimum safety standards for the operation of air carriers and those to whom such certificates are issued. Also, title 49 U.S.C., section 44701 empowers and requires the Administrator of the Federal Aviation Administration (FAA) to prescribe standards applicable to the accomplishment of the mission of the FAA.

Sponsors who wish to maintain certified training centers are mandated to report to this collection. This collection is necessary to ensure that those who must comply with title 14 CFR part 61, part 63, part 91, part 121, part 135, part 141, and part 142 are able to provide adequate crewmember training and qualification. This collection also helps to ensure safety-of-flight by ensuring those who operate under these parts of the regulation and use flight simulation in lieu of aircraft for these functions, receive and maintain complete and adequate training, testing, checking, and experience. The FAA will use the information it collects and reviews to ensure compliance and adherence to regulations and, where necessary, to take enforcement action on violators of the regulations.

Respondents: 66 Flight Simulation Device Operators.

Frequency: Annually.

Estimated Average Burden per Response: Varies per Requirement.

Estimated Total Annual Burden: 88,541.5 Hours.

Issued in Washington, DC, on March 31, 2022.

Sandra L. Ray,

Aviation Safety Inspector, AFS–260.

[FR Doc. 2022–07113 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2022–0020]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new (periodic) information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on October 18, 2021. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by May 5, 2022.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2022–0020 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Danielle Betkey, 202–366–9417, or David Kopacz, 708–402–0840, Office of Safety, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Safety Performance Target Setting: State-of-the-Practice Report.

Background: Performance management is a critical element in roadway safety and is measured by the number of lives lost and serious injuries sustained on our Nation's roadways. The State's safety performance targets help to improve data, foster transparency and accountability, and allow safety progress to be tracked at the national and State level. States use the safety performance management framework to assist them in making progress toward improving road safety through the Highway Safety Improvement Program (HSIP), which requires a data-driven, strategic approach to improving highway safety on all public roads with a focus on performance.

Per 23 CFR part 490 subpart B, States are required to set safety performance targets in the HSIP annual report. The performance measures are based on 5-year rolling averages and include the following (1) number of fatalities; (2) rate of fatalities; (3) number of serious injuries; (4) rate of serious injuries; and (5) number of non-motorized fatalities and serious injuries.

FHWA shares the vision that zero fatalities on our Nation's roadways is the only acceptable goal. The State's annual safety performance targets represent an important step in helping States work toward the ultimate goal of eliminating traffic deaths and serious injuries. The safety performance targets are interim performance levels that contribute toward the progress of the long-term goal of zero fatalities.

FHWA does not prescribe a methodology for States to set their annual safety performance targets. States have the flexibility to use the methodology they deem most appropriate. FHWA encourages States to review data sets and trends and consider factors that may affect targets. The safety performance targets should be data-driven, realistic, and attainable and should align with the performance management framework and legislative intent.

Since 2016 when 23 CFR 490 went into effect, States have had the opportunity to go through several rounds of safety performance target setting. States have now set safety performance targets for calendar years (CY) 2018 through 2022 and have been assessed on the safety performance targets for CY 2018 and 2019. As States have gained more experience with target setting over the last several years, FHWA is interested in getting a better understanding of the state of the practice as it relates to safety target setting. FHWA seeks to identify how States are setting targets; what methods States are using to set targets; how States are integrating target setting into planning an programming practices; and how States are modifying their safety program in response to meeting or not meeting safety performance targets. The research will focus on identifying current practices as well as identifying gaps and noteworthy practices.

Respondents: Approximately 104 participants, which would allow for up to two participants for each of the 50 States plus the District of Columbia and Puerto Rico.

Frequency: One-time collection.

Estimated Average Burden per Response: Approximately 60 minutes.

Estimated Total Annual Burden Hours: Approximately 104 hours for a one-time collection.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 31, 2022.

Michael Howell,

Information Collection Officer.

[FR Doc. 2022–07160 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Action on Proposed Highway in Georgia, State Route 400 Express Lanes, Fulton and Forsyth Counties, Georgia (Atlanta Metropolitan Area)

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitations on claims for judicial review of action by FHWA, the United States Army Corps of Engineers (USACE), and the National Park Service (NPS).

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final. The actions relate to a proposed highway project, the State Route (SR) 400 Express Lanes beginning from the North Springs Metropolitan Atlanta Rapid Transit

Authority (MARTA) station in Fulton County and ending at 0.9 mile north of McFarland Parkway in Forsyth County, Georgia. The approximate length of the proposed project is approximately 16 miles. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of the final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 2, 2022. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Daniel T. Hinton, Acting Division Administrator, Georgia Division, Federal Highway Administration, 61 Forsyth Street, Suite 17T100, Atlanta, Georgia 30303; FHWA's normal business hours are 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, 404–562–3630; email: *Daniel.Hinton@dot.gov.* For United States Army Corps of Engineers (USACE): Mr. Edward B. Johnson, Jr., Chief, Management Branch, 4751 Best Road, Suite 140, College Park, Georgia 30337, email: *Edward.B.Johnson@usace.army.mil.* USACE's normal business hours are 8:00 a.m. to 5:00 p.m. (Eastern time) Monday through Friday. For Georgia Department of Transportation (GDOT): Mr. Russell McMurray, Commissioner, Georgia Department of Transportation, 600 West Peachtree Street, 22nd Floor, Atlanta, Georgia 30308, 8:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, Telephone: (404) 631–1990, email: *RMcMurray@dot.ga.gov.* For National Park Service (NPS): Ms. Ann Honious, Superintendent, Chattahoochee River Recreation Area, 1978 Island Ford Parkway, Sandy Springs, Georgia 30350, 9:00 a.m. to 5:00 p.m. (eastern time) Monday through Friday, Telephone: (678) 538–1211, email: *ann_honious@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other federal agencies have taken final actions subject to 23 U.S.C. 139(*l*)1 by issuing licenses and approvals for the following highway project in the State of Georgia: The SR 400 Express Lanes located in metropolitan Atlanta, Georgia. The Selected Alternative will add two (2) priced Express Lanes in each direction along State Route 400 from North Springs MARTA station (currently Exit 5C) to McGinnis Ferry Road and one (1) priced Express Lane in each direction from McGinnis Ferry Road to approximately 0.9 mile north of McFarland Parkway (currently Exit 12) in Forsyth County. The approximate length of the proposed construction is approximately 16 miles. The facility will be tolled by electronic toll lane (ETL). The purpose of the project is listed below:

- Provide a transportation alternative that offers reliable travel times for drivers and transit users;
- Improve connections between regional destinations through priced, additional lanes that integrate with the greater metro Atlanta express lanes network;
- Accelerate project delivery.

The actions by the Federal Agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on July 29, 2020, and the Finding of No Significant Impact (FONSI) for the SR 400 Express Lanes, approved on February 5, 2021. The FONSI and other project records are available by contacting FHWA or the Georgia Department of Transportation at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

The actions by the Federal Agencies and the laws under which such actions were taken are described in the USACE Individual Permit for the SR 400 Express Lanes project, authorized on February 15, 2022. The Public Notice for the Individual Permit is available by contacting FHWA or the Georgia Department of Transportation at the addresses listed above. The USACE Public Notice for the Individual Permit can be reviewed in the following manner:

(1) *https://www.sas.usace.army.mil/Missions/Regulatory/Public-Notices/?Page=2* or [SAS–2018–01018-FultonandForsyth (IP–NML) > Savannah District > Public Notices (*army.mil*)]; and

(2) If you are unable to access the Public Notice above, please make a request by mail to: U.S. Army Corps of Engineers, ATTN: Mr. Edward B. Johnson, Jr., Chief, Management Branch, 4751 Best Road, Suite 140, College Park, Georgia 30337.

The actions by the Federal Agencies and the laws under which such actions were taken are described in the National Park Service (NPS) Decision Document for the SR 400 Express Lanes project, approved on June 24, 2021. The NPS Decision Document can be reviewed and downloaded from the project website in two ways:

(1) At *https://0001757-gdot.hub.arcgis.com/* and click on Environmental Assessment (EA) and FONSI; and

(2) Electronic versions of the NPS Decision Document have been sent to the following local libraries in the vicinity of the SR 400 corridor with a request to make the digital document available to patrons, including:

a. Fulton County Library at the Sandy Springs Branch (395 Mount Vernon Hwy. NE, Sandy Springs, GA 30328),

b. Fulton County Library at the Roswell Branch (115 Norcross St. Roswell, GA 30075),

c. Fulton County Library at the East Roswell Branch (2301 Holcomb Bridge Rd., Roswell, GA 30076),

d. Fulton County Library at the Alpharetta Branch (10 Park Plaza, Alpharetta, GA 30009),

e. Fulton County Library at the Milton Branch (855 Mayfield Rd., Milton, GA 30009),

f. DeKalb Public Library at the Dunwoody Branch (5339 Chamblee Dunwoody Rd., Dunwoody, GA 30338), and

g. Forsyth County Public Library at the Sharon Forks Branch (2820 Old Atlanta Rd., Cumming, GA 30041).

This notice applies to all Federal Agency final actions taken after the issuance date of the FHWA **Federal Register** notice described in 86 FR 9421 (Feb. 12, 2021). See *https://www.govinfo.gov/content/pkg/FR-2021-02-12/pdf/2021-02803.pdf.* The laws under which actions were taken include, but are not limited to:

1. Wetlands and Water Resources: Clean Water Act, (section 404, section 401, section 319) [33 U.S.C. 1251–1377]; 33 CFR 208.10; Safe Drinking Water Act [42 U.S.C. 300(f)–300(j–26)]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406].

2. Executive Orders: E.O. 11990, Protection of Wetlands; E.O. 11988 Floodplain Management; Nothing in this notice creates a cause of action under these E.O.s.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Daniel Thomas Hinton,

Acting Division Administrator, Atlanta, Georgia.

[FR Doc. 2022–07009 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0018]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 24 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on March 19, 2022. The exemptions expire on March 19, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov,* insert the docket number, FMCSA–2022–0018, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. 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.*

II. Background

On February 16, 2022, FMCSA published a notice announcing receipt of applications from 24 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (87 FR 8912). The public comment period ended on March 18, 2022, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received one comment in this proceeding. The Minnesota Department of Public Safety submitted a comment in support of the decision to issue an exemption to Larry Magrath.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the February 16, 2022, **Federal Register** notice (87 FR 8912) and will not be repeated here.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 24 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, corneal scar, enucleation, glaucoma, histoplasmosis, inoperable mature cataract, macular neovascular scar, macular retinal scar, proliferative retinopathy, retinal artery occlusion, retinal detachment, retinal scar, ruptured globe, strabismus, and vitreoretinal adhesion. In most cases, their eye conditions did not develop recently. Fourteen of the applicants were either born with their vision impairments or have had them since childhood. The 10 individuals that developed their vision conditions as adults have had them for a range of 4 to 16 years. Although each applicant has one eye that does not meet the vision requirement in § 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian

and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 74 years. In the past 3 years, one driver was involved in a crash, and two drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in § 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in § 391.41(b)(10) and (b) by a certified medical examiner (ME) who attests that the individual is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 24 exemption applications, FMCSA exempts the following drivers from the vision requirement, § 391.41(b)(10), subject to the requirements cited above:

Robert A. Buckley (IN)
Steven L. Crews (TX)
Arthur B. Edge (GA)
Jorge Estol (FL)
William L. Fuqua (KY)
Terry G. Grice (IN)
Gerardo Hernandez (TX)
Joshua J. Hilliard (OH)
Orlando M. Hinton (NC)
Joshua M. Howe (IN)
Janessen B. Jenkins (GA)
Justin L. Knoll (MI)
Robert M. Lammon (OH)
Richard D. Lang (SD)
Larry P. Magrath (MN)
David L. Mairose (IA)
Darrell L. Marlett (IN)
Michael T. McGinty (PA)
Stephen D. Miles (OR)
Joshua D. Mylan (WA)
Albert M. Randle (TX)
Mitchell L. Reineke (NE)
Ritchy R. Richards (NM)
Antwine Simmons (GA)

In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–07108 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0332; FMCSA–2013–0124; FMCSA–2013–0125; FMCSA–2017–0057; FMCSA–2017–0058; FMCSA–2020–0024]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 10 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on May 15, 2022. The exemptions expire on May 15, 2024. Comments must be received on or before May 5, 2022.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0332, Docket No. FMCSA–2013–0124, Docket No. FMCSA–2013–0125, Docket No. FMCSA–2017–0057, Docket No. FMCSA–2017–0058, or Docket No. FMCSA–2020–0024 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2012–0332, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2017–0057, FMCSA–2017–0058, or FMCSA–2020–0024 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2012–0332, Docket No. FMCSA–2013–0124, Docket No. FMCSA–2013–0125, Docket No. FMCSA–2017–0057, Docket No. FMCSA–2017–0058, or Docket No. FMCSA–2020–0024), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number, FMCSA–2012–0332, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2017–0057, FMCSA–2017–0058, or FMCSA–2020–0024 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2012–0332, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2017–0057, FMCSA–2017–0058, or FMCSA–2020–0024 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. 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.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 3, 1971).

The 10 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 10 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 10 drivers in this notice remain in good standing with the Agency. In addition, for commercial driver's license (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of May 15, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 10 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Dustin Bemesderfer (FL)
Marquarius Boyd (MS)
Thomas Jensen (IA)
William Larson (NC)
Michael Paasch (NE)
Jesus Perez (IL)
Michael Quinonez (NM)
Jonathan Ramirez (CA)
Byron Smith (TX)
Aldale Williamson (DC)

The drivers were included in docket number FMCSA–2012–0332, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2017–0057, FMCSA–2017–0058, or FMCSA–2020–0024. Their exemptions are applicable as of May 15, 2022 and will expire on May 15, 2024.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each

driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 10 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–07109 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

United States Merchant Marine Academy Advisory Council

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice to solicit members for the United States Merchant Marine Academy Advisory Council.

SUMMARY: The Maritime Administration (MARAD) is seeking to solicit members for the United States Merchant Marine Academy Advisory Council (Council). The Council will provide advice and recommendations to the Secretary of Transportation, MARAD, and the United States Merchant Marine Academy (Academy) on matters related to the Academy.

DATES: Applications must be received on or before 11:59 p.m. Eastern Daylight Time on May 20, 2022.

ADDRESSES: Nominations must be submitted electronically (by email) to the email address listed in the **FOR FURTHER INFORMATION CONTACT** section. The subject line should state ''USMMA Advisory Council Member Nomination.''

FOR FURTHER INFORMATION CONTACT: Mr. Jack Kammerer, Designated Federal Officer, Executive Director, Maritime Administration at *Jack.Kammerer@dot.gov* or 202–366–2805.

SUPPLEMENTARY INFORMATION:

I. Background

The Council is an advisory committee established pursuant to the National Defense Authorization Act of Fiscal Year 2022, Public Law No 117–81, section 3501(c), codified at 46 U.S.C. 51323, and in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Council, through the Maritime Administrator, will provide the Secretary with advice and recommendations on the issues identified in the National Academy of Public Administration's *Comprehensive Assessment of the U.S. Merchant Marine Academy* November 2021 report. The advice and recommendations will relate to the morale, discipline, social climate, curriculum, instruction, physical equipment, fiscal affairs, academic methods, administrative policies, infrastructure needs, and other matters relating to the Academy.

Under its charter, the Council is comprised of no fewer than 8 members, but not more than 14 members, appointed by the Secretary for terms of up to two years, and appointed from among individuals with diverse backgrounds and expertise that will allow them to contribute balanced points of view and ideas regarding improving the Academy. Appointees may include individuals who are specially qualified to represent the interests and opinions of: Academia and higher education administration; Academy graduates; Members of the armed forces; Shipping and labor; Experts in the field of sexual assault and sexual harassment prevention and response; Experts in the field of workplace diversity, equity, and inclusion; and Experts in capital improvement planning.

Council members serve without pay. Members may be entitled to reimbursement of expenses related to per diem and travel when attending Council meetings, as authorized under 5 U.S.C. 5703 and 41 CFR part 301. The Council will meet as often as needed to fulfill its mission, but typically four times each fiscal year to address its objectives and duties. The Council will aim to meet in person at least once each fiscal year with additional meetings held via teleconference.

II. Nomination process

Members of the Council are appointed by the Secretary for two-year terms. The selection and appointment process for Council members is designed to ensure continuity of membership, and to afford the Secretary the advisory input of the most capable, diverse, and novel perspectives that the country has to offer.

Individuals interested in serving on the Council are invited to apply for consideration for appointment. There is no application form; however, applicants/nominators should submit the following information:

(1) Contact Information for the nominee, consisting of:

a. Name

b. Title

c. Organization or Affiliation

d. Address

e. City, State, Zip Code

f. Telephone number

g. Email address

(2) Statement of interest limited to 250 words on why the nominee wants to serve on the Council and the unique perspectives and experiences the nominee brings to the Council;

(3) A current resume and category of interest is required;

(4) An affirmative statement that the nominee is not a Federally registered lobbyist seeking to serve on the committee in their individual capacity and the identity of the interests they intend to represent, if appointed as a member of the Council; and

(5) Optional letters of support.

All non-federal members must also complete a background investigation.

The Department of Transportation does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factors. The Department strives to achieve a diverse candidate pool for all its recruitment actions.

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–07143 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2021–0117 (Notice No. 2022–05)]

Hazardous Materials: Information Collection Activities

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, this notice announces that the Information Collection Request (ICR) discussed below will be forwarded to the Office of Management and Budget for renewal and extension, and this notice describes the nature of the information collection and its expected burdens. Additionally, we note that on January 13, 2022, a notice with a 60-day comment period soliciting comments on this ICR was published in the **Federal Register**, and PHMSA did not receive any comments on it.

DATES: Interested persons are invited to submit comments on, or before May 5, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

We invite comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the Department's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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

FOR FURTHER INFORMATION CONTACT: Steven Andrews or Shelby Geller, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. Today's notice identifies an information collection request that PHMSA had previously published a 60-day notice [1] seeking comments and is now submitting to the Office of Management and Budget (OMB) for renewal and extension. This information collection is contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collection was last approved. The following information is provided for the information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for the information collection activity and will publish a notice in the **Federal Register** alerting the public upon OMB's approval.

PHMSA requests comments on the following information collection:

Title: Flammable Hazardous Materials by Rail Transportation

OMB Control Number: 2137–0628.

Summary: This OMB control number is used for information and recordkeeping requirements pertaining to the sampling and testing certification, routing analysis, and incident reporting for flammable liquids by rail transportation. Rail carriers, shippers, PHMSA's Office of Hazardous Materials Safety (OHMS), the Federal Railroad Administration (FRA), and the Association of American Railroads (AAR) may use this information to ensure that rail tank cars transporting flammable liquids are properly classified, ensure trains are routed appropriately, and collect all relevant incident data.

This OMB control number is being submitted for renewal and includes the following information collections and associated burden hours:

Information collection	Respondents	Responses	Hours per response	Total hours
Sampling and Testing Plan Burden for Subsequent Year Revision	1,801	1,801	10	18,010
Routing—Collection by Segment for Class II Railroads	10	10	40	400
Routing—Collection by Segment for Class III Railroads	160	160	40	6,400
Routing Analysis Burden for Class II Railroads	10	50	16	800
Routing Analysis Burden for Class III Railroads	160	320	8	2,560
Routing Security Analysis Burden for Class II Railroads	10	40	12	480
Routing Security Analysis Burden for Class III Railroads	64	32	4	128
Tank Car Retrofit Burden	50	50	0.5	25
Crude Oil Incident Reporting	17	17	2	34
Oil Spill Response Plans—Submit Reports	73	14.6	0.5	7.3
Oil Spill Response Plan—Class I	7	7	162	1,134
Oil Spill Response Plan—Class II	11	11	54	594
Oil Spill Response Plan—Class III	55	55	36	1,980
Notification Plans—Maintenance	73	2,190	1	2,190
Notification Plans—DOT Request	73	15.33	1	15.33

[1] *See* the 60-day notice published under Docket No. PHMSA–2021–0117 (Notice No. 2022–01), on January 13, 2022 [87 FR 2238] at: *https://www.federalregister.gov/documents/2022/01/13/2022-00575/hazardous-materials-information-collection-activities.*

Affected Public: Shippers and carriers of petroleum liquids transported by rail.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 2,574.

Total Annual Responses: 4,773.

Total Annual Burden Hours: 34,758.

Frequency of Collection: On occasion.

Issued in Washington, DC, on March 31, 2022.

William A. Quade,

Deputy Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2022–07166 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2017–0161]

Pipeline Safety: Request for Special Permit; Tennessee Gas Pipeline Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit received from the Tennessee Gas Pipeline Company, LLC (TGP). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by May 5, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and 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 System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

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 Code of Federal Regulations (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 Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, 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:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from the TGP, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, and 49 CFR 192.619(a): Maximum allowable operating pressure: Steel or plastic pipelines.

This special permit is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for a Class 1 to 3 location change on three (3) proposed special permit segments totaling 5,544.83 feet (approximately 1.050 miles) of pipeline in Kanawha County, West Virginia. The proposed special permit segments are on TGP's 20-inch diameter Line 100–1 Pipeline, which operates at a maximum allowable operating pressure (MAOP) of 936 pounds per square inch gauge (psig) and was constructed in 1984.

The special permit request, proposed special permit with conditions, and draft environmental assessment (DEA) for the above listed TGP pipeline segments are available for review and public comments in Docket No. PHMSA–2017–0161. PHMSA invites interested persons to review and submit comments on the special permit request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on March 31, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–07146 Filed 4–4–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2022–0007]

Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of the Comptroller of the Currency.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) announces a meeting of the Minority Depository Institutions Advisory Committee (MDIAC).

DATES: The OCC MDIAC will hold a virtual public meeting on Tuesday, April 26, 2022 beginning at 1:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The OCC will hold the April 26, 2022 meeting of the MDIAC virtually.

FOR FURTHER INFORMATION CONTACT: Beverly Cole, Designated Federal Officer and Deputy Comptroller for the Northeastern District, (212) 790–4001, Office of the Comptroller of the Currency, 340 Madison Ave., Fifth Floor, New York, New York 10173.

SUPPLEMENTARY INFORMATION: By this notice, the OCC is announcing that the MDIAC will convene a virtual meeting at 1:00 p.m. EDT on Tuesday, April 26, 2022. Agenda items will include current topics of interest to the industry. The purpose of the meeting is for the MDIAC to advise the OCC on steps the agency may be able to take to ensure the continued health and viability of minority depository institutions and other issues of concern to minority depository institutions. Members of the public may submit written statements to the MDIAC by email to: *MDIAC@OCC.treas.gov.*

The OCC must receive written statements no later than 5:00 p.m. EDT on Thursday, April 21, 2022. Members of the public who plan to attend the virtual meeting should contact the OCC by 5:00 p.m. EDT on Thursday, April 21, 2022, to inform the OCC of their desire to attend the meeting and to obtain information about participation in the virtual meeting. Members of the public may contact the OCC via email at *MDIAC@OCC.treas.gov* or by telephone at (212) 790–4001. Attendees should provide their full name, email address, and organization, if any. Members of the public who are deaf, hard of hearing, or have a speech disability, should dial 7–1–1 to access telecommunications relay services for this meeting.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2022–07102 Filed 4–4–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will still be held via teleconference. Due to a delay in the approval process and a late start with our initial meetings, we are getting a late start to the TAP year. Because of this we will not be able to meet the 15 calendar-day notice requirement. We anticipate all future **Federal Register** notices to be timely moving forward. This meeting will be held via teleconference.

DATES: The meeting will be held Wednesday, April 13, 2022.

FOR FURTHER INFORMATION CONTACT: Conchata Holloway at 1–888–912–1227 or 214–413–6550.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Wednesday, April 13, 2022, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Conchata Holloway. For more information please contact Conchata Holloway at 1–888–912–1227 or 214–413–6550, or write TAP Office, 1114 Commerce St., MC 1005, Dallas, TX 75242 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 31, 2022.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2022–07117 Filed 4–4–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. Due to a delay in the approval process and a late start with our initial meetings, we are getting a late start to the TAP year. Because of this we will not be able to meet the 15 calendar-day notice requirement. We anticipate all future **Federal Register** notices to be timely moving forward. This meeting will be held via teleconference.

DATES: The meeting will be held Tuesday, April 12, 2022.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Tuesday, April 12, 2022, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 31, 2022.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2022–07114 Filed 4–4–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Solicitation of Nominations for Membership on the Treasury Advisory Committee on Racial Equity

AGENCY: Department of the Treasury.

ACTION: Solicitation of nominations for membership on the Treasury Advisory Committee on Racial Equity.

SUMMARY: The Treasury Department is soliciting nominations for membership on the Treasury Advisory Committee on Racial Equity (TACRE). The TACRE is composed of up to 25 members who will provide information, advice and recommendations to the Department of the Treasury on matters relating to the advancement of racial equity. This notice provides expectations for Committee members and announces the process for applying for membership on the Committee.

DATES: Applications are due on or before April 15, 2022.

FOR FURTHER INFORMATION CONTACT: Janis Bowdler, Counselor for Racial Equity, Department of Treasury, (202) 622–3002, *Equity@Treasury.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. app., as amended), the Department of the Treasury (''Department'') has established the Treasury Advisory Committee on Racial Equity (''Committee''). The Department has determined that establishing this committee is necessary and in the public interest in order to carry out the provisions of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Throughout the Federal Government.*

Committee Membership

In order to achieve a fairly balanced membership, the Committee shall include representatives from a wide range of views, such as the Federal government, financial services industry, state regulatory authorities, consumer or public advocacy organizations, community-based groups, academia, philanthropic organizations, as well as others focused on the advancement of equity priorities within the United States. Membership balance will not be static and may change, depending on the work of the Committee. The number of Committee members shall not exceed twenty-five. The Committee shall meet at such intervals as are necessary to carry out its duties. It is estimated that the Committee will generally meet four times per year, virtually or in person. Generally, Committee meetings are open to the public.

Background

Objectives and Duties

The purpose of the Committee is to provide advice and recommendations to the Department of the Treasury to assist the Offices of the Secretary and Deputy Secretary in carrying out their duties and authorities towards advancing racial equity and addressing acute disparities for communities of color who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.

The Committee will provide an opportunity for experts to offer their advice and recommendations to the Office of the Secretary on a regular basis on aspects of the domestic economy that have directly and indirectly resulted in unfavorable conditions for Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color. Topics to be addressed by the Committee may include, but are not limited to, financial inclusion, capital access, housing stability, federal government supplier diversity and economic development.

The duties of the Committee shall be solely advisory and shall extend only to the submission of advice and recommendations to the Offices of the Secretary and Deputy Secretary, which shall be non-binding to the Department. No determination of fact or policy shall be made by the Committee. Membership appointments are for a duration of two years. Members will not receive compensation, other than reimbursement for travel, if required.

Application Process for Advisory Committee Appointment

Applicants are required to submit the following documents specifically referencing the objectives and duties outlined above:

- A one (1) page cover letter detailing their qualifications and areas of expertise as they relate to the key issues before the committee; and
- A two (2) page resume/curriculum vitae, which should clearly highlight relevant experience that addresses the focus areas of TACRE.

Nominations may be submitted by the candidate him- or herself or by the person/organization recommending the candidate.

Some members of the Committee may be required to adhere to the conflict of interest rules applicable to Special Government Employees, as such employees are defined in 18 U.S.C. 202(a). These rules include relevant provisions in 18 U.S.C. related to criminal activity, Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635), and Executive Order 12674 (as modified by Executive Order 12731).

In accordance with Department of Treasury Directive 21–03, a clearance process includes fingerprints, tax checks, and a Federal Bureau of Investigation criminal check. *Applicants must state in their application that they agree to submit to these pre-appointment checks.*

The application period for interested candidates will extend to the date outlined above. Applications should be submitted in sufficient time to be received by the close of business on the closing date and should be sent to *Equity@treasury.gov.*

Janis Bowdler,

Counselor for Racial Equity.

[FR Doc. 2022–07088 Filed 4–4–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq

Kuwait

Lebanon

Libya

Qatar

Saudi Arabia

Syria

Yemen

Kevin Nichols,

International Tax Counsel, (Tax Policy).

[FR Doc. 2022–07140 Filed 4–4–22; 8:45 am]

BILLING CODE 4810–AK–P

FEDERAL REGISTER

Vol. 87 Tuesday,

No. 65 April 5, 2022

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 205

National Organic Program; Origin of Livestock; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Doc. No. AMS–NOP–11–0009; NOP–21–04]

RIN 0581–AD89

National Organic Program; Origin of Livestock

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) amends the origin of livestock requirements for dairy animals under the USDA organic regulations with this final rule. AMS is taking this action to increase uniformity in origin of livestock production practice for organic dairy animals, and reduce variance between the approaches taken by certifying agents. The policy choices in this rule align with practices that many certifiers and most organic operations already follow, and align with the public comments on the rule. This rule specifies that organic milk and milk products must be from animals that have been under continuous organic management from the last third of gestation onward, with an exception for newly certified organic livestock operations.

DATES:

Effective date: This rule is effective June 6, 2022.

Compliance date: Certified organic operations must comply with all provisions of this final rule by April 5, 2023. For more information, see the Compliance Date for These Regulations section of this document.

FOR FURTHER INFORMATION CONTACT: Erin Healy, Director, Standards Division; Phone: (202) 720–3252, email: *erin.healy@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Purpose of Final Rule

This final rule clarifies requirements related to organic dairy production under the USDA organic regulations, which dictate how and when nonorganic dairy animals may be transitioned, or converted, to organic production (7 CFR part 205). This action specifies that a nonorganic dairy may transition to organic production on a one-time basis, and once the transition is complete, the operation must not transition additional nonorganic animals to organic production or source transitioned animals. This action is intended to facilitate and improve compliance with and enforcement of the USDA organic regulations.

The rule takes into account current practices and stakeholder input to ensure a policy option that minimizes disruptions, while protecting the value of the organic label. This final rule will improve AMS's ability to effectively administer the National Organic Program (NOP) and improve AMS's oversight of the USDA-accredited certifying agents that inspect and certify organic dairy operations. The final rule is also intended to maintain consumer trust in the organic seal by assuring consumers that organically produced products meet a consistent and uniform standard—a stated purpose of the Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501 *et seq.*).

AMS is making these changes, following consultation with the National Organic Standards Board (NOSB) and following notice and public comment, to provide additional details for the USDA organic regulations governing the production of organic livestock products, and at the direction of Congress (Further Consolidated Appropriations Act, 2020; Pub. L. 116–94), and as authorized under OFPA (Sections 6509(e)(2) and 6509(g)).

B. Summary of Provisions

This final rule updates the origin of livestock regulations, first published in December 2000 in the **Federal Register** (65 FR 80547), by explicitly requiring that milk or milk products labeled, sold, or represented as organic be from dairy animals organically managed from the last third of gestation onward, with a one-time exception for newly certified organic livestock operations to convert (or ''transition'') nonorganic dairy animals to organic milk production. This exception allows an eligible operation to transition nonorganic dairy animals to organic milk production one time by managing animals organically for 12-months rather than from the last third of gestation. The transition must occur over a single 12-month period and all transitioning animals must end the transition at the same time.

After the transition to organic production is complete, an operation is not allowed to transition additional nonorganic animals to organic milk production, and the certified operation may not source animals transitioned by other operations. After the transition, an operation replacing culled dairy animals and/or expanding its number of dairy animals must add dairy animals that have been under continuous organic management from the last third of gestation.

In this final rule, AMS clarifies that breeder stock must be managed organically during the period that breeder stock are nursing their organic offspring, from the last third of gestation through the end of the nursing period. Breeder stock that are not certified organic may not be sold, labeled, or represented as organic. The final rule reiterates that nonorganic breeder stock may be brought from a nonorganic operation onto an organic operation at any time, but they must be brought onto the organic operation no later than the last third of gestation if their offspring are to be raised as organic livestock.

C. Regulatory Analysis (Costs and Impacts)

AMS is taking this action to set origin of livestock production practice standards for organic dairy animals, and reduce variance between the approaches taken by certifying agents. AMS updated the analysis from the proposed rule (84 FR 52041) using the most recent information about the dairy market, including the number of certified organic operations and the number of organic dairy animals. Updating the information with NASS 2019 data revises the estimated costs of the final rule to $615,000–$1,845,000.

D. Compliance Date for These Regulations

AMS is establishing a compliance date for this final rule of April 5, 2023, or ten months after the effective date of this final rule. This means that a certified operation may only add transitioned animals to their operation up to the compliance date of April 5, 2023. Any certified operation may source or sell transitioned animals in the period prior to the compliance date, but certified operations may not start new transitions that would not be completed by April 5, 2023. Starting on the compliance date of April 5, 2023, all certified operations (*i.e.,* operations certified as of the compliance date) must fully comply with the provisions of this final rule.

I. General Information

Does this action apply to me?

You may be affected by this action if you are engaged in the dairy industry. Affected entities may include, but are not limited to:

- Individuals or business entities that are considering owning or operating a new dairy farm and that plan to seek organic certification for that farm;

• Dairy farms that are currently certified organic under the USDA organic regulations;
• Organic farms engaged in raising heifers for sale to certified organic operations;
• Nonorganic dairy farms that are considering converting their dairy farm to certified organic production; and/or
• Certifying agents accredited under the USDA organic regulations to certify organic livestock operations.

This listing is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this section could also be affected. To determine whether you or your business may be affected by this action, you should carefully examine the regulatory text. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

AMS's National Organic Program (NOP) is authorized by the Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501–6524). Through the NOP, AMS establishes and oversees the implementation of national standards for the production and handling of organically produced agricultural products. Below, background is provided on the topics of dairy transition and breeder stock, describe general dairy production practices, and summarize the history of this rulemaking.

A. Dairy Transition

OFPA establishes that, in general, organic livestock must be organically managed from the last third of gestation onward (7 U.S.C. 6509(b)). For dairy animals, OFPA requires a minimum period of one year of organic management before milk from dairy animals can be sold as organic (7 U.S.C. 6509(e)(2)). During the transition period, OFPA also allows dairy farms to feed dairy animals crops and forage from land on the dairy farm that is in its third year of organic management (*Id.*).

The USDA organic regulations regarding the origin of livestock (7 CFR 205.236) have required that all livestock products sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation onward. For dairy animals, the USDA organic regulations have also provided an exception (§ 205.236(a)(2)) that allows for the transition of a dairy herd into organic production if animals are under continuous organic management for the one-year period prior to production of organic milk or milk products. During this one-year period, dairy animals may consume certified organic feeds and/or crops and forage from land that is in the third year of organic management and included in the organic system plan but has not yet been certified organic (§ 205.236(a)(2)(i)). Section 205.236(a)(2)(iii) has required that once an ''entire distinct herd'' has transitioned to organic production, all dairy animals in that herd shall be organically managed from the last third of gestation.

As USDA noted when promulgating the regulations that first implemented the NOP, ''[t]he conversion provision . . . rewards producers for raising their own replacement animals while still allowing for the introduction of animals from off the farm that were organically raised from the last third of gestation.'' 65 FR 80570 (Dec. 21, 2000). USDA explained that ''the conversion provision cannot be used routinely to bring nonorganically raised animals into an organic operation. It is a one-time opportunity for producers working with a certifying agent to implement a conversion strategy for an established, discrete dairy herd . . . .'' *Id.*

These provisions have established two different classes of organic animals that operations and their certifiers track, because there are implications in terms of the fate of the animal: Last third organic animals may be eligible for organic slaughter (if also not treated with synthetic parasiticides that appear on the National List [1]), while transitioned animals (as well as last third animals that have received parasiticides) are ineligible for organic slaughter.

The USDA organic regulations related to transition of dairy animals have been inconsistently applied, however, in part because while they have allowed for the transition of a nonorganic herd to organic milk production after one year of organic management, the regulations did not define an ''entire distinct herd.'' This has led to significant inconsistencies in the regulatory interpretation by certifying agents and farms. For example, some operations and certifying agents consider an entire distinct herd to include all the animals on the farm. In contrast, others have applied the rules differently, allowing smaller groups to be considered multiple distinct herds. Some certifying agents have allowed dairy farms to continually transition nonorganic dairy animals into organic production as new ''distinct'' herds, while other dairy operations have been allowed to use the transition exception only once (*i.e.,* when they initially converted their farm's entire nonorganic ''herd'' to organic production). The inconsistent interpretation has led to unevenness in the marketplace. This final rule adopts the latter interpretation, and amends the regulations regarding dairy animals to clarify their requirements. As USDA first said more than twenty years ago, organic dairy operations may ''rais[e] their own replacement animals'' or ''introduce[e] . . . animals from off the farm that were organically raised from the last third of gestation.'' 65 FR 80570. But they may not ''routinely . . . bring nonorganically raised animals into an organic operation.'' *Id.* When Congress amended 7 U.S.C. 6509(e)(2) in 2005, it did not disturb this understanding.

In a 2006 rulemaking, USDA noted that some ''commenters wanted the last third of gestation clause to apply to all dairy operations once the operation is certified as organic, regardless of the number of animals converted, or whether an entire, distinct herd is converted.'' 71 FR 32804. USDA responded that those comments were beyond the scope of the present rulemaking, but recognized that its regulations left ''two methods of replacement of dairy animals for organic dairy operations and that this is a matter of concern in the organic community.'' *Id.* USDA suggested that it would undertake further rulemaking ''[t]o address the issue of dairy replacement animals for all certified organic dairy operations.'' *Id.*

Differences in how certifying agents have interpreted the regulations were detailed in a July 2013 audit report published by the USDA Office of Inspector General (OIG).[2] According to the OIG report, three of the six certifying agents interviewed by OIG allowed producers to continuously transition additional herds to organic milk production, while the other three certifying agents did not permit this practice. OIG recommended that a proposed rule be issued to clarify the standard and ensure that all certifying agents consistently apply and enforce the origin of livestock requirements. The National Organic Standards Board (NOSB) has also issued several recommendations that AMS revise the transition exception to clarify that each operation is entitled to a one-time

[1] 7 CFR 205.238(c) and 7 CFR part 205 Subpart G. *https://www.ecfr.gov/current/title-7/subtitle-B/chapter-I/subchapter-M/part-205/subpart-G.*

[2] The July 2013 OIG audit report on organic milk operations may be accessed at the following website: *http://www.usda.gov/oig/webdocs/01601-0002-32.pdf.*

transition per operation (see Development of Existing Standards below). This final rule responds to the OIG's findings and the NOSB's recommendations on this issue. It was also directed by Congress (Further Consolidated Appropriations Act, 2020).

B. Breeder Stock

OFPA states that breeder stock may be purchased from any source if such stock is not in the last third of gestation (7 U.S.C. 6509(b)). The USDA organic regulations define breeder stock as female livestock whose offspring may be incorporated into an organic operation at the time of their birth (7 CFR 205.2). Nonorganic breeder stock may be used to raise organic offspring if certain conditions are met. The regulations specify that such breeder stock may be brought from a nonorganic operation onto an organic operation at any time (7 CFR 205.236(a)(3)). If breeder stock are gestating and their offspring are to be raised as organic, the regulations require that the breeder stock be brought onto the facility and organically managed no later than the last third of gestation (7 CFR 205.236(a)).

Stakeholders, through public comment to the NOSB and comments to NOP, have expressed concern that some operations may bring breeder stock onto an organic operation, manage them organically for the last third of gestation so that the breeder stock can produce and nurse the organic offspring, and then return that breeder stock to nonorganic management. Some stakeholders, including the NOSB, have suggested that such a practice does not align with a regulatory provision that prohibits organic livestock removed from organic operations and subsequently managed on nonorganic operations to be sold, labeled, or represented as organically produced (7 CFR 205.236(b)).[3] To clarify these potentially conflicting regulations, this final rule addresses the use and management of breeder stock on organic operations.

C. Overview of Organic Dairy Production

This section provides a high-level overview of heifer (*i.e.,* young female cows) raising practices. It also highlights the differences between organic and nonorganic practices for raising replacement dairy heifers (*i.e.,* the animals brought onto a farm to replace the animals that die or that are removed from the farm for other reasons).

Current dairy production and husbandry practices provide important context for this rulemaking. The practices described below are specific to raising dairy heifers but may be applied similarly to other species. However, the timing of events may differ depending on the animal. (*e.g.,* a dairy goat may begin its first lactation at one year of age while a cow begins its first lactation at nearly two years of age).

Nonorganic Heifer Development

When a heifer calf (*i.e.,* a young female cow) is born on a dairy farm, the producer ensures that the calf receives colostrum, either from a bottle or by nursing her female parent (''dam'' or ''mother''). The heifer calf will often be separated from the dam and placed in single, pair, or group housing. Some dairy producers raise their own heifers from birth; others may contract with heifer growers to raise replacement heifers during different stages of their lives until they produce milk. Newborn calves are raised on a diet of milk or milk replacer, grains, and roughages. Once the calves reach a certain weight, they are weaned from milk to water and continue to eat grains and roughages.

After weaning, the heifers are developed to grow at a moderate pace until they are ready to be bred. During this time, heifers may be fed pasture only; graze and be fed a supplemental feed ration; or be fed only a feed ration (depending on the operation's grazing season). Once the heifers weigh about 800 pounds (12–15 months old), they are bred, gestate for 9 months, and calve around 2 years of age. After calving, they begin producing milk (and are then referred to as cows).

Organic Heifer Development

Organic producers follow similar timelines as nonorganic producers but may use different practices in the feeding, health care, and breeding of heifers. These differing practices may affect production costs in each stage of organic heifer development.

Organic producers must provide a feed ration comprised of certified organic feeds. Currently, there is very little certified organic milk replacer produced in the United States. As a result, organically raised dairy calves primarily rely on feeding certified organic milk. This makes the practice of sending newborn calves to heifer growers less feasible for organic producers, as heifer growers may not have access to certified organic milk. Certified organic animals (and animals undergoing a one-time transition to organic) must be fed an organic feed ration. Additionally, organic regulations require that all ruminants greater than 6 months of age receive 30 percent of their dry matter intake from pasture during the grazing season. Nonorganic dairy heifers do not have a pasture requirement.

Organic producers must also follow certain health care practices. For example, organic producers may not use antibiotics to prevent disease. Instead, organic producers must prevent the animals from getting sick using organically approved methods such as supportive therapy and vaccination programs. In the event an animal becomes sick, organic producers are required to use medication to restore the animal to health, even if the treatment will cause the animal to lose its organic status. Once an animal loses its organic status, the animal (and its products) cannot be represented as organic. This final rule clarifies that nonorganic animals—including animals that have lost organic status due to a veterinary treatment—may only be transitioned to organic by eligible operations as part of that operation's one-time transition.

Nonorganic breeding practices are less expensive than organic breeding practices. Nonorganic producers may use hormonal products to both initiate estrus and synchronize estrus among heifers to aid in conception, essentially promoting an earlier lactation. Organic producers may not use hormonal methods to synchronize estrus.

These differences in production practices cause many certifying agents to prohibit continual transition, and as such, many operations already comply with the final rule. The 2013 OIG audit of the National Organic Program and organic milk operations (Audit Report 01601–0002–32) found that half of the six certifiers interviewed allowed continuous transition at the time, while the other three did not. Prior to this final rule, dairy farms and heifer raising operations that *were* permitted by their certifying agent to continually transition dairy animals could reduce production costs by not managing their heifer calves under the USDA organic regulations for the first year of life. Alternatively, they could source less expensive year-old nonorganic heifers on a continual basis. The pre-weaning phase of life is the time in which heifer calf mortality is the highest and the diet is the most expensive on a per-calorie basis. Nonorganic practices reduce mortality and expenses during this pre-weaning phase by feeding heifers milk replacer and nonorganic feeds, and by using antibiotics to maintain health. By the time the dairy heifer reaches one year of

[3] National Organic Standards Board April 2003 Recommendation on Breeder Stock: Clarification of Rule. Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations.*

age, most health threats have passed and the animal is consuming a less expensive diet.

D. Development of Existing Standards

OFPA required the USDA to establish the NOSB to advise the USDA on the implementation of OFPA (7 U.S.C. 6518). The NOSB held its first formal meetings in 1992. Between 1994 and 2006, the NOSB made six recommendations regarding origin of dairy animals, including several recommendations on the management of breeder stock.[4] Between 1997 and 2000, AMS issued two proposed rules (62 FR 65850; 65 FR 13511) and a final rule (65 FR 80547) regarding national standards for production and handling of organic products, including livestock and their products. AMS also issued a proposed rule and final rule in 2006 implementing congressional amendments to OFPA regarding feed for transitioning dairy animals (71 FR 24820; 71 FR 32803). The NOSB, as well as the public, commented on these rulemakings with regard to the origin of livestock and the exception for transition. Key points from these actions that led to the development of the existing standards on origin of livestock are summarized below.

(1) In June 1994, the NOSB recommended a series of provisions to address the source of livestock on organic farms. Within this recommendation, the NOSB stated that dairy stock should be fed certified organic feeds and raised under organic management practices for no less than 12 months prior to the sale of their milk as organic.[5]

(2) On December 16, 1997, AMS responded to the June 1994 NOSB recommendation through publication of a proposed rule (62 FR 65850). The language contained in that proposed rule echoed the NOSB's 1994 recommendation. The proposal would have required that dairy animals must be on a certified organic facility beginning no later than 12 months prior to the production of milk or milk products sold, labeled, or represented as organic. The 1997 proposed rule also proposed that all feed provided to organic dairy livestock consist of organically produced and handled agricultural products, including pasture and forage. However, the proposed rule included a provision to allow nonorganic feed up to a maximum of 20 percent of the animal's diet. The 20-percent level was roughly representative of the nutrients provided from supplemental grain feeding, in addition to nutrients provided by pasture and forage. The proposed language also contained a provision that, if necessary, a herd of dairy livestock converting to organic management for the first time could be provided with nonorganic feed until 90 days prior to the production of organic milk or milk products. This proposed rule was never finalized.[6]

(3) In March 1998, the NOSB provided a second recommendation reaffirming its 1994 recommendation on the source of livestock.[7] The March 1998 NOSB recommendation also recommended that livestock comprising part of a mixed crop/livestock operation should qualify to be certified organic at the end of the transition period.

(4) On March 13, 2000, AMS published a proposed rule (65 FR 13511) that would establish the USDA organic regulations. Within this proposed rule, AMS responded to the NOSB's March 1998 recommendation on the source of livestock. AMS proposed to require that livestock be under continuous organic management beginning no later than one year prior to the production of organic milk or milk products. Unlike AMS's 1997 proposal, the 2000 proposed rule did not include a provision for the allowance of nonorganic feed during the 12-month transition period.

(5) On June 12, 2000, the NOSB commented on the second proposed rule with respect to the origin of dairy livestock. The NOSB stated that livestock should be under organic management for one full year prior to the sale of organic milk with an exception for conversion of an entire, distinct herd into organic production. The NOSB laid out the following three conditions for conversion of a herd into organic production:

- For the first 9 months of the final 12-month dairy herd transition period, animals must be fed at least 80 percent feed that is either organic or self-raised transitional feed. The remaining 20 percent could be nonorganic during those 9 months.
- For the final 3 months, animals must be fed 100 percent organic feed.
- Once a dairy operation has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation, except that transitional feed raised on the farm may be fed to young stock up to 12 months prior to milk production.

(6) On December 21, 2000, AMS published a final rule establishing the USDA organic regulations (65 FR 80547). Through this action, AMS finalized the origin of livestock provision, including a requirement that organic milk be produced from animals under organic management beginning no later than one year prior to the production of milk or milk products sold, labeled, or represented as organic. The rule further incorporated the exceptions recommended by the NOSB by allowing 80 percent organic feed and 20 percent nonorganic feed (*i.e.,* the ''80/20'' rule) for transitioned animals. AMS did not include NOSB's recommendation allowing young stock to be fed transitional feeds. This rule went into effect on February 20, 2001, and was fully implemented on October 21, 2002.

(7) In October 2002, the NOSB recommended that all replacement and expansion dairy animals be raised as organic from the last third of gestation onward. The NOSB believed that this would ensure consistency with the current regulations at § 205.236(a)(2)(iii). Its recommendation also included a provision requiring that breeder stock remain under organic management indefinitely after their introduction onto an organic farm; that is to say, the recommendation was to prohibit breeder stock from rotating in and out of organic management.

(8) In May 2003, the NOSB recommended that following a transition, all dairy livestock, including replacement stock, remain under organic management from the last third of gestation onward.[8] Concurrently, the NOSB made a separate recommendation regarding breeder stock.[9] It recommended a requirement that operations continuously manage all breeder stock as organic if they were brought onto an organic farm to produce organic offspring. The NOSB further

[4] A complete listing of related documents and NOSB recommendations is found in Sections III and IV below.

[5] NOSB Final Recommendation, June 2, 1994. Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/meetings.*

[6] Due to the volume and content of public comments submitted in response to the 1997 proposed rule, AMS withdrew the proposal and issued a second proposed rule prior to the final rule that established the National Organic Program (NOP) (published December 21, 2000).

[7] NOSB Committee Report and Adopted Recommendations, 16 March 1998. Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/meetings.*

[8] National Organic Standards Board May 2003 Recommendation on Origin of Livestock: Recommendation for Rule Change (document dated April 2003). Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations.*

[9] National Organic Standards Board May 2003 Recommendation on Breeder Stock: Recommendation for Clarification of Rule (document dated April 2003). Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations.*

advocated that the NOP issue guidance in the form of questions and answers to clarify the management of breeder stock to the industry. The NOSB reiterated its recommendations in October 2004.[10]

(9) In October 2003, a legal challenge was filed against USDA stating that, among other things, OFPA required organic dairy animals be fed 100 percent organic feeds during the 12-month transition, and thus, the 80/20 rule for the transition of dairy animals was in violation of the statute.[11]

(10) On January 26, 2005, the U.S. Court of Appeals for the First Circuit issued a decision in the case.[12] The court upheld the USDA organic regulations in general, but remanded the case to the lower court, for, among other things, the entry of a declaratory judgment with respect to the 80/20 dairy transition allowance, then codified in § 205.236(a)(2)(i) of the regulations. The lower court found the 80/20 dairy transition provisions at § 205.236(a)(2)(i) to be contrary to OFPA and in excess of the Secretary's rulemaking authority.[13]

(11) On November 10, 2005, Congress amended OFPA to allow a special provision for transitioning dairy livestock to organic production (7 U.S.C. 6509(e)(2)(B)). This amendment provided a new provision to allow crops and forage from land included in the organic system plan of a farm that was in the third year of organic management to be consumed by the dairy animals on the farm during the 12-month period immediately prior to the sale of organic milk and milk products.

(12) On April 27, 2006, AMS published a proposed rule (71 FR 24820) entitled ''Revisions to Livestock Standards Based on Court Order'' to address the November 2005 amendments to OFPA. AMS received nearly 12,400 comments on the issue of dairy animal replacement during the comment period for this proposed rule. Additionally, in response to the April 13, 2006, advanced notice of proposed rulemaking on access to pasture (71 FR 19131), AMS received over 325 comments on the issue of dairy animal replacement. Neither of these actions intended to address the dairy replacement or transition issue as an objective. Accordingly, the comments were not a part of subsequent rulemaking for either action, as they were beyond the scope of these rules. They are, however, acknowledged and discussed in this final rule.

(13) On May 12, 2006, the NOSB provided a comment on the April 2006 proposed rule (71 FR 24820).[14] In its comment, the NOSB offered modifications to its May 2003 dairy replacement recommendation [15] for the regulatory text to read: ''Once a dairy operation has been converted to organic production, all dairy animals, including all young stock whether born on or brought onto the operation, shall be under organic management from the last third of the mother's gestation.'' The modification was intended to clarify that any animal brought onto an organic operation, after conversion, should be under organic management from the last third of gestation (*i.e.,* purchase of animals transitioned by other operations should not be permitted). The revised text also intended to clarify that an *operation* (as opposed to *herd*) is entitled to the one-time opportunity to convert to organic production.

(14) On June 7, 2006, AMS published a final rule entitled ''Revisions to Livestock Standards Based on Court Order'' (71 FR 32803) to implement the November 2005 statutory change. The amendments reflected the new OFPA allowance permitting transitioning dairy animals to be fed feedstuffs from transitioning lands in the last year of the 3-year transition period (7 CFR 205.236(a)(2)(i)), as well as setting a termination date of June 9, 2007, for the existing 80/20 feed conversion rule (7 CFR 205.236(a)(2)(ii)). In the preamble to the 2006 final rule, AMS noted that additional clarity could be provided regarding the transition of dairy animals into organic production.

(15) In October 2006, NOP published guidelines meant to clarify the existing origin of livestock rule.[16] The guidelines allowed organic milk operations that were certified organic prior to October 21, 2002, or that transitioned their cattle by feeding them 100 percent organic feed during conversion, to acquire additional conventional (or ''nonorganic'') cattle and transition them to an organic status. The guidelines prohibited organic milk operations that transitioned their cattle using the 80/20 exemption from transitioning additional cattle. This guidance document was archived by AMS on January 31, 2011, in anticipation of rulemaking to clarify the origin of livestock rule.

(16) On April 28, 2015, AMS published a proposed rule titled ''Origin of Livestock'' (80 FR 23455) to propose changes to the exception allowing nonorganic dairy animals to transition to organic milk production after one year of organic management. This action proposed that each producer (*e.g.,* individual or business entity) would be allowed to transition nonorganic dairy animals to organic milk production only one time. After the transition is completed, a producer could transition dairy animals in the future only if the producer, through its certifying agent, requests an exemption due to a natural disaster or damage caused by drought, wind, flood, excessive moisture, hail, tornado, earthquake, fire, or other business interruption, in accordance with 7 CFR 205.290. The comment period for the proposed rule was opened on April 28, 2015, for 60 days, during which time AMS received 1,371 public comments.

(17) On October 1, 2019, AMS reopened the comment period on the April 28, 2015, proposed rule (84 FR 52041). The comment period was reopened for 60 days during which time AMS received 746 public comments.

(18) On December 20, 2019, Congress instructed AMS to finalize rulemaking within 180 days in the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94, div. B, title VII, section 756, Dec. 20, 2019, 133 Stat. 2654), stating ''the Secretary of Agriculture shall issue a final rule based on the proposed rule entitled 'National Organic Program; Origin of Livestock,' . . . Provided, That the final rule shall incorporate public comments submitted in response to the proposed rule.''

(19) On May 12, 2021, AMS reopened the comment period (86 FR 25961) on the 2015 proposed rule. AMS requested comments on specific topics, including whether AMS should prohibit the movement of transitioned cows, and whether AMS should use the term ''operation'' or ''producer'' to describe the regulated entity. The 2021 comment period was reopened for 60 days, during which time AMS received 486 public comments.

III. Overview of Comments

This section provides a summary of the comments AMS received on issues related to this final rule. First, comments received on this topic prior to

[10] National Organic Standards Board (October 2004) Directive for Origin of Dairy Livestock. Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations.*

[11] *Harvey* v. *Veneman,* 297 F. Supp. 2d 334 (D. Maine 2004).

[12] *Harvey* v. *Veneman,* 396 F. 3d 28 (1st Cir. 2005).

[13] *Harvey* v. *Johanns.* Civil No. 02–216–P–H. Consent Final Judgment and Order, 9 June 2005.

[14] NOSB's comment on the proposed rule is available from the NOP by request.

[15] National Organic Standards Board May 2003 Recommendation on Origin of Livestock: Recommendation for Rule Change (document dated April 2003). Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations.*

[16] NOP 5003 Dairy Animal Acquisition under the NOP Regulations (dated October 3, 2006). Available from NOP by request.

2015 are discussed, as they informed the development of the 2015 proposed rule and this final rule. AMS then summarizes comments received since the publication of the 2015 proposed rule over the course of three comment periods in 2015, 2019, and 2021. Finally, AMS responds to specific comments in the description of this rule and in the Regulatory Impact Analysis.

A. Discussion of Comments Received Prior to 2015

In general, the approximately 12,725 combined comments received on the April 2006 proposed rule addressing the court order and the April 2006 advanced notice of proposed rulemaking on access to pasture requested greater clarity on the parameters for transitioning dairy animals into organic production and called for elimination of the ''two-track'' system. The ''two-track'' system refers to an April 2003 NOP statement that once an entire, distinct herd transitioned using the 80/20 provision (20 percent nonorganic feed in the 12 months before milking), all offspring then had to be managed organically and no transitioned replacements could be purchased.[17] The NOP also stated that, for those producers that did not use the 80/20 provision, the dairy animals only needed to be under continuous organic management starting no later than 12 months prior to production (*i.e.,* producers could continue to transition animals into organic over time).

The majority of commenters stated that the ''two-track'' system could be addressed by conveying that, once a dairy operation is certified organic, regardless of how that operation transitioned into organic, all new dairy animals added to that operation should be managed organically from the last third of gestation. Commenters stated that this principle should apply to those animals born on the farm and those purchased as replacement and expansion animals to increase herd size.

Commenters stated that allowing organic dairy operations to add only animals who have been managed organically since the last third of gestation supports consumer confidence in the organic milk sector. They reiterated that consumers expect that organic milk is produced without the use of excluded methods and substances prohibited under the regulations (*i.e.,* hormones, antibiotics, and certain animal medications), and believe that greater clarity on how animals can transition into organic production is needed. Some commenters stressed that organic dairy products were keystone products for consumer confidence and a major stepping-stone to additional organic purchases.

Commenters stated that continued transition of nonorganic animals increases the supply of animals able to produce organic milk, depresses the value of organic heifers, and limits the incentives to produce organic replacement animals. They also stated that the allowance to transition a large number of animals, rather than purchasing or raising animals as organic from last third of gestation, results in surplus organic heifer calves being sold into the conventional market. Some commenters stated that the practice of allowing some operations to transition nonorganic animals on a regular basis encouraged transitional heifer development farms (an operation that raises heifers before they reach production age). They stated that it is easier and less expensive to purchase transitioned animals from heifer development farms than it is to raise animals that are organic from birth.

Commenters estimated that raising organic dairy animals is twice as expensive as raising nonorganic dairy animals during their first year of life. They contended that producers who sell organic calves and replace them with transitioned nonorganically raised heifers have an economic advantage over those who raise animals organically from birth, due to the lower cost of nonorganic feed and nonorganic management. Commenters believed that for the organic heifer market to develop, and for there to be more organic stock available at an appropriate market value, greater clarity is needed in the regulations to convey that organic heifers are required in every case, except for the one-time initial transition of a dairy operation.

Commenters stated that at least nine U.S.-based certifying agents were requiring the dairy operations they certified (approximately 1,100 certified and 150 transitioning operations) to manage all replacement dairy animals organically from the last third of gestation. This accounted for roughly 50 percent of the organic dairy operations at that time. Other certifying agents were allowing the other approximately 50 percent of dairy operations to transition nonorganic animals to organic on a continual basis. Commenters stressed that a main purpose of OFPA is consumer assurance that organically produced products meet a consistent standard and that the current origin of livestock standard needs further specificity to meet that purpose.

B. Discussion of Comments Received on 2015 Proposed Rule

AMS received 1,371 comments during the first comment period for the 2015 proposed rule on Origin of Livestock (April 28, 2015, to July 27, 2015). Commenters included private citizens and consumers, producers, consumer groups, organic certifying agents, producer groups, trade organizations, milk handlers, and foreign and state governments. The majority of comments (1,305 comments) were submitted by private citizens and consumers. AMS identified approximately 1,110 form letter submissions out of the 1,371 submissions. During the second comment period (October 1, 2019 to December 2, 2019), AMS received 746 comments, which included 198 comments identified as form letters. During the third comment period (May 12, 2021 to July 12, 2021), AMS received 486 comments, which included 374 comments identified as form letters.

A general summary of comments follows. Detailed discussion of specific comments follows in the description of the final rule. All comments on the 2015 proposed rule can be accessed at *https://www.regulations.gov* via Docket ID AMS–NOP–11–0009.

Of the comments received in 2015, most commenters supported the proposed rule because they felt the proposed regulatory text was intended to close loopholes that allowed operations to continuously bring nonorganic animals into organic milk production. Comments that expressed general support for the rule included private citizens and consumers; dairy farmers; certifying agents; producer groups; consumer groups; a trade organization; handlers and academics/specialists.

Other comments received in 2015 expressed general opposition to the proposed rule. These commenters were mostly concerned that the proposed rule would, for example: Weaken organic standards by creating loopholes, make organic milk or food less healthy, or favor large corporations and ''factory'' farms over small farms and consumers. Some commenters were not aware USDA regulations allow for transitioning nonorganic animals to organic production and were opposed to this practice altogether. A commenter who supported continuous transition questioned whether AMS had the authority to restrict the origin of livestock as proposed. AMS responds to these comments below.

[17] Summarized in the National Organic Standards Board Recommendation on Origin of Livestock: Recommendation for Rule Change (document dated April 29, 2003). Available online at: *https://www.ams.usda.gov/rules-regulations/organic/nosb/recommendations.*

In 2019, AMS received comments in support of the rule, as well as a few comments in opposition to the proposed rule. These commenters outlined arguments similar to those submitted in 2015, and specifically emphasized that changing the rule to allow only one transition to organic *per producer* would be restrictive and beyond the scope of AMS's legal authority, among other concerns.

In 2021, AMS reopened the proposed rule's comment period to seek comment on several specific topics, including whether AMS should prohibit the movement of transitioned dairy animals in organic dairy production as part of the final rule, and whether AMS should regulate ''producers'' or ''operations.'' Commenters urged AMS to finalize the rule without further delay, believing it would ensure dairy farms operate on a level playing field and that animals are consistently raised using organic practices. Commenters also responded to AMS's specific requests, and those are discussed by topic below. A comment asserted that USDA did not have the statutory authority to prohibit certified operations that have completed their one-time transition from acquiring transitioned animals for organic production.

IV. Overview of Amendments and Responses to Comments

The requirements of the final rule are discussed below. For each section of the final rule, we describe comments that AMS received and revisions from the proposed to final rule. AMS then discusses the comments we received but did not incorporate into the final rule. Comments received on the costs and benefits of the rule are discussed in the Regulatory Impact Analysis. The final regulatory text is available, in its entirety, at the bottom of this document.

This final rule clarifies a regulation that has been in effect for twenty years. AMS considers the requirements for organic livestock in 7 U.S.C. 6509(b), (c), and (d) to be applicable to all organic livestock. Section 6509(e)(2) requires organic management of dairy animals ''for not less than the 12-month period immediately prior'' to the sale of organic milk or milk products. AMS has interpreted this provision to be the minimum 12-month period of organic management and that the Secretary may establish a longer period for dairy operations. AMS had determined that the appropriate period under which dairy animals must be under organic management is from last third of gestation except during the one-time transition when a new organic dairy operation is being certified or when a nonorganic dairy operation is transitioning to organic production. This final rule elaborates on the original 7 CFR 205.236(a)(2)(iii), under which organic dairy operations may ''rais[e] their own replacement animals'' or ''introduce[e] . . . animals from off the farm that were organically raised from the last third of gestation,'' but may not ''routinely . . . bring nonorganically raised animals into an organic operation.'' 65 FR 80570. AMS allowed the minimum period of 12 months for new operation or transitioning operations to assist new entrants into the organic market as a one-time event.

In 2005, Congress amended section 6509(e)(2) to add subsection (B). It left undisturbed subsection (A), which USDA had implemented in 7 CFR 205.236(a)(2)(iii). Additionally, in the further Consolidated Appropriations Act of 2020, Congress instructed the Secretary to ''issue a final rule based on the proposed rule entitled 'National Organic Program; Origin of Livestock,' published in the **Federal Register** on April 28, 2015 (80 FR 23455): Provided, That the final rule shall incorporate public comments submitted in response to the proposed rule.'' 7 U.S.C. 6509 note. Having incorporated the public comments on the proposed rule and considered the need for consistency between certifying agents, the need to consider the expectations of consumers and organic producers, the need to be able to implement and enforce the rule effectively, and the statutory provisions included in OFPA, the Secretary now issues that final rule.

The proposed rule in 2015 stated that it would not prohibit the movement of transitioned animals, a practice in which some operations are currently engaged. In 2021, AMS reopened the comment period to seek comment on whether the final rule should do so. With this final rule, AMS is limiting the movement of transitioned animals. AMS views the different parts of this final rule as working together: The one-time transition allowance at the operation level will more effectively work in the real world if we also limit the movement of transitioned animals. The second part of the rule will facilitate the first part of the rule.

A. Definitions (§ 205.2)

This section of the final rule defines terms that appear in the final rule and/or existing USDA organic regulations. The final rule adds three terms to organic regulations. ''Organic management'' is defined as: ''management of a production or handling operation in compliance with all applicable provisions under this part.'' The term ''third-year transitional crop,'' is defined as, ''crops and forage from land included in the organic system plan of a producer's operation that is not certified organic but is in the third year of organic management and is eligible for organic certification in one year or less.'' Finally, the term ''transitioned animal'' is defined as, ''A dairy animal converted to organic milk production in accordance with § 205.236(a)(2) that has not been under continuous organic management from the last third of gestation; offspring born to a transitioned animal that, during its last third of gestation, consumes third-year transitional crops; and offspring born during the one-time transition exception that themselves consume third-year transitional crops.'' Below we describe the final rule and respond to comments received on the proposed definitions.

i. Definitions—Comments and Revisions

This section (§ 205.2) differs from the 2015 proposed rule as follows:

''*Dairy farm*'': AMS received many comments on AMS's proposed definition of a dairy farm. That proposal would have defined a dairy farm as, ''A premises with a milking parlor where at least one lactating animal is milked.'' Commenters were concerned that the proposed definition of ''dairy farm'' required an operation to milk only one animal to meet the definition of a dairy farm. Since any new dairy farm could transition animals on a one-time basis, some commenters were concerned that a producer would continuously create new dairy farms for the purpose of producing transitioned animals, defeating the purpose of the rule. Public comments argued this interpretation would be relatively easy to make, because the dairy farm definition requires that only one animal be milked. These transitioned animals would then presumably be sold to other organic dairies, thereby allowing operations to continuously add transitioned animals to their operations and failing to establish consistency across operations.

These commenters suggested that AMS modify the definition of a ''dairy farm'' to close the potential loophole by requiring that a dairy farm be a functioning 'commercial dairy' that is inspected and permitted by the state in which it operates, has a relationship with a licensed milk handler, and has operated for no less than 180 days. Other comments were concerned that legitimate dairies would be excluded by our proposed definition, as AMS defined a dairy farm as a premise with a milking parlor. They noted that dairy farms do not always have a milking

parlor, for example, when dairies are starting transition with non-milking animals (*e.g.,* heifers). Another commenter pointed out that some dairies use portable or mobile equipment for collecting milk and that it was unclear if these operations would be considered dairy farms under the rule. Another commenter stated that a ''dairy farm'' definition was not necessary and recommended that AMS delete the definition in the final rule.

AMS has not included a definition for ''dairy farm'' in the final rule. AMS concluded that the proposed term would not have included certain legitimate dairy operations (*i.e.,* dairy operations that do not have a milking parlor) and would have included operations that should not be considered dairy operations for the purposes of the rule (*i.e.,* non-commercial dairy operations).

The final regulatory text does not include this term, as AMS determined it is not necessary and is an ordinary term that does not require definition. The proposed rule articulated the definition of ''dairy farm'' as a way to establish the eligibility requirements to transition animals. AMS concluded an alternative approach was preferred in the final rule to limit continual transition by organic operations, as suggested by commenters. This decision was a logical outgrowth of the proposed rule, based on the rule's articulated purpose. In the final rule, the definition of a dairy farm is not necessary to implement the final rule or achieve our regulatory objective. For additional discussion, see the section on Dairy Transition (§ 205.236(a)(2)) below.

''*Organic management*'': In the proposed rule, AMS defined organic management as, ''Management of a production or handling operation in compliance with all applicable production and handling provisions under this part.'' AMS is revising the proposed definition of ''organic management'' in this final rule to simplify the wording and improve readability. The change is not intended to alter the meaning of the term. The final rule defines organic management more simply as, ''Management of a production or handling operation in compliance with all applicable provisions under this part.'' This does not broaden, nor does it intend to broaden the rule, as the only applicable provisions are the production and handling provisions.

''*Third-year transitional crop*'': AMS received a comment that AMS's proposed definition for ''third-year transitional crop'' referred only to prohibited materials as the determining factor for evaluating whether crops produced on the land could be considered transitional. The commenter noted ''there is more to land transition than not applying prohibited materials.''

AMS agrees that organic land management includes a range of practices and requirements, only one of which is the absence of prohibited materials. AMS has revised the definition to clarify that third-year transitional crops are crops and forage harvested from land that is in its third year of organic management and thus is eligible for organic certification in one year or less.

''*Transitional crop*'': AMS received comments that the definition of ''transitional crop'' was unnecessary, as neither the current regulations nor the proposed rule refer to ''transitional crop'' and this term would not be needed to enforce the regulations. The commenter argued that land is transitioning for three years and that it could be considered ''transitional'' at any time during the three-year period, including the time during the first year of transition.

AMS agrees that a definition for ''transitional crop'' is unnecessary, and we have removed the definition from the final rule. The term is not used in the regulations outside of the term ''third-year transitional crop,'' and that term is separately defined in the final rule. Furthermore, AMS does not establish requirements for certification of transitional crops and does not intend to do so through this rulemaking.

''*Transitioned animal*'': AMS received a comment on the definition of a transitioned animal. This comment recommended removing the language ''sold, labeled, or represented as organic slaughter stock or for the purpose of organic fiber'' from the definition of a transitioned animal and incorporating it into § 205.236(a)(2)(vii).

AMS revised this definition to remove language that transitioned animals cannot be sold, labeled, or represented as organic slaughter stock or for the purpose of organic fiber. AMS is removing this language, which was a requirement within the definition. The final rule clearly states transitioned animals must not be used for organic livestock products other than organic milk and milk products (§ 205.236(a)(2)(vii)). Additionally, AMS added language to the definition to reiterate that transitioned animals are animals that have not been under continuous organic management from the last third of gestation, and we revised the spelling of ''borne'' to ''born''.

ii. Definitions—Changes Requested But Not Made

''*Transitioned animal*'': A commenter was opposed to AMS's inclusion of ''offspring'' in this definition. It argued that the OFPA provision that allows transitioning animals to be fed third-year transitional crops ''applies to the animals of the farm that are being transitioned. It does not apply to offspring born to the transitioning animals.'' AMS disagrees that OFPA limits use of third-year transitional crops to any specific class, or age, of livestock during the transition.

AMS also received comments requesting we include fiber-bearing animals in the definition of a transitioned animal to allow nonorganic fiber animals to transition to organic. AMS has not adopted this suggestion, as OFPA does not include an allowance for fiber animals to transition. For a discussion of this topic, please see the section below titled ''J. Other Amendments Considered.''

''*Person*'' and ''*Producer*'': AMS did not propose to change the definition of ''person'' or ''producer'' in the proposed rule, but these two terms are defined in the current regulations at § 205.2, and AMS received comments about how those definitions could affect the implementation of our rule. Comments primarily expressed concern that a producer could continuously transition by repeatedly creating new or separate legal entities or that eligibility requirements would be difficult to verify. Another comment stated that an operation may have numerous individuals conducting business on the premises, and the proposed rule language does not explicitly define which of these individuals should be considered the producer for purposes of the one-time transition allowance.

AMS has not revised the definitions for either term, as the final rule does not rely on these terms to establish who may transition animals. For a discussion of changes made by AMS to address comments about who is eligible to transition, see the discussion below on Dairy Transition.

B. Dairy Transition (§ 205.236(a)(2))

This section of the final rule specifies who is eligible to transition nonorganic animals to organic production and the requirements and conditions of the transition period. The section also prohibits organic livestock operations from sourcing transitioned animals, except in specific and limited cases where the Administrator may grant a variance. Table 1 outlines the restrictions by dairy animal type.

TABLE 1—RESTRICTIONS FOR TRANSITIONED AND LAST THIRD ORGANIC DAIRY ANIMALS

Last third organic animals	Transitioned animals
May move between organic operations	May not move between organic operations, except in case of Administrator-approved variance at 205.236(d).
May be eligible for organic slaughter (if also not treated with synthetic parasiticides that appear on the National List).	Not eligible for organic slaughter.

Below we describe the final rule, including the variance request procedures and criteria, and respond to comments received on the proposed rule.

i. Dairy Transition—Comments and Revisions

Section 205.236(a)(2)—

AMS made two important revisions to this section in response to comments. First, AMS revised the regulated entity from ''producer'' to ''operation,'' to be consistent with the current regulations. Second, AMS prohibited certified organic operations from sourcing transitioned animals from other organic operations. These two changes work in tandem to result in a rule that meets AMS policy goals, best responds to public comment, and can be clearly implemented and enforced by certifying agents and AMS. Based on public comments, AMS is confident that the policy choices in this rule align with practices that many certifiers and most organic operations already follow, and align with public comments on the rule.

The revisions and final requirements are discussed in more detail below.

Operation as regulated entity (§ 205.236(a)(2)): AMS received many comments on the appropriate regulated entity (*e.g.,* producer, operation, owner, etc.) that should be eligible for the one-time transition. In 2021, AMS specifically requested comments on this topic. Comments were received from producers, certifying agents, consumers/citizens, producer groups, consumer groups, trade associations, handlers, and a foreign government.

The regulated entity establishes who is eligible to transition dairy animals to organic production. The USDA organic regulations consider the certified operation to be the regulatory unit. In the proposed rule, however, AMS selected ''producer'' as the regulatory unit. Few commenters supported that option. Most comments recommended changing the regulatory unit to ''operation'' or a variation such as ''certified operation'' or ''dairy operation.''

Others recommended AMS prohibit ''persons responsibly connected'' to a transitioned dairy from ever transitioning animals in the future. The term ''responsibly connected'' is currently defined in the regulations (§ 205.2) as ''any person who is a partner, officer, director, holder, manager or owner of 10 percent or more of the voting stock of an applicant or a recipient of certification or accreditation.'' A subset of the comments that recommended the aforementioned prohibition on ''persons responsibly connected'' also recommended revising the definition of that term to include persons with at least a 20 percent ownership share in the operation, rather than 10 percent. Finally, several commenters wanted a less stringent regulatory unit to allow organic operations to continually transition dairy animals, as needed, into organic production.

AMS revised the language for this final rule in response to comments and to clarify the existing USDA organic regulations. The final rule specifies that an *operation* (rather than a *producer* in the proposed rule) has one opportunity to transition animals. This definition of ''operation'' best captures the more expansive understanding of an ''entire, distinct herd'' in the current regulations, under which dairy operations have been allowed to use the transition exception only once (*i.e.,* when they initially converted their farm's entire nonorganic ''herd'' to organic production). AMS adopted ''operation'' as the regulated unit for the following additional reasons:

1. As noted, the term ''operation'' is consistent with how the organic regulations are currently administered by AMS and certifying agents. For example, certifying agents issue adverse actions (notices of noncompliance, etc.) to certified operations. The term ''operation'' aligns with the term used in NOSB's most recent 2006 recommendation and it reflects common usage by industry.

2. Comments received indicate that the term ''producer'' can be interpreted in different ways. For example, the definition of ''producer'' in § 205.2 includes the word ''person.'' Commenters took this to mean different things, with some understanding it to mean an individual human (*i.e.,* a natural person) while others understood it to mean a ''person'' as separately defined at § 205.2. The definition of ''person'' at § 205.2 is not limited to individuals and includes various types of business entities. AMS determined that different interpretations of the term ''producer'' would lead to differences in how certifying agents enforce the requirements, and this would be an unacceptable outcome of the rulemaking.

3. Certifying agents argued that it would be simpler to verify an operation's eligibility (as opposed to a producer's eligibility) to transition animals. Certifying agents are responsible for verifying eligibility during the application process. AMS has revised the regulated entity to ensure the certification process remains straightforward and that the requirements are enforceable.

4. Many comments noted that regulating ''producers,'' as proposed, could restrict people associated with a dairy from starting their own dairies. This could include business partners, managers, and family members. AMS determined that ''operation'' as the regulated entity most simply allows people who might be associated with a certified dairy to go out and start their own organic dairy operation by allowing them to transition nonorganic animals to organic production.

5. AMS recognizes there are multiple scenarios where producers that previously operated an organic dairy may wish to start a new dairy operation. For example, dairies may go out of business or be sold entirely, and the same people may later wish to start new operations. The final rule permits only operations that are both (1) not certified for livestock production and (2) have never transitioned animals to use the one-time exception for transitioning animals.

6. AMS did not select a stricter regulatory unit, such as ''persons responsibly connected,'' that is stricter than an organic dairy that has transitioned, for several reasons. AMS was concerned the requirement could not be easily verified by certifying agents and/or that it could create delays and/or unnecessary obstacles in the certification process. AMS was also concerned that it could prevent people

from using the exception in cases where it would be reasonable.

Another overarching reason for selecting ''operation'' as the regulated entity is that this final rule prohibits the movement of transitioned animals between organic operations. This revision supports our intent to prohibit any certified organic operation from continually sourcing transitioned animals. For implementation and oversight purposes, this aligns well with the policy choice to select a simpler regulatory unit (''operation'') that aligns with the rest of the USDA organic regulations and the existing framework for certification and oversight. New operations may transition animals into organic management; existing organic operations may not. These revisions are discussed further below.

Prohibition on sourcing transitioned animals (§ 205.236(a)(2)): AMS specifies in this section that organic operations may not source transitioned animals, except in the case of variances granted by the Administrator. Prohibiting the sourcing of transitioned animals is intended to prevent new heifer replacement operations from being repeatedly established to provide an ongoing source of transitioned animals. Otherwise, the movement of transitioned animals could allow operations to use just transitioned dairy animals to bypass the restrictions and purpose of the one-time transition period.

This policy choice is consistent with public comments on this rule. The demand induced by allowing certified farms to continually source transitioned animals would produce a corresponding incentive for other businesses to continually open new organic operations to provide transitioned cows into the market. This is not the original intent of our regulations, nor the desired policy outcome. As such, AMS is making the policy choice to achieve the policy goal of having more organic animals under organic management for their full lives.

Without preventing the sourcing of transitioned animals, AMS would expect an influx of transitioned animals, as some organic dairies would pursue the practice of purchasing transitioned animals from newly created heifer replacement operations. Given the policy choice to limit transitions in the market to new operations only, with a limited variance process, AMS believes that limiting the transition between operations to better manage supply and demand dynamics, and removing incentives for continuous transition practices to continue would better support that policy.

AMS received many comments on this topic over the three comment periods, starting in 2015. In 2021, AMS specifically requested comments on whether the final rule should prohibit organic dairy operations from acquiring transitioned animals. AMS received many comments supporting this choice, as well as comments opposing it. Ultimately, AMS agrees with comments that a prohibition on the movement of transitioned animals between organic operations facilitates achieving our regulatory objective to increase the number of livestock that are managed as organic throughout their lives. In the final rule, AMS included this provision in § 205.236(a)(2) and removed the two proposed sections 205.236(viii) and (ix) that would have allowed transitioned animals to move between organic operations. Certified operations may request a variance from the prohibition on the movement of transitioned animals for specific circumstances, as described in § 205.236(d).

The rule is not intended to restrict entry of legitimate new participants into the organic market, and transitions continue to be allowed for new operations after not less than a 12-month period of organic management. Transitions would also be allowed if a variance is granted (explained further below). These transition allowances reduce the costs of converting to organic production, and will continue to be an important incentive for eligible nonorganic dairy farms to convert to organic. However, once established, the certified organic farm would then need to use organic dairy animals that have been organically managed from the last third of gestation.

Examples of Rule Implementation. Several examples are provided below to clarify the final rule's requirements at § 205.236(a)(2), and to explain how cows may be transferred between operations:

- Organic dairy animals (organically managed from the last third of gestation) may be transferred between new and existing organic operations at any time. A certified dairy operation that cannot raise enough organic animals (organically managed from the last third of gestation) on-farm to maintain its herd may source animals managed organically from the last third of gestation from other organic operations.
- A new farmer or conventional operation may apply for both crops and livestock certification and use the transition allowance to start a dairy. Further, a certified crop operation that has never transitioned animals may add a dairy to its certification and use the transition allowance to start the dairy.
- For example, if a certified dairy farmer wants to pass transitioned animals to a family member, that family member could apply for organic certification as a new certified operation, and bring the transitioned animals into that operation under the one-time transition allowance.
- Another option for facilitating intergenerational transfers of transitioned animals would be for a family member to join an existing certified organic dairy with transitioned animals. The establishment of the regulatory unit as the ''operation'' allows family members to join in the ownership and operation of an existing organic operation, allowing the receiving generation to receive the cows that were transitioned by the giving generation, because they are part of the operation that transitioned the animals.
- Two (or more) operations will not generally produce organic milk on the same premises (*i.e.,* use the same land and milking parlor). More than one operation owned by the same person(s) and producing milk at the same location (with each transitioning a group of animals) goes against the intent of this final rule. However, multiple people (like parent/child family members) can be responsible parties for a single operation and new responsible parties to an operation can be added over time.
- Nothing in the rule prevents transitioned animals from being sold to other farms as conventional animals; a transitioned animal started life as a conventional animal and can return to conventional production if an organic farm with transitioned animals wishes to sell its herd. Organic dairy animals (organically managed from the last third of gestation) may be transferred as organic to other organic farms (new or established). This reflects the difference in economic investment in the transitioned animal compared with the ''organic for life'' animal.
- The term ''source'' at § 205.236(a)(2) is intended to have a meaning that is broader than ''purchase.'' For example, the term ''source'' would include acquisition of animals when the transaction does do not include a financial exchange (*e.g.,* transfers).
- Additionally, an organic livestock operation could not source transitioned animals under a scheme where transitioned animals are milked but not owned by that organic operation, as a means of continually bringing transitioned animals into milk production. For example, Operation A could not source transitioned animals from Operation B, Operation C, Operation D (etc.), even if Operation A does not own the transitioned animals

from Operation B, Operation C, (etc.). Certifying agents must review an applicant's organic system plan (and annually thereafter) to ensure that no operation, once certified, sources transitioned animals.

• A heifer-raising operation, like a dairy, may not continually transition nonorganic animals. Once an eligible (*e.g.,* nonorganic) heifer-raising operation transitions animals under the one-time exception, it may source only organic animals (organically managed from the last third of gestation). Heifer-raising operations may not provide transitioned animals to an already certified organic operation that has completed its one-time transition.

Administrator Variances for Movement of Transitioned Animals (§ 205.236(d))

In the final rule, AMS is providing for a variance request process that is specific to the prohibition on the movement of transitioned animals. In the proposed rule, AMS asked whether any exceptions or variances should be granted. Many comments noted existing sections of the organic regulations that already provide for temporary variances in the case of extreme weather events or disease, for example (§§ 205.290 and 205.672).

However, a few commenters noted some movement of transitioned animals between farms would be appropriate and could happen without undermining the intent of the rule to limit operations from continually transitioning animals. These comments either noted that a transitioned animal producing organic milk on one farm should be allowed to produce on any organic farm, or noted that there were ''common sense'' situations where movement of transitioned animals would not run counter to the intent of the rule.

One comment noted that prohibiting sale of transitioned animals could hurt family farmers, and as noted above, another argued that while there should be strict requirements on herd conversions, there should also be flexibility for ''reasonable'' or ''common sense'' movement of transitioned animals to allow an operation to capture the value of the animal and/or to allow an organic (transitioned) animal to continue to produce organic milk on a different organic farm.

AMS believes that a prohibition on the movement of transitioned animals is necessary to prevent ongoing creation of organic operations (*e.g.,* heifer replacement operations) that would supply organic dairies with transitioned animals in an ongoing manner. AMS has discussed the reasons for this prohibition throughout this final rule. However, AMS also recognizes that there are certain limited, legitimate, and reasonable situations where movement of transitioned animals between operations is warranted. Sections 205.290 and 205.672 of the existing regulations allow all operations to use variances in extreme or unexpected conditions. Section 205.272 allows for the re-transitioning of dairy animals (over 12 months) in cases of Federal or State emergency disease treatments. Section 205.290 allows variances from portions of the regulations (but would not permit the use of prohibited substances or nonorganic feed) in the case of natural disasters, damage from weather, fires, or other business interruptions.

However, these sections do not sufficiently meet the needs of the situations pointed out in public comments, like bankruptcy, insolvency, and intergenerational transfer. Small dairy farmers who are more vulnerable to financial stress may need relief in these situations.[18] The Organic Integrity Database listings that include data at the dairy animal level indicate that, since 2016, operations that have surrendered their organic dairy certification have been small organic dairies as defined by the Small Business Administration (SBA) in 13 CFR part 121.[19] AMS seeks to ensure operations are not unduly impacted by the prohibition on the movement of transitioned animals, especially in times of financial hardship or intergenerational transfer.

In the final rule, AMS has included provisions that allow the Administrator[20] to issue a variance and allow the movement of transitioned animals between operations. This variance request process is specific to the Origin of Livestock provisions, but mirrors the existing temporary variance provisions in the regulations at § 205.290. Under the process described in the NOP Program Handbook,[21] the operation must submit their request for a temporary variance in writing to their certifying agent and include supporting documentation justifying the need for the temporary variance. The certifying agent reviews the request to determine whether the request comports with the reasons listed at § 205.290(a), and whether the documentation provided by the operation justifies the need for the temporary variance. The certifying agent submits the request to AMS, including the original request and supporting documentation, and recommends either granting or denying the temporary variance along with the reasons for their recommendation, and includes any additional documentation that supports their recommendation. A list of temporary variances that are in effect and that were denied are available to the public at *https://www.ams.usda.gov/rules-regulations/organic.* Temporary variance denial decisions are not appealable; however, an operation can appeal a proposed adverse action if they are not able to meet the regulatory requirements because a temporary variance has been denied.

AMS considered allowing certifying agents to decide variance requests but decided to retain those decisions at the Administrator level similar to the existing temporary variance process at § 205.290. By requiring operations to seek approval from the Administrator rather than individual certifying agents, AMS believes that the process will result in more consistent decision-making. AMS is best positioned to make these decisions (vs. certifiers) because it can most easily request information from any accredited certifier. AMS anticipates that it may need to obtain or verify information from more than one certifier to assess the variance request. AMS is also best positioned to track whether any one operation is making multiple variance requests as a means to continually source transitioned animals.

The new Origin of Livestock paragraph describing this type of variance identifies the scenarios for which a variance could be granted and describes the process for requesting a variance. The limited circumstances in which a variance may be granted will prevent this process from being used as a mechanism for an operation to continually source transitioned animals. The variance must be submitted to NOP through a certifier and will be considered by the Administrator against the limited circumstances listed in the regulation in § 205.236(d)(1).

Variances will be made only for businesses that are ''small,'' as determined by the Small Business Administration (SBA) in the small business size regulations (13 CFR part 121). Those regulations currently establish that a dairy cattle operation is

[18] McDonald, J.M., Law, J., & Mosheim, R. (2020). Consolidation in US dairy farming (USDA ERS. No. 1473–2020–607).

[19] Using the Organic Integrity Database, AMS identified dairy cattle operations with listed organic animals that were surrendered their organic dairy certification between 2016–2021 that would have been labeled a small business under 13 CFR part 121.

[20] The Administrator includes a ''representative to whom authority has been delegated to act in the stead of the Administrator'' which could be the NOP Program Manager, *i.e.* the NOP Deputy Administrator.

[21] NOP Program Handbook, NOP 2606 Instruction: Temporary Variances. Available at: *https://www.ams.usda.gov/sites/default/files/media/Program%20Handbk_TOC.pdf.*

a small business if it takes in less than one million dollars in annual receipts. AMS is limiting variances to small businesses only to minimize adverse economic impact on small entities, as directed by the Regulatory Flexibility Act.

The variance requestor must provide documentation to support the request (*e.g.,* contracts, evidence of forced/sale closure, family records, wills or trusts, bankruptcy filings, tax documentation, records to support size standard). This variance is specifically crafted to address concerns about intergenerational transfers, forced sale or bankruptcy proceedings, and liquidity needs of dairy operations ceasing operations that may be hampered by the restriction on the sourcing of transitioned animals. AMS does not intend for these variances to become an avenue for operations to use out of convenience or to create a market for transitioned animals.

Section 205.236(a)(2)(i)—

In the final rule, this paragraph specifies that the transition period must be continuous and must last at least 12 months. AMS moved a portion of the language included at § 205.236(a)(2) and combined it with similar text in § 205.236(a)(2)(i) to reduce regulatory language and increase clarity. AMS also added language to clarify that an operation using the one-time transition must be certified before it may represent or sell products as organic.

Section 205.236(a)(2)(ii)—

In this section of the final rule, AMS added requirements for an operation to describe its transition plan in its organic system plan, including the actual or anticipated start date of the 12-month transition period and the identity (*e.g.,* ear tag numbers) of animals to transition. The means of identifying animals may vary by operation but must be reviewed and approved by the certifying agent. AMS believes this information is necessary for certifying agents to determine compliance and to provide for traceability of transitioned animals. Certifying agents may also require any additional information about the transition that they deem necessary to determine compliance.

AMS also revised this paragraph to reflect the timing for when an operation must apply for certification. An operation must submit an application to begin the certification process, and an operation must be certified before it can legally sell, label, or represent product as organic. This means that the transition period may exceed 12 months if the operation has applied for certification but is not yet certified after 12 months has passed. In this case, the animals would continue to be transitioning under continuous organic management until certification is complete. See below for further discussion of changes requested but not made by AMS (''Applying for Certification—Timeline'').

Section 205.236(a)(2)(iii)—

Some commenters requested that AMS clarify that third-year transitional crops may be consumed by dairy animals during their transition only if those third-year transitional crops are produced by the operation transitioning to organic.

AMS agrees that the OFPA transition requirements (7 U.S.C. 6509(e)(2)(B)) limit transitioning operations' use of third-year transitional crops to their own operation. AMS has revised the final rule, § 205.236(a)(2)(iii), to more clearly align with OFPA by clarifying transitioning dairy animals may consume third-year transitional crops grown by the operation only. Allowed third-year transitional crops include those grown by the operation on land that is leased or rented and included in the organic system plan of the transitioning operation. AMS has also clarified that certified organic feed is to be fed during the 12-month transition, in addition to third-year transitional crops.

Section 205.236(a)(2)(iv)

AMS made a minor change to this section between the proposed regulations and the final rule to clarify our meaning. See discussion below of Dairy Transition—Changes Requested but Not Made.

Section 205.236(a)(2)(v)—

In the final rule, AMS made minor revisions to this paragraph in response to a comment that transitioned animals are a class of ''organic'' animal. In the proposed rule, AMS had used the term ''organic'' to mean animals that are under organic management from the last third of gestation. The final rule revises the language to clarify that these animals are the same as any animal managed organically from the last third of gestation.

Section 205.236(a)(2)(vi)—

This paragraph sets the requirement that all dairy animals must end the transition at the same time. This reiterates that the transition exception is a distinct opportunity with a definitive end. Once the transition is complete, an operation may not add additional transitioned animals to its operation. The requirement that all animals end the transition at the same time prevents operations from sourcing additional nonorganic animals after they have begun their one-time 12-month transition period (unless they wish to restart the 12-month transition period for the entire group).

This requirement is not intended to limit animals born during the transition period to transitioning animals (dams) from joining the organic herd. In some scenarios (*e.g.,* operations that transition animals using third-year transitional feeds), animals born during the 12-month transition period may not complete 12 months of organic management by the end of the transition period. For example, transitioning animals bred after the start of the transition may birth animals toward the end of the 12-month transition period. These animals still may be added to the operation's herd. Animals born during the transition must be under continuous organic management from birth and for no less than 12 months immediately prior to the production of organic milk to qualify for organic certification.

Certifying agents will need to ensure that operations correctly classify animals as transitioned animals (as opposed to organically managed from the last third of gestation), as these animals do not meet the requirements for organic slaughter stock and may not be sourced by organic dairies (§ 205.236(a)(2)). An example is provided below to clarify how to classify animals born to transitioning animals during the transition period.

For example (this example assumes the operation does *not* feed third-year transitional crops during transition but, rather, feeds certified organic feed and pasture): The offspring of a pregnant cow that calves within the first three months of the transition cannot be considered organic from the last third of gestation (assume a gestation time of 9 months for this discussion). In this case, the heifer calf is considered a transitioned animal. Its transition will be completed after 12-months, at the same time its mother completes transition (*i.e.,* the organic management of the pregnant mother during the last third of gestation also counts toward the 12-month transition of the offspring). In contrast, offspring born after the first three months of the transition period will be considered organically managed from the last third of gestation (*i.e.,* the mother is under organic management during the entire last third of gestation). This aligns with the requirement for nonorganic breeder stock (*i.e.,* the requirements are no stricter).

Section 205.236(a)(vii)—

One commenter suggested that AMS include ''milk products'' in addition to ''milk'' in § 205.236(a)(2)(vii) to clarify that products other than milk can be produced by transitioned animals. AMS agrees and we have revised this section in the final rule to refer to both milk and milk products and to clarify our meaning.

Sections 205.236(a)(2)(viii) and (ix)—

The final rule prohibits certified operations from sourcing transitioned animals after completing the one-time transition (§ 205.236(a)(2)), except in the case of variances granted by the Administrator (§ 205.236(d)).

The proposed rule would have allowed transitioned animals to produce organic milk on any organic farm. In effect, this would have allowed certified operations to purchase transitioned animals for organic milk production. In 2015, AMS received 989 comments in support of changing the final rule to ban the sale of transitioned animals between organic operations. Commenters included consumers, producers, certifying agents, producer groups, consumer groups, and trade associations. In 2019, AMS received additional comments that transitioned animals should not be sold to organic operations for organic milk production. AMS specifically sought comments on this topic in 2021, with most commenters in support of transitioned animals losing organic status if sold, transferred, given, or otherwise moved to another operation, or if included as part of a merger of organic operations in which ownership remains with the original certified operation but there is common management. A few commenters were opposed to limiting the movement or sale of transitioned animals under the one-time allowance, citing a potential burden on family farms, a lack of rationale for the prohibition, and a lack of oversight necessary to enforce this prohibition.

Other commenters were concerned that by allowing sales of transitioned animals between operations, AMS's rule would not effectively stop operations from continually acquiring transitioned animals. If organic operations could find loopholes to continue to produce transitioned animals, there would be a market for those transitioned animals. To prevent this activity, many commenters suggested that AMS prohibit the sale of transitioned animals between operations altogether.

AMS considered different options to ensure the final rule is clear and enforceable. AMS determined that prohibiting certified operations from sourcing transitioned animals (with limited exceptions at § 205.236(d)) best supports the policy goal. This policy choice is consistent with public comments advocating for this rule.

For example, based on public comments, academic literature, and the existing regulations, AMS believes that consumers expect that organic animals have not been treated with antibiotics; however, a transitioned cow producing organic milk may have been treated with antibiotics early in life, before the transition began.[22] [23] Beef labeled as organic must have been produced from an animal that had been organic for its whole life. It is reasonable to conclude that a consumer would prefer milk from cows (or goats, etc.) that had never been treated with antibiotics given that prohibition with other forms of livestock; while still allowing for the one-time transition allowed under OFPA. Another example is outdoor access; AMS believes that consumers generally prefer that organic animals have access to outdoors throughout their lives, as per the existing regulations; however, transitioned animals do not manifest a full life of these benefits.[24] Constraining the movement of transitioned cows between operations is expected to decrease the overall number of transitioned animals industry-wide over time

AMS removed § 205.236(a)(2)(viii) and (ix) and included the revised requirement at § 205.236(a)(2). Section 205.236(a)(2) of this final rule specifies that once an eligible, newly-certified organic livestock operation completes the one-time minimum 12-month transition to organic, it may not source any transitioned animals. For additional discussion about sourcing animals, see OPERATION AS REGULATED ENTITY (§ 205.236(a)(2)).

Certified organic dairy operations that purchase animals, individually or as an entire herd, may not purchase any transitioned animals for organic milk production beginning on the compliance date. Livestock must be under continuous organic management from the last third of gestation (§§ 205.236(a) and 205.236(a)(2)). The final rule does not limit certified organic dairy operations from purchasing animals that have been organically managed from the last third of gestation. Nor does the final rule prohibit operations from raising and selling organic replacement animals to certified dairy operations. Such animals must be organically managed from the last third of gestation to be sourced by organic operations (§§ 205.236(a) and 205.236(a)(2)).

AMS received a comment that some nonorganic dairies convert to organic production by purchasing certified organic dairy cows while transitioning nonorganic animals. A dairy may wish to do this to keep some of its own nonorganic animals (to transition) while generating income from the organic cows. The final rule requires that all transitioning animals complete the transition at the same time (*i.e.,* at the end of a single 12-month period) at § 205.236(a)(2)(vi). It also prohibits the sourcing of transitioned animals after the one-time transition is complete (§ 205.236(a)(2)), but it does not explicitly discuss sourcing of organic animals during the transition. AMS will allow certifiers to determine if a transitioning operation may source organic animals during the transition, as site-specific and other conditions will need to be evaluated to determine if an operation could comply with all requirements. For example, if an operation purchases lactating organic dairy animals during the transition period but also manages lactating transitioning animals, very specific practices would be required to keep nonorganic milk (from transitioning animals) segregated from organic milk until the transition period is complete.

ii. Dairy Transition—Changes Requested But Not Made

(1) Prohibit Transition Entirely (§ 205.236)

AMS received many comments opposed to allowing any transition of nonorganic animals to organic production. Generally, the commenters thought any products labeled as organic should be organically managed from birth or from the last third of gestation and that any allowance for transitioning nonorganic animals is unwarranted.

AMS has not prohibited transition altogether in the final rule. AMS believes that the one-time transition allowance provides an important and reasonable incentive for new dairies and existing nonorganic dairies to seek organic certification. Many currently

[22] Hughner, R.S., McDonagh, P., Prothero, A., Shultz, C.J., & Stanton, J. (2007) Who are organic food consumers? A compilation and review of why people purchase organic food. Journal of Consumer Behaviour: An International Research Review, 6(2–3), 94–110.

[23] Wemette, M., Safi, A.G., Wolverton, A.K., Beauvais, W., Shapiro, M., Moroni, P., . . . & Ivanek, R. (2021). Public perceptions of antibiotic use on dairy farms in the United States. Journal of Dairy Science, 104(3), 2807–2821.

[24] Dangi, N., Gupta, S.K., & Narula, S.A. (2020). Consumer buying behaviour and purchase intention of organic food: a conceptual framework. Management of Environmental Quality: An International Journal.

certified organic dairy operations transitioned their operations to enter the organic market, and this final rule preserves the same opportunity for new and nonorganic operations pursuing organic certification. For additional analysis of alternatives, see the Regulatory Impact Analysis (RIA) below.

(2) Allow Continuous Transition—Do Not Restrict to One-Time Event (§ 205.236)

For additional discussion of this alternative regulatory approach, see the ALTERNATIVES CONSIDERED section of the Regulatory Impact Analysis (RIA) below.

Several commenters felt that limiting producers to one transition was unnecessarily restrictive and would create undue hardship for organic dairy farmers. The commenters preferred that operations be allowed to transition animals into organic production without limit and thought 12 months of organic management was sufficient for sale of milk as ''organic'' under OFPA. They argued that allowing producers to transition animals without limit allows producers to respond quickly to consumer demand and to rebuild herds in the case of disease or illness. They also argued that the current demand for organic milk was evidence that consumers are satisfied by the current requirements.

AMS is not allowing organic operations to continually transition nonorganic animals into organic production in the final rule. While an allowance to continually transition nonorganic animals would allow producers to adjust their herd size quickly by permitting the purchase of nonorganic animals to transition, such an allowance would also be likely to decrease the organic management of calves. This is because during the period of nonorganic management, producers would not be required to adhere to the feed, healthcare, or living condition requirements stipulated by the USDA organic regulations. Even if AMS were not to limit transition to a one-time event, as suggested by some comments, AMS would not expect all organic dairies to stop managing calves and young dairy stock organically. Some producers would likely continue to use the organic milk produced by their animals as feed for their offspring, while others might source nonorganic milk to reduce feed costs. AMS does not believe that all producers would adopt a consistent practice in response to the policy, and AMS could not assure consumers that organic dairy products are using common production standards which are consistent a key purpose of OFPA (7 U.S.C. 6501(2)).

Furthermore, many organic stakeholders commented that the practice of taking animals out of organic production upon birth and restarting organic management one year prior to milk production (which is currently allowed by some certifying agents) is inconsistent with consumer expectations, and has led to inconsistencies in the implementation and oversight of the organic livestock rules. As discussed above, AMS explicitly made the policy choice to implement provisions that increase the number of animals managed as organic from the last third of gestation. Establishing national standards to govern the marketing of organically produced products is a key purpose of OFPA (7 U.S.C. 6501(1)). Further, based on public comments, AMS believes the policy choices in this rule align with practices that many certifiers and most organic operations already follow.[25] [26]

(3) Prohibit Third-Year Transitional Feed During Transition (§ 205.236(a)(2)(vii))

Another comment received by AMS requested that third-year transitional crops not be allowed as feed during the transition period. The commenter pointed out that these crops cannot be fed to organic slaughter stock or fiber-bearing animals and argued that the allowance for transitioning dairy stock to consume these feeds does not advance a consistent organic standard, as intended by OFPA.

AMS recognizes that there are differences between the requirements for transitioning dairy animals and livestock used to produce organic meat and fiber products. AMS has not prohibited third-year transitional crops as feed during transition in the final rule, as the allowance to use third-year transitional crops eases the burden of transitioning for new dairy operations and is permitted by OFPA.

(4) Prohibit Third-Year Transitional Feed for Offspring (§ 205.236(a)(2)(iii) and (iv) and (v) and (vi))

A commenter argued that AMS was expanding the allowance for third-year transitional crops by allowing offspring to consume this type of feed during the transition. They commented that OFPA does not allow offspring born to transitioning animals to be fed crops and forage in the third year of organic management.

AMS disagrees that OFPA limits use of third-year transitional crops to any specific class or age of livestock during the transition. OFPA allows third-year transitional crops to be fed to dairy animals up to the end of the 12-month transition period. Dairy animals, regardless of the stage of production, are equally subject to these requirements. Restricting the use of third-year transitional crops for offspring would impose stricter requirements for offspring born during transition, even though these animals are managed organically for a longer period of time prior to production of organic milk.

The final rule allows any transitioning animal to consume third-year transitional crops during the 12-month transition, including offspring born during the transition and young stock. Animals that consume third-year transitional crops during the transition period are transitioned animals, and animals born to transitioned animals that consumed third-year transitional crops during the last third of gestation are transitioned animals. Transitioned animals are not eligible to produce organic meat or fiber. In addition, transitioned dairy animals may not be sourced by certified organic dairies.

(5) Require Milk for Offspring That Is Eligible for Sale as Organic (§ 205.236(a))

Some commenters pointed out that both the current organic regulations and the proposed rule allow milk to be fed to offspring in certain circumstances when the milk would not meet the requirements for sale as organic. They referred to § 205.237, which requires organically produced agricultural products in livestock feed rations and questioned how milk that does not qualify for sale as organic can be provided to offspring. For example, the organic regulations only require that breeder stock be managed organically starting no later than the last third of gestation. If nonorganic breeder stock are managed as organic only during the last third of gestation, the milk suckled by offspring at the time of birth would not qualify for sale as organic. Additionally, commenters also requested that AMS clarify if milk from nonorganic animals that has been managed organically during the last third of gestation can be provided to animals other than their own offspring.

In the final rule, offspring born to animals that have been managed organically starting no later than the last third of gestation can be considered organic animals instead of transitioned animals. AMS has not imposed stricter requirements for dairy animals than

[25] See Audit Report 01601–03–Hy.

[26] See AMS–NOP–11–0009–2799.

those that currently exist for slaughter stock or changed the requirements for slaughter stock, and organic slaughter stock may receive milk that could not itself be sold as organic. AMS recognizes that the allowance for feeding offspring milk that cannot itself be certified and sold as organic (for human consumption) may appear inconsistent. However, current organic regulations clearly allow animals to be certified organic if managed organically managed starting no later than the last third of gestation, without any prohibition on milk nursed from the nonorganic mothers by the offspring. The final rule does not change these requirements.

In response to comments about whether milk from nonorganic breeder stock or transitioning animals may be provided to animals that are not an animal's own offspring, if offspring are separated from their mothers after birth, as is common practice on dairy farms, milk that is pooled from a group of animals but is not comprised entirely of organic milk may not be provided to offspring. Milk from transitioning animals that is collected by the dairy farm and not consumed directly by the offspring may not be sold as organic.

The final rule establishes limitations on offspring that have consumed milk from a transitioning mother that consume(d) third-year transitional crops during or after the last third of gestation. Calves are considered transitioned themselves when they or their mothers consume(d) third-year transitional crops during or after the last third of gestation. As transitioned animals, these offspring are not eligible for sale as organic slaughter stock and may not be sourced by organic dairies per § 205.236(a)(2).

Conversely, mothers that have been organically managed starting no later than the last third of gestation and which are fed only organic feed during the last third of gestation (no third-year transitional crops) give birth to organic offspring (organically managed from the last third of gestation) with a status similar to that of organic slaughter stock born to nonorganic breeder stock. Organic animals organically managed from the last third of gestation may be sold between organic dairy farms and produce organic milk on any organic dairy farm.

(6) Applying for Certification—Timeline (§ 205.236(a)(2)(ii))

AMS received comments about the proposed requirement for producers to submit an application for certification during the 12-month transition period, including a description of the transition. Several commenters requested that AMS revise the requirement so producers would be required to submit their application and describe the transition prior to starting the 12-month transition rather than during the 12-month transition. These commenters thought this would allow a certifying agent to oversee the entire transition, prevent potential infractions, and help ensure adequate recordkeeping and tracking of transitioning animals.

Another commenter suggested that AMS require producers to apply for certification within 90 days before or after feeding dairy animals third-year transitional crops. Another commenter stated it was unclear if the proposed rule changed the existing rule in regard to the obligations and responsibilities of transitioning operations and certifying agents. Yet another commenter pointed out that the language in the proposed rule made it unclear if a producer could submit an application before the transition started.

In the final rule, AMS has not required that producers submit an application prior to starting the 12-month transition. Operations that sell livestock or livestock products as organic, including milk, must be certified, with the exception of those operations described in § 205.101. While there are likely benefits to both producers and certifying agents when an application is submitted early in the transition to organic, the timing of the submission of an application does not dictate whether an operation meets the requirements for certification. Certifying agents are required to verify that producers comply with all provisions of the USDA organic regulations. Producers who choose to submit an application late in their transition may experience delays in obtaining certification until the certifying agent verifies that all provisions are compliant. The transitioning animals will continue to transition through this pre-certification period; product may not be sold or represented as organic without certification.

Applications submitted prior to, or at any time during, the 12-month period are all subject to the same review criteria described in §§ 205.400–205.406 of the current regulations. Certifying agents who are unable to verify an applicant is in compliance with the requirements must not grant certification.

(7) Provide 18 Months for Transition (§ 205.236(a)(2)(vi))

Several commenters requested that producers be given more than a 12-month period to transition to organic. Extending the period of time from 12 months to 18 months would allow a producer to add additional nonorganic animals to its operation for six months after the beginning of its transition, while still requiring each animal to be managed organically for no less than 12 months immediately prior to production of milk to be sold, labeled, or represented as organic. Commenters stated that a longer period would help reduce the stress associated with starting a new dairy by allowing flexibility. Commenters stated that by allowing additional time, new producers would be able to use the additional time to source animals and stagger when animals start to transition to reduce the financial burden of transition.

AMS understands that transitioning a dairy to organic can be financially and logistically challenging. However, AMS is maintaining, as proposed, the 12-month transition requirement. While AMS recognizes that a longer period for the transition would likely ease some of the challenges of transition, AMS finds a 12-month total allowance is still appropriate. AMS did not find broad support for this option in comments, and verification of compliance is simpler when animals are transitioned as one group. Under the final rule, producers are not prevented from sourcing animals for the transition over a period of time, but the group must transition together. For example, a farm could gradually acquire nonorganic animals for six months prior to starting the 12-month transition, begin the transition once all animals arrive on the farm, and then end the transition for all animals at the same time. Additionally, the regulations allow new operations and certified operations to purchase dairy animals at any time, provided they have been managed organically from the last third of gestation.

(8) Do Not Limit Transition for Goat Operations (§ 205.236(a)(2))

AMS received a few comments regarding non-bovine animals (*e.g.,* sheep or goats). Several commenters stated that the proposed rule would have a greater impact on goat operations than cattle operations, as there are fewer non-bovine dairy operations and sourcing organic replacements may be difficult. One commenter requested that AMS allow goat operations to continuously transition animals on existing operations. The commenter stated that goat producers are continually striving to improve their genetics and that, if limited to purchasing organic goats, the producers could not efficiently improve the genetics of the herd. The commenter

stated that under the rule, new genetics would need to be introduced by obtaining nonorganic bucks alone, rather than nonorganic does and bucks.

AMS recognizes that the availability of organic (last third of gestation) non-bovine animals for sale is limited; however, AMS is not making an exception to the one-time transition for non-bovine operations in the final rule. AMS does not believe there is a difference in consumer expectations for these milks compared to organic cow milk. Given the policy choice, based an agency analysis and public comments, to increase the number of animals managed as organic from the last third of gestation, it is appropriate to require goats to meet the same requirements as cows. Additionally, as described below, producers may purchase nonorganic male breeder stock and nonorganic female breeder stock, at any time, for the production of organic offspring. Breeder stock that are not transitioned as part of the initial herd may not produce milk to be sold, labeled, or represented as organic.

C. Breeder Stock (§ 205.236(a)(3))

This section of the final rule describes the provisions for bringing on breeder stock from a non-organic operation to an organic operation. The provision stipulates that breeder stock must be brought onto an operation by the last third of gestation and must be organically managed from the last third of gestation through the period in which the breeder stock is nursing its offspring. No changes were made to this section between the proposed regulations and the final rule. Below we describe the final rule and respond to comments received on the proposed rule.

i. Breeder Stock—Changes Requested But Not Made

(1) Require Organic Management of Breeder Stock (§ 205.236(a)(3))

In 2015, AMS received many comments that expressed opposition to allowing breeder stock to rotate in and out of organic management. Commenters generally requested that the final rule require uninterrupted organic management of breeder stock starting from the time they are brought onto an organic operation. Commenters requested that if the organic management of nonorganic breeder stock is interrupted, the breeder stock can no longer produce organic offspring.

In 2019, AMS received additional comments that discussed this issue. As in 2015, comments predominantly supported modifying the current language in the proposed rule to stipulate that breeder stock can be transitioned only once to organic management. These commenters cited organic herd health and consistency with the language in OFPA as their principal factors. One commenter further referenced the OFPA provision related to breeder stock and argued that the proposed rule language allowing breeder stock to be transitioned from nonorganic to organic at any time is inconsistent with the intent of OFPA. One commenter noted that modifying the current language in the proposed rule stipulating breeder stock may be transitioned to organic management only once would be inconsistent with language in OFPA that states ''any source.'' This commenter recommended that these advocates work with Congress rather than the USDA to achieve these changes.

AMS has not revised the requirements for breeder stock in the final rule. OFPA states that breeder stock may be purchased from any source (7 U.S.C. 6509(b)); there is no requirement that the source be certified organic. Further, while the current regulations at § 205.236(b)(1) clarify that organic livestock removed from organic operations lose their organic status, this provision does not extend to nonorganic breeder stock that are themselves not certified organic or eligible for slaughter, sale, or labeling as organic (§ 205.236(b)(2)). Therefore, AMS does not believe that restrictions on how nonorganic breeder stock are managed outside of the last third of gestation and after the weaning of organic offspring are warranted.

However, AMS is establishing requirements for the management of nonorganic breeder stock during the last third of gestation and while an organic offspring is consuming milk from the nonorganic breeder stock after birth. Additionally, a producer must continue to prevent commingling of organic and nonorganic products and prevent contact of any organic production or products with prohibited substances (7 CFR 205.201(a)(5)).

(2) Change Regulatory Text From ''Brought'' To ''Purchase'' (§ 205.236(a)(3))

Several comments requested that AMS change the language at § 205.236(a)(3) to only allow organic operations to ''purchase'' nonorganic breeder stock rather than allow breeder stock to be ''brought'' onto organic operations, as currently allowed. Commenters pointed out that OFPA language allows for organic operations to *purchase* nonorganic breeder stock and that this implies the breeder stock are to be managed organically following purchase. By changing the language to align with OFPA, the commenters argue breeder stock would no longer go in and out of organic management while managed at the operation.

AMS is not convinced that changing the regulations to allow purchase of nonorganic breeder stock at any time would be significantly different than the current regulation. Furthermore, as nonorganic animals, breeder stock are not regulated under USDA organic regulations, except during the last third of gestation when producing organic offspring and/or nursing their organic offspring.

(3) Require One Year of Organic Management Prior To Allowing Calves To Consume Milk (§ 205.236)

See discussion above in Dairy Transition—Changes Requested but Not Made, titled ''Require Milk for Offspring that is Eligible for Sale as Organic''.

(4) Allow Milk Suckled by Animals Other Than Own Calf (§ 205.236)

See discussion above in Dairy Transition—Changes Requested but Not Made, titled ''Require Milk for Offspring that is Eligible for Sale as Organic.''

(5) Clarify the Status of Male Animals for Breeding (§ 205.236(a)(2)(ix))

Some commenters noted that the wording of proposed § 205.236(a)(2)(ix) implies that male animals cannot be brought onto an organic operation for breeding purposes. They proposed including language affirming that male breeder stock may be used at any time and won't be required to be managed organically.

AMS has not made any changes and points out that this section describes requirements for dairy animals used ''for organic milk production,'' which do not include male animals. Breeder stock are defined at § 205.2 as female livestock. The use of nonorganic male animals for breeding purposes is not restricted by this section or by other sections of the organic regulations.

D. Prohibitions (§ 205.236(b))

This section of the final rule stipulates that product from animals from removed from organic management to a nonorganic operation cannot be sold as organic and breeder stock and transitioned animals not under continuous management since the last third of gestation may not be sold, labeled, or represented as organic slaughter stock. Below we describe the final rule and respond to comments received on the proposed rule.

i. Prohibitions—Comments and Revisions

Section 205.236(b)(1)—A commenter thought AMS should specify in this section that handling organic livestock products at a nonorganic operation affects the organic status of products, as the term AMS used (''managed'') does not apply well to edible and nonedible products. The commenter suggested that ''managed'' be changed to ''managed or handled''.

AMS agrees that the term ''managed'' is better used to describe activities related to livestock production than it is suited to describe activities (*e.g.,* processing) related to livestock products. In the final rule, AMS has removed the reference to livestock products from this section after concluding that it is not necessary to discuss livestock products in this section. Requirements related to the handling, processing, and labeling of organic products are covered at length and in detail under other sections of the USDA organic regulations. Other sections of the regulations also address the types of operations that must be certified organic, and AMS is preparing a separate final rule to clarify requirements for operations that handle organic products and to clarify which operations are exempt from the requirements of certification (see proposed rule at 85 FR 47536).

Section 205.236(b)(2)—AMS revised the proposed term ''dairy stock'' to ''dairy animals'' in the final rule to be consistent with language used throughout § 205.236(a).

E. Records (§ 205.236(c))

Section 205.236(c) amends the current regulations to specifically require that an operation's records identify whether dairy animals were transitioned to organic. These records are required for certifiers to verify compliance, as organic operations may not source transitioned animals after their one-time transition is complete (§ 205.236(a)(2)). Additionally, transitioned animals may not be represented as organic slaughter stock. These requirements support the livestock recordkeeping requirements described in OFPA (7 U.S.C. 6509(f)) and the USDA organic regulations at 7 CFR 205.103. No changes were made to this section between the proposed rule and the final rule.

F. Administrator Variances for Movement of Transitioned Animals (§ 205.236(d))

This added section of the final rule includes provisions to allow for movement of transitioned animals in certain situations. See discussion above in ''DAIRY TRANSITION (§ 205.236(a)(2)).''

G. Livestock Feed (§ 205.237(a))

This section of the final rule includes a revision to the livestock feed requirements. Below we describe the final rule and changes from the proposed rule.

i. Livestock Feed—Revisions

In the final rule, § 205.237(a) was revised to include a reference to § 205.236(a)(3), which allows offspring to consume milk from nonorganic breeder stock. The reference to these requirements is made here to recognize that milk from breeder stock is not necessarily certified organic. Section 205.236(a)(3) requires operations to provide breeder stock with organic feed throughout the last third of gestation and during the lactation period, during which time they may nurse their own offspring. The reference to these requirements in § 205.237(a) is intended to provide a more complete description of the livestock feed requirements. The update to this section does not permit the feeding of milk from breeder stock to organic animals other than the breeder stock's offspring.

H. Other Amendments Considered

i. Other Amendments Considered—Changes Requested But Not Made

(1) Fiber Producing Animals (§ 205.236(b)(2))

AMS received several comments about the sections of the proposed rule that include information about fiber-producing animals. Some commenters argued that the rule should be revised to allow a one-time transition for fiber-bearing animals. One comment noted that recent changes to organic regulations align dairy and fiber animals in other areas, such as parasiticide use, and so the rule for transitioning of dairy animals should be the same for fiber-bearing animals. They also stated that this revision would be consistent with other organic livestock fiber standards around the world and excluding it would put United States producers at a global economic disadvantage.

AMS did not propose an allowance for transition of fiber animals in the proposed rule, so AMS is not creating an allowance for the transition of fiber animals in the final rule. An allowance to transition fiber animals could require amendment of OFPA, which authorizes a transition for dairy animals only. This means that producers can transition sheep, for example, from nonorganic milk production to organic milk production, but would need to source animals organically managed beginning at the last third of gestation in order to produce organic wool.

V. Related Documents

Documents related to this final rule include the Organic Foods Production Act of 1990, as amended, (7 U.S.C. 6501–6524) and its implementing regulations (7 CFR part 205). AMS published a series of proposed rules that addressed, in part, the origin of livestock provisions at: (1) 62 FR 65850, December 16, 1997; (2) 65 FR 13511, March 13, 2000; and (3) 71 FR 24820, April 27, 2006. Past final rules relevant to this topic were published at: (1) 65 FR 80548, December 21, 2000; and (2) 71 FR 32803, June 7, 2006.

The NOSB deliberated and made the recommendations described in this final rule at public meetings announced in the following **Federal Register** notices: 67 FR 19375, May 7, 2002; 67 FR 54784, September 17, 2002; 67 FR 62949, October 19, 2002; and 68 FR 23277, May 13, 2003. AMS also considered NOSB recommendations from June 2, 1994, and March 20, 1998, in the development of this final rule. NOSB meetings are open to the public and allow for public participation. NOSB recommendations are available on the AMS website.

Paperwork Reduction Act

This final rule is clarifying current requirements pertaining to documenting, reporting, and recordkeeping for organic dairies and no additional collection or recordkeeping requirements are being imposed. In addition, AMS is prohibiting the sourcing of transitioned animals in § 205.236(a)(2) that would have allowed transitioned animals to move between organic operations in response to public comment on the proposed rule. However, certified operations may request a temporary variance from the prohibition on the movement of transitioned animals for specific circumstances, now described in § 205.236(d). The paperwork burden in the currently-approved OMB ICR# 0581–0191 [27] includes the time and costs to comply with existing organic system plan requirements and recordkeeping requirements, and more than accounts for any burden associated with requesting temporary variances even with the expanded criteria at § 205.236(d).

Currently, temporary variances as described at § 205.290 are calculated at 10% or 4,628 of 46,277 total

[27] Approved January 21, 2021.

operations[28] at one hour for each variance for a total of 4,628 hours annually. Yet, there were only 10 actual temporary variances requested in 2021[29] although 2 requests covered certified organic ruminant operations in counties impacted by extreme drought that were declared disaster areas.[30] If we calculated 2021 as impacting 25 operations, this would amount to a total of 25 hours of impact. This still leaves a very large annual margin of 4,603 hours under the current information collection for all types of temporary variances. Actual previous 10 years of requests for temporary variances averaged about 2–7 requests per year. If all 3,134 currently certified organic dairy producers request a temporary variance under the expanded criteria described in § 205.236(d), there would still be very large margin of 1,469 burden hours.

AMS recognizes that the burden for temporary variances will need to be restructured. AMS will prepare an information collection package for this additional burden and will ultimately merge impacts from this final rule into OMB ICR# 0581–0191. The process for updating the NOP's overall program ICR will begin in January 2023, and will allow an opportunity to merge the burden from any other final rules with optimal efficiency.

Civil Rights Review

AMS has reviewed this final rule in accordance with the Department Regulation 4300–4, Civil Rights Impact Analysis, to address any major civil rights impacts the final rule might have on minorities, women, and persons with disabilities. AMS has determined that there is evidence of an adverse impact to males, females, Hispanics, Whites, Black/African Americans, Asian Americans, and Native Hawaiians based on an 80 percent analysis for farms reporting 50 percent or more from organic sales; the impact rate for American Indians/Alaskan Native does not meet the condition for adverse impact. There are no data for a baseline comparison for all organic dairy producers.

AMS is not aware of any data indicating organic dairy operations owned by members of protected groups are more likely to continually source transitioned animals. While AMS does not have specific race, ethnicity, or gender data regarding organic livestock producers, the rule would not alter the ability for producers of any race, color, national origin, gender, religion, age, disability political beliefs, sexual orientation, or marital or family status to participate in the National Organic Program or change their protections from discrimination.

The Agency has concluded that the final rule will impact organic dairy producers by potentially increasing production costs for: (1) Organic livestock and dairies that currently continually transition nonorganic animals for use on their operation or sale; (2) organic dairies that currently source transitioned dairy animals as replacements; and (3) organic dairies that purchase organic replacement animals (as increased demand could increase prices). To mitigate these impacts, AMS is providing organic producers one year from publication of the final rule to complete any ongoing transitions. Additionally, any organic operations selling organic replacement heifers may benefit from higher prices.

Executive Order 13175

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

AMS has assessed the impact of this rule on Indian tribes and determined that this rule would not, to our knowledge, have tribal implications that require consultation under E.O. 13175. In a December 2019 AMS Quarterly Tribal Listening Session, AMS provided an overview of this final rule and invited any requests for concerns or consultation. AMS received no questions or comments during the listening session. AMS has also researched its database of certified organic dairies operating under Tribal Government and found no such operations.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. AMS has prepared the RIA with the purpose of accomplishing these objectives.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market.

Congressional Review Act

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

Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This final rule is not intended to have a retroactive effect.

To prevent duplicative regulation, states and local jurisdictions are preempted under OFPA from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 6514(b) of OFPA. States are also preempted under sections 6503 and 6507 of OFPA from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of OFPA.

Pursuant to section 6507 of OFPA, a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the

[28] Total number of currently certified organic operations from Organic Integrity Database, August 7, 2019, *https://organic.ams.usda.gov/Integrity.*

[29] Variance requests can be viewed by the public at: *https://www.ams.usda.gov/rules-regulations/organic.*

[30] Applies only to certified organic ruminant livestock producers located in counties designated as primary or contiguous natural disaster areas by Secretary Vilsack. The list of declared State counties is available on USDA's website for Disaster Designation Information.

State under certain circumstances. Such additional requirements must: (a) Further the purposes of OFPA, (b) not be inconsistent with OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

In addition, pursuant to section 6519(c)(6) of OFPA, this final rule does not supersede or alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Regulatory Impact Analysis and Regulatory Flexibility Analysis

AMS is taking this action to set origin of livestock production practice standards for organic dairy animals, reduce variance between the approaches taken by certifying agents, and increase the share of organic dairy animals that are under organic management for their entire lives. AMS updated the analysis from the proposed rule (84 FR 52041) using the most recent information about the dairy market, including the number of certified organic operations and the number of organic dairy animals. Updating information with NASS Organic Survey data from 2019 revises the estimated costs of the final rule to $615,000–$1,845,000. Below public comments on previously published regulatory analyses are also discussed.

Need for the Rule

AMS determined that the USDA organic regulations for sourcing dairy animals and managing breeder stock require additional specificity to ensure organic dairy operations meet a consistent standard. AMS's revisions of the requirements support two purposes of OFPA (7 U.S.C. 6501): To establish a national standard for organically produced products and to assure consumers that organically produced products meet a consistent standard. Interpretations of the ''origin of livestock'' organic regulations have differed between certifying agents, and the different interpretations have led to divergent practices by organic dairy operations for sourcing replacement dairy animals. These inconsistencies have contributed to confusion among organic dairy producers about what the regulations require. The inconsistencies have produced an unequal situation in which production costs are influenced by any given certifier's interpretation of the organic livestock regulations. However, a certifier is not likely to publish its interpretation of the existing regulations, and a certifier may not even apply its interpretation consistently among the operations it certifies (some may be allowed to continually transition animals while others are not).

AMS is revising the regulations to ensure the USDA organic regulations are administered and enforced in a clear and uniform manner, and to address inconsistencies determined in the 2013 USDA Office of Inspector General (OIG) Audit.[31] The OIG audit of organic milk operations found that the interpretation and implementation of the origin of livestock requirements differed across producers and certifying agents. As a result, organic milk producers may have faced materially different organic production requirements based on their particular certifier's interpretation of the NOP's origin of livestock requirements. This rulemaking will help ensure that producers face consistent application of the organic standards. Furthermore, AMS expects that increased clarity will help assure consumers that organic dairy products meet a consistent standard, a stated purpose of the Organic Foods Production Act (OFPA) of 1990 (7 U.S.C. 6501). NOP's experience is that because organic products cannot be readily distinguished from nonorganic products based on sight inspection, buyers rely on process verification methods to ensure that organic claims are true. Within the economics literature, organic food products are ''credence goods,'' or goods with characteristics that are valuable but are difficult to verify, both before and after purchase.[32] [33] [34] Foods certified under USDA's NOP, including milk, have a common standard that specifies production practices, such as dairy herd pasture requirements, permitted feeds, and permitted use of antibiotics and hormones, that cannot be independently verified by consumers.

When producing goods with credence characteristics, producers face a moral hazard problem stemming from their incentive to forego taking costly actions or investments associated with the label claim if handlers or consumers have no way of verifying the production process (*i.e.,* asymmetric information). In providing guidance to Federal agencies undertaking rulemaking, OMB Circular A–4 cites asymmetric information as a source of market failure and as a potential justification for regulation. However, the social benefit of addressing an information asymmetry can be no higher than the willingness to pay for the additional information by the party with less information. Lassoued and Hobbs (2015) further emphasize the role of trust in the institutions and brands that verify credence good attributes as being essential for developing the consumer confidence that drives brand loyalty.[35]

AMS developed the final rule in the context of maintaining consistency and trust in the USDA organic label as directed by OFPA, as it pertains specifically to organic dairy farms and to organic farms and organic handlers/processors generally. AMS anticipates this final rule will support both producer and consumer confidence in the organic label by reducing major inconsistencies in production practices across organic dairies, and resulting in more organic animals that are managed organically throughout their productive lives.

Baseline

This rule specifies the conditions under which operations can transition non-organic animals to organic for the purpose of milk production. Current dairy production and husbandry practices provide important context for the baseline and cost analysis. For a general description of replacement animal production, see ''Overview of Organic Dairy Production'' in section II. Background above.

The baseline presented below focuses on production practices of bovine dairy farms maintaining cows and heifers and does not include quantitative estimates for non-bovine dairy farms that maintain sheep and goats. AMS does not expect this rule will have a substantial economic impact on those specific sub-sectors for the following reasons: Goat does and sheep ewes are

[31] The July 2013 OIG audit report on organic milk operations may be accessed at the following website: *http://www.usda.gov/oig/webdocs/01601-0002-32.pdf*.

[32] Caswell, Julie A. and Eliza M. Mojduszka. 1996. ''Using Informational Labeling to Influence the Market for Quality in Food Products.'' American Journal of Agricultural Economics. Vol. 78, No. 5: 1248–1253.

[33] Zorn, Alexander, Christian Lippert, and Stephan Dabbert. 2009. ''Economic Concepts of Organic Certification.'' Deliverable 5 of the EU FP7 CERTCOST Project: Economic Analysis of Certification Systems in Organic Food and Farming.

[34] Michael Darby and Edi Karni, ''Free Competition and the Optimal Amount of Fraud'' *Journal of Law and Economics* 16(1973)1:67–88

[35] Lassoued, R. and J.E. Hobbs (2015) ''Consumer Confidence in Credence Attributes: The Role of Brand Trust'' *Food Policy* 52:99–107.

able to produce milk earlier than cows, so the potential cost-savings for non-bovine dairy farms to continually source transitioned animals (vs. animals under organic management from the last third of gestation) is small compared to that for bovine dairy farms. For this reason, the practice of continually adding transitioned animals to organic non-bovine herds is likely less prevalent than with organic bovine herds. While a commenter asked for an exemption for goats during the comment period citing limited availability of organic genetics, there are avenues to bring in additional genetics through breeding stock. These operations also make up a relatively small portion of the organic dairy industry. The Organic Integrity Database [36] of certified organic operations includes approximately 56 dairy goat operations and 2 dairy sheep operations.

AMS used multiple data sources to describe the baseline and build quantitative estimates. The first source is the Agricultural Resource Management Survey (ARMS), which is maintained by USDA's Economic Research Service (ERS) and includes questions about dairy farm cattle purchases, restocking rates, and organic status.[37] In 2016, ERS conducted a supplemental ARMS that focused on organic dairy operations; this was the most recent such survey. AMS worked with ERS to analyze the ARMS data and develop an estimation of organic dairy production practices and costs for this rule.

Other sources of data are the National Agricultural Statistics Service's (NASS) 2019 Certified Organic Production Survey and 2017 Census of Agriculture,[38] which include State-level data on production, herd sizes, output, and sales for organic and non-organic crops and livestock. Additionally, the Organic Trade Association's (OTA) 2021 Organic Industry Survey is used to summarize market information and trends within the organic industry.[39] Also, AMS requested an organic dairy farm special tabulation from the National Animal Health Monitoring System (NAHMS) Dairy 2014 report collected by USDA's Animal and Plant Health Inspection Service.[40]

A final source of data is the AMS list of all certified operations included in the Organic Integrity Database (OID). The organic regulations require USDA-accredited certifying agents to keep track of the number of operations they certify in OID (7 CFR 205.501(a)(15)(ii)). AMS consolidates this information into a public, searchable online database.[41] AMS used information from this database to cross-check NASS data on the number of organic dairy operations.

The Organic Dairy Market—Sales and Number of Operations

According to the OTA Industry Survey, U.S. organic food, fiber, and agricultural product sales were over $61.9 billion in 2020.[42] Organic dairy and eggs is the third largest sector in organic retail food sales (13 percent), after fruits and vegetables (36 percent) and beverages (14 percent). Sales of organic dairy products, including milk, cream, yogurt, cheese, butter, cottage cheese, sour cream, and ice cream, exceeded $7.4 billion in 2020. Table 2 shows the organic dairy market characteristics by subcategory.

TABLE 2—ORGANIC DAIRY MARKET—RETAIL SALES BY SUBCATEGORY

Subcategory	2020 Sales ($ M)	2020 Growth (%)	% of organic dairy sales [a]	Avg. premium [b] (%)	Organic premium ($ M)
Milk/Cream	$3,770	11.1	59.2	68	$1,527
Yogurt [d]	1,310	3.9	20.6	30	304
Cheese [e]	653	14.3	10.3	73	276
Butter/Cottage Cheese/Sour Cream [d]	492	15.8	7.7	72	207
Ice Cream [e]	142	19.5	2.2	65	56
Total	6,367	10.5	100.0	61	2,370

[a] The Organic Trade Association's 2021 Organic Industry Survey (p. 67) included eggs as a subcategory for its summary on organic dairy sales, but we have excluded the data on eggs from this table.

[b] USDA's AMS weekly reported prices in the 2020 weekly dairy retail report based on the first weekly report in January, April, July, and October. These reports are available at: *https://www.ams.usda.gov/market-news/dairy.* Average prices of product categories are averages across the four periods weighted by store counts. Premiums are calculated as the: ((Organic Price − Conventional Price)/Conventional Price). Any missing data was supplemented by the previous weeks prices, if available.

[c] The dollar value of the organic premium for each category is: (Organic Sales × Premium)/(1 + Premium).

[d] The yogurt and butter, sour cream and cottage cheese premiums are respectively the average of the premiums of 32 oz. yogurt products and 1 lb. of butter, weighted by counts of stores advertising organic products. Cheese premiums are for natural varieties in 8 oz. blocks.

[e] Price data for organic Ice Cream was only available the first quarter. The premium is calculated with only this data.

Table 2 also includes premiums (or ''markups'') in the prices of dairy products marketed as organic versus nonorganic products. For dairy products, the average organic premium was 61 percent and totaled nearly $2.4 billion in value.[43] In market equilibrium, this markup reflects both the higher costs of organic production and the value consumers place on organically labeled products and their various attributes.

The 2019 NASS Organic Production Survey estimated that U.S. had approximately 3,134 certified and exempt organic dairy farms that milked

[36] Certifying agents are required to send information on certified operations to AMS annually. Current and historical data may be accessed through the Organic Integrity Database at the following link: *https://organic.ams.usda.gov/Integrity/*. Accessed 11/21/2019.

[37] The ERS ARMS survey information may be found at the following link: *http://www.ers.usda.gov/data-products/arms-farm-financial-and-crop-production-practices.aspx.*

[38] The USDA NASS surveys may be found at the following link: *https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Organic_Production/.*

[39] OTA/Nutrition Business Journal, 2021 Organic Industry Survey. Nutrition Business Journal conducted a survey between January 13 and April 23, 2021, to obtain information for their estimates. Over 120 organic firms responded to the survey. Available online at *https://ota.com/resources.*

[40] The 2014 Dairy NAAHMS report may be found at the following link: *http://go.usa.gov/xKfEh.*

[41] Current and historical data may be accessed through the Organic Integrity Database at the following link: *https://organic.ams.usda.gov/Integrity/.*

[42] Organic Trade Association (OTA)/Nutrition Business Journal, 2021 Organic Industry Survey (pp. 3).

[43] National Retail Report—Conventional vs Organic—*https://usda.library.cornell.edu/concern/publications/000000043?locale=en.*

a peak of 363,404 cows in 2019.[44] These organic dairy farms had milk sales of nearly $1.6 billion in 2019. Total organic milk production in the United States increased to 5.1 billion pounds in 2019, representing a 27 percent increase in production from 2016 and 84 percent increase since 2011. In that same time frame, the number of certified organic farms grew 22 percent over 2016 (2,559 farms in 2016) and grew 70 percent compared to 2011 (1,848 farms in 2011). AMS used the 2019 NASS data for our analysis, as it is consistent with data from the Organic Integrity Database[45] and also includes data on the number of organic dairy cattle maintained by certified operations. The Organic Integrity Database does not include data on the number of organic animals managed by organic operations.

Organic Dairy Farms—Characteristics and Distribution

Organic dairy farms are, on average, smaller than conventional dairy farms. NASS's Certified Organic Surveys Agriculture (not conducted on an annual or regular basis) show that the number of milk cows owned by organic dairy farms averaged 108 head in 2011, 105 head in 2016, and 108 head in 2019. In contrast, NASS's Census of Agriculture (conducted in every five years) showed the number of milk cows for conventional dairy farms averaged 144 head in 2012 and 175 head in 2017.

Organic dairy farms also have lower yields, on average, than conventional dairy farms. The 2019 NASS Organic Production Survey showed that each organic cow produces about 14,096 pounds of milk annually, or 47 pounds per day over a 300-day lactation period. NASS production data for 2019 shows that across all operations (conventional and organic) average production is 23,391 pounds of milk per animal annually, or 78 pounds per day over the same 300-day period.[46] Despite lower yields, organic dairy farms can be economically viable through the price markups they receive over conventional milk and milk products. Table 2 shows that the average premium for organic dairy products averaged 61 percent at the retail level.

Based on the 2019 NASS Survey of Organic Production Data, Table 3 shows that the highest concentration of organic dairy farms is in the Northeast and Upper Midwest regions,[47] however the large, organic dairy farms in California and Texas represent a large share of output. The five States with the largest number of certified organic dairy farms (Wisconsin, Pennsylvania, New York, Ohio, and Indiana) accounted for 64.5 percent of total farms. However, those States represented less than 25.7 percent of national organic milk production.

By contrast, the West and South Central regions accounted for the highest milk production per farm. The two highest organic milk producing States (California and Texas) represented only 5.13 percent of total certified organic dairy farms, while producing 33.4 percent of the total organic milk nationally. The survey also indicates significant regional differences in the average number of milk cows on dairy farms. For example, California dairies average 372 head per farm, Texas dairies average 4,647 head per farm, and Wisconsin dairies average 60 head per farm. ARMS and NAHMS data show similar patterns of size difference across regions.

TABLE 3—TOP STATES WITH ORGANIC DAIRY FARMS COMPARED TO PRODUCTION (2019)

	Number of organic dairy farms	Percent of U.S. organic dairy farms	Milk production (pounds)	Percent of U.S. milk production
United States	3,134	100	5,122,684,816	100
California	150	4.79	889,290,462	17.36
Texas	9	0.29	821,868,224	16.04
Wisconsin	525	16.75	440,963,146	8.61
Oregon	40	1.28	321,420,989	6.27
New York	607	19.37	386,732,234	7.55
Pennsylvania	362	11.55	215,797,929	4.21
Vermont	172	5.49	202,401,003	3.95
Washington	45	1.44	136,897,016	2.67
Minnesota	125	3.99	138,891,803	2.71
Ohio	260	8.30	128,388,287	2.51
Idaho	29	0.93	364,524,076	7.12
Indiana	246	7.85	142,678,892	2.79
Michigan	93	2.97	66,684,699	1.30
Iowa	105	3.35	70,705,742	1.38
Maine	88	2.81	61,387,355	1.20

The Organic Dairy Market—Replacement Animals

Cull and Mortality Rates

Operations source replacement animals from on- and off-farm sources to replace animals that are sold to other farms, die, or are intentionally removed and sold to slaughterhouses (''culled''). The APHIS NAHMS surveys[48] in 2007 and 2014 provide data on how many animals are culled (removed) from U.S. dairies annually and the reasons for their removal. Most dairy cows were removed for udder problems or reproductive problems, followed by lameness and poor production.[49] In the 2007 APHIS NAHMS survey of dairies, 23.6 percent of all dairy animals were permanently removed from farms that year (excluding cows that died)[50] while the 2014 survey found a corresponding

[44] USDA NASS. 2017. Census of Agriculture—2019 Certified Organic Survey. Available online at: *https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Organic_Production/*.

[45] The Organic Integrity Database is available online at: *https://organic.ams.usda.gov/Integrity/*. AMS identifed approximately 3,180 bovine dairy operations in the database, as of January 2020.

[46] USDA's Milk Production (December 2020) Report available online at: *https://downloads.usda.library.cornell.edu/usda-esmis/files/h989r321c/q524kf13h/ws85b748b/mkpr1220.pdf*.

[47] USDA's Certified Organic Production Survey available online at: *https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Organic_Production/*.

[48] USDA APHIS. NAHMS Dairy, 2007, Part I: Reference of Dairy Cattle Health and Management Practices in the United States, 2007. This survey included both nonorganic and organic dairy animals. Available online at: *http://go.usa.gov/xKfEh*.

[49] USDA APHIS. NAHMS Dairy 2007, 84.

[50] USDA APHIS. NAHMS Dairy 2007, 87.

annual cow removal rate of 28.4 percent.[51] The 2014 NAHMS survey found that 21 percent of adult organic cows were removed from the U.S. national organic herd that year. These figures include animals that are sold as replacement females to other dairies. The 2014 survey found a lower percentage of cows were permanently removed on small and medium operations (26.0 and 26.3 percent, respectively) than on large operations (29.7 percent).

The same surveys provide information about the deaths of animals on dairies. Overall, annual mortality rates were 7.8 percent for un-weaned heifers, 1.8 percent for weaned heifers, and 5.7 percent for cows (2007 survey). In 2014, NAHMS identified that about 5 percent of adult organic dairy cows die on the farm (compared to 21 percent of adult organic cows that were removed for other reasons). These numbers were roughly consistent with the 2007 report.

Between culling and mortality, a dairy farm would need to raise or purchase females that represent about 30 percent (23.6 percent culled plus 5.7 percent deaths) of the farm's herd size to maintain its size. As a lactating dairy herd (cattle) typically calves about 50 percent female offspring each year, the overall dairy herd should have enough replacement females to replace culled animals and animals that die. This conclusion considers downward adjustments for mortality (using 2007 NAHMS rates noted above of 7.8 percent and 1.8 percent) and additional reduction for culling.[52] The additional (excess) replacement female animals should allow organic dairy operations to expand the number of animals in their herds should they wish to expand. Additionally, producers may choose to breed with sexed semen which will increase the number of female offspring available to the dairy farm.

Sourcing Organic Replacement Animals

Most organic dairy farms replace culls and deaths with replacement heifers that are born and raised on the farm. The 2014 NAHMS data reports that 96.5 percent of organic replacement heifers are born and raised on the organic operation. An additional 2.6 percent of the replacement heifers are born on the operation and are subsequently raised off the operation before returning to the operation. The remaining 0.9 percent of replacement females are born off the operation and are presumably purchased from other operations.

The 2016 ARMS data (again, the most recent survey of this type) also provides information about how dairies source replacement animals. Overall, ARMS data indicates that in 2016, the average organic dairy farm milked 102.7 cows and added 43.0 replacement animals of all types (cows or heifers of all sizes). Of those replacements, 93.8 percent (40.35 head) were born on the farm (and owned continuously by it) and 85.1 percent (36.62 head) were both born and raised on the farm. Based on 2,559 total dairy farms with a total herd size of 267,523 reported in the Census of Agriculture (2016 data), ARMS data indicates that 110,037 total heifers and milk cows (41.1 percent of the herd) were added to operations in 2016.[53] Purchased animals from off-farm sources included 4,325 milk cows (3.9 percent), 1,953 large heifers weighing more than 500 pounds (0.73 percent), and 559 small heifers weighing less than 500 pounds (0.2 percent).

Exact data on how many of the purchased replacement heifers are transitioned heifers and how many are organically managed from the last third of gestation is not available. For this reason, this RIA calculates costs for two conjectured values for the share of purchased replacements that are transitioned heifers. Furthermore, AMS does not have aggregated data on what approach producers currently use when purchasing replacement heifers. Therefore, AMS does not have data on how many producers are bringing heifers into organic production as nonorganic animals and transitioning them into organic (or purchasing animals transitioned on other organic operations) versus sourcing and managing animals as organic from the last third of gestation. Excluding small heifers (which would not be able to achieve the cost savings of continuous transitioning), AMS uses the 2016 ARMS survey to estimate the total number of large replacement heifers purchased (2,460 large heifers purchased annually) and assumes 25–50% of all large replacements are transitioned for our cost model based on the OIG report (Audit Report 01601–0002–32) that half of certifiers allowed the practice of continuous transitioning.[54] AMS did not receive comments providing more accurate estimates or objections to this assumption during the comment periods for the proposed rule.

AMS notes that, according to the OIG report, not all certifying agents allow certified operations to continually transition animals. OIG found in a survey of six certifying agents (among the top ten certifying agents for dairy operations) that three allowed certified operations to continually transition animals.

Regulatory Impact Analysis

Comments Received on Costs and Benefits

AMS sought input from the public about the estimated costs and benefits of this rule. AMS published estimated costs and benefits in the 2015 proposed rule and published an updated analysis in May 2021. AMS summarized and responded to these comments below.

Availability of Replacement Animals

In 2015, some comments noted that organic heifer supplies were tight and that the heifers for sale were not of consistently high quality. This led commenters to believe the proposed rule could curtail growth of existing or new operations, restrict milk supply, and raise consumer prices. Some comments urged AMS to seek a consistent standard for all operations while considering that operations may need to grow to meet consumer demand.

A comment in 2015 calculated that a dairy could be expected to raise only enough of its own heifers to grow at an annual rate of 5 percent, after accounting for morbidity and culling. This commenter questioned AMS's conclusion there would be an ample supply of organic heifers under the rule. The commenter estimated that the industry would take time to catch up with the demand for organic heifers (organically managed from the last third of gestation).

Other comments in 2015 argued that there was an adequate supply of organic heifers (organically managed from the last third of gestation) available or that operations would raise and sell them if the price was higher and reflected the

[51] USDA APHIS. NAHMS Dairy 2014, Report I: Dairy Cattle Management Practices in the United States, 2014. Available online at: *http://go.usa.gov/xKfEh*, 218.

[52] As an example, a 100-cow lactating dairy herd would produce about 50 heifers annually (*i.e.,* 50 percent of births). Considering this heifer group as a single group, a 7.8 percent mortality rate would reduce the herd to about 46.1 animals by the end of year one (assuming a 7.8 percent mortality rate over the entire year). Additionally, AMS assumes a 10 percent cull rate could further reduce this to 41.5 animals at the end of year one. By the end of the second year, this number could be reduced another 1.8 percent (mortality rate for weaned heifers) to 40.7 animals. Assuming a further 10 percent reduction due to culls, the original 50-animal group may be reduced to 36.6 animals by the end of year two.

[53] The 2017 ARMS survey indicates that the average organic herd size is 102.7 head while the 2016 Census of Organic Production indicates it is 104.5 (= 267,523 head/2,559 farms).

[54] The OIG report does not represent a random sample of operations. No commenter disputed or provided additional data for this estimate through public comment.

cost of raising them. In 2019, commenters claimed there is a surplus of organic heifers (organically managed from the last third of gestation) available to meet market needs and that there is an ample supply of animals even if morbidity/mortality rates are high or heifer selection is aggressive. No comments in 2019 or 2021 claimed that organic heifer supplies were constrained.

AMS response: Based on our analysis of the comments received, AMS continues to believe that sufficient numbers of organic heifers (organically managed from the last third of gestation) would be available after rule implementation to maintain and/or grow existing organic dairies. To mitigate potential and unforeseen impacts, AMS is providing a compliance date of ten months beyond the effective date of this final rule to allow animals in the middle of an approved transition to complete the transition and produce organic milk. AMS received many comments that supported this approach during the comment periods. AMS is also including a variance process for certified operations that are small businesses, and meet certain other specific and limited circumstances. These operations may request a variance from the prohibition on the movement of transitioned animals for specific and limited situations.

Price of Replacement Animals

A commenter in 2019 disagreed with AMS's estimate of a $1,300 cost difference between transitioned animals and organic animals (organically managed from the last third of gestation). The commenter believed AMS's estimate was too high. The commenter further explained that its ''discussions with dairy auction sales barns that previously sold organic cattle do not align with that value'' and the most common response it received from extension agents in the Northeast was that ''demand and verified sales have all but dried up for organic springing heifers [heifers close to calving].''

AMS received many comments in 2019 related to the cost difference for raising heifers organically vs. nonorganically during the first 12 months of life. One commenter found a $469 average cost difference (organic being more costly) per animal. Most comments noted a cost difference from $600 to $1,000 per calf, and some comments noted a difference as high as $1,300 per calf. Commenters tended to use the difference in production costs to describe the financial disadvantage and the harm to operations that source only organic animals (organically managed from the last third of gestation) in comparison to operations that continually transition heifers to organic production. In 2021, several commenters reiterated the difference in cost of raising dairy replacement heifers under organic management versus conventional management in the first year of life, citing figures from $623 to $1,300 per calf. A few commenters referred to a study by Cornell Cooperative Extension that found an average $884 savings per animal compared to animals raised using organic methods.[55]

Commenters in 2015, 2019, and 2021 generally agreed that implementation of the proposed rule would result in greater demand for organic heifers and would likely increase the price of organic replacement animals. Many commenters viewed this scenario favorably, as it would benefit organic producers who sell organic animals (organically managed from the last third of gestation), as opposed to some heifer-raising operations currently selling transitioned animals. In 2021, one producer commented that in the last decade the market value of organic replacement dairy cattle (organically managed from last third of gestation) is $1,100/head (or more) below the cost of producing them, as the continuous transitioning of non-organic dairy replacements has flooded the market. Another commenter stated that market prices are $1,500 to $1,800 per head, a lower value than the $2,000 or $2,500 value assumed by USDA's analysis.

AMS response: AMS continues to present the costs of the rule as a range based on different potential scenarios (see Table 5). AMS agrees with comments that the price of organic heifers may increase, and we have estimated costs under two scenarios where the price of heifers increases by $500 and where the price does not increase that are discussed further in the section on final rule costs. AMS estimates that the price of an organic heifer (organically managed from the last third of gestation) is $2,000 and up to $2,500 if increased demand drives prices upward. This represents a $1,000 to $1,500 premium for organic animals (organically managed from last third of gestation) animals over transitioned animals. The estimated difference seems to agree with comments that production costs for these animals are $600 to $1,300 higher. AMS recognizes that this price estimate may be high and thus the result might be considered an upper bound of the estimated costs.

Effect on Consumer Milk Price

A commenter in 2015 estimated the rule would increase the cost of producing organic milk by 3.7 to 6.0 cents per half gallon (0.87 percent to 1.42 percent, respectively) and that the increase would be passed to consumers, thereby negatively affecting consumer demand. However, AMS also received comments in 2015 from organic milk consumers that supported the proposed rule even though they expected the rule to lead to higher milk prices. Other comments noted that if supply of organic milk were to become very restricted under the new requirements, retail prices could increase to a point where consumer demand would flatten or even decrease.

In 2019, stakeholders were more concerned with how consumer milk prices negatively affect organic dairy producers than how they affect consumers. Comments frequently discussed the idea that there is an oversupply of organic milk currently ''flooding the market'' that are driving consumer prices down. In 2021, commenters were again concerned about an oversupply of organic milk and the subsequent economic hardship for organic dairy farmers. Commenters found that a strict and fair enforcement of the rule would allow for a gradual increase in organic milk production that would match consumer demand. NOP received comments regarding concerns about Concentrated Animal Feeding Operations (CAFOs) producing large quantities of organic milk, with one commenter noting if transitioning remained, it would only further push market power to fewer operations in the industry and another stating their ability to capitalize on transitioning pushed small and mid-sized operations out of production. Commenters stated that the rule would not have a significant effect on consumer milk prices but would positively affect many dairy farmers. One group of dairy farmers reported that 88 operations would be positively impacted by the rule, while only four would face a negative impact.

AMS response: Table 2 figures indicate that the retail premium of organic milk products over conventional milk products is 61 percent. The AMS Dairy Market News for August 9th to 13th, 2021, indicated that the twelve-month average (farm-level) organic milk pay price was $31.55 per hundredweight while forecasting the 2021 all milk price at $17.95 per

[55] Fay Benson. Cornell College of Agriculture and Life Sciences. ''USDA Puts Northeast Organic Dairies at a Disadvantage.'' Small Farms Quarterly. January 13, 2020. *https://smallfarms.cornell.edu/2020/01/usda-puts-northeast-organic-dairies-at-a-disadvantage/.*

hundredweight. Together these values indicate that the farm-level organic markup is 76 percent. The ERS farm share of the retail price for the milk and dairy basket in 2020 was 30 percent.

Table 5 shows that the total costs of this rule to the organic milk producers' net of transfers would be $1,845,000 under our 50 percent transitioning scenario and $922,500 under our 25 percent transitioning scenario discussed further below. The Census of Organic Agriculture indicates that farm-level organic milk revenue was $1.585 billion in 2019.[56] Based on these figures, AMS estimates that a final rule would increase producer costs by less than 1%.[57]

Number of Transitioning Animals

One commenter in 2015 estimated there were 60,000 conventional animals transitioning to organic production on new and established dairy farms. The commenter predicted this could lead to an oversupply of milk and decrease in milk price (income for the dairy farm). Another commenter in 2019 believed that ''tens of thousands'' of animals had transitioned since 2015.

AMS response: AMS recognizes that we do not have precise data on how many animals are transitioned on an annual basis by certified organic operations. Our information, obtained from industry and certifying agents, indicates that most organic dairy farms do not continually transition animals. However, because of the lack of precise numbers available, AMS estimates that transitioned animals comprise 25 percent (low end) to 50 percent (high end) of all purchased replacement animals. AMS did not receive concrete data from comments to support alternative figures.

Changes in Dairy Market Since 2015

In 2019, many comments noted that the organic dairy industry had changed considerably since AMS published the proposed rule in 2015. Primarily, commenters noted a decline in consumer demand for organic milk and increased availability of organic milk and organic dairy cows.[58] Some comments noted that fewer operations are transitioning to organic production due to limited opportunities to secure a contract with a milk handler or because the price premium for organic production is no longer an incentive to transition. Some 2019 comments noted that the cost of the rule would be less than AMS estimated in 2015 due to increased availability of organic replacement animals (organically managed from last third of gestation) and a corresponding drop in prices for these animals.

AMS response: AMS recognizes that the organic dairy market in 2015 differed from the current organic dairy market. Our calculation of costs for this rule is higher than those calculated in 2015 because the cost calculation is based, in part, on the number of organic dairy operations and total organic herd size. These numbers have both increased since 2015, so the estimated cost is higher.

AMS also notes that there have been significant changes in the organic dairy market starting in 2020 that correspond to the start of the COVID–19 global pandemic. During this time, the demand for organic products, including organic milk and milk products, increased dramatically due to changes in consumer behavior such as a shift to at-home dining (vs. dining out), among other impacts. Organic dairy grew almost 2% in 2019 and 8% in 2020.[59] Data on the current trends in organic replacement heifer markets are limited, but AMS observes relatively stable prices in the non-organic dairy replacement market now compared to pre-pandemic period.[60] The long-term effects of the pandemic on consumer behavior and the organic dairy market, specifically, are difficult to predict, though AMS expects the predicted effects of costs and benefits of our analysis to hold. For this analysis, AMS used the most current information available to present our estimated costs and benefits.

Costs and Benefits (General)

A commenter in 2019 disagreed with AMS's cost analysis in the proposed rule. It stated that the cost analysis ''fails to capture the cost inequities of not implementing the proposed rule,'' and specifically points to its ''failure to distinguish production costs between organic and transitioned heifers.'' Without this information, the commenter argues ''neither the agency nor stakeholders can understand the true cost, and true harm, of implementing or not implementing the proposed rule.'' Furthermore, the commenter calculated the harm to operations that source only organic animals (organically managed from the last third of gestation) using the difference in production costs for transitioned animals and organic animals (organically managed from the last third of gestation). The commenter estimated that 25 percent or 50 percent of all culled organic dairy animals are replaced with transitioned animals and calculated competitive harm of $9.29 million to $18.58 million annually ($469 multiplied by 25 percent to 50 percent of all culled animals using a cull rate of 28.4 percent).

AMS response: The commenter estimates that the competitive harm from the current enforcement practice of allowing transitioned animals is $9.29 million (under the 25 percent scenario) and $18.58 million (under the 50 percent scenario). These estimates are based on the commenter's finding that a conventional heifer costs $462 less to raise and that organic farms require 79,242 replacement heifers annually (based on a 28.4 percent cull rate and the 2016 organic U.S. herd size of 279,021 head).

AMS understands the commenter's general concern that organic dairy farms need to replace a substantial share of cows each year and that the different application of transition practices by certifiers and producers creates cost disparities. AMS uses the cost difference for purchased replacement heifers (transitioned vs. organically managed from last third of gestation) as its estimate of the per animal increase in costs for dairy farms that have used transitioned animals. AMS recognizes that this does not account for increased costs to operations that might maintain ownership of offspring that are born on-farm, subsequently removed from organic production, and then transitioned back into organic production. AMS understands that most certifiers do not interpret the current regulations to allow this practice. Any increase in the cost of replacement heifers only applies to the purchasers of such animals who would otherwise have purchased transitioned animals. For this reason, AMS believes that applying the cost differential to replacement heifers that are both purchased and unpurchased (*i.e.,* owned) would overstate the cost of the rule.

[56] Because of economic effects due to the pandemic and recency of data, AMS does not adjust for inflation in our estimates.

[57] Total industry costs are estimated to be 1.3 billion using organic dairy enterprise budget from Iowa State University Research and Extension. Source: *https://www.extension.iastate.edu/dairyteam/content/iowa-dairy-budgets.*

[58] See AMS–NOP–11–0009–2799.

[59] Source: Organic Trade Association (OTA), 2021 Organic Industry Survey.

[60] Source: AMS Feeder and Replacement Auction Data, *https://www.ams.usda.gov/market-news/feeder-and-replacement-cattle-auctions.*

As described in our consideration of regulatory alternatives below (see Alternative A), AMS expects that purchases of replacement heifers that are transitioned animals would increase if AMS allowed this practice through regulatory action. Additionally, dairy operations utilizing heifer-raising operations while retaining ownership may switch to operations that use conventional practices and then transition the animals to organic production. Table 4 shows that only 11 percent of operations purchase replacement heifers. The uneven application of the current rule suggests that a smaller share of producers is benefiting from the cost advantage of transitioned heifers at a level higher than that suggested by the average number of head purchased.

Costs of Final Rule

The final rule will likely increase production costs on organic livestock and dairy operations that currently continually transition nonorganic animals and/or operations that source transitioned dairy animals as replacements. Additionally, any dairy that purchases organic heifers may pay higher prices for organic animals due to increased demand, but organic operations selling replacement heifers would benefit from any higher prices.

We assume that farms that exclusively raise their own organic replacement heifers and manage those animals organically from birth would not incur additional costs under the final rule. Similarly, dairy farms that send organic heifer calves to other certified organic operations to have the animals continuously managed as organic (for some period of time before returning to the farm) would not incur additional costs. Finally, nonorganic dairy operations converting to organic production for the first time would not incur new costs during the 12-month transition period; they may transition animals on a one-time basis under the final rule.

Estimated Costs for Dairies

The final rule creates two costs for organic dairy farms. First, dairy farms that transition heifers or purchase transitioned replacement heifers after their initial transition to organic would be required either to purchase higher-cost organic replacement heifers (organically managed from the last third of gestation) or to raise their own replacements by raising organic calves to maturity. This analysis assumes that transitioned animals are sold at a discount compared to organic replacement animals (organically managed from last third of gestation).

Second, by raising the demand for organic replacement heifers, the final rule may raise the price of organic replacement heifers if operations currently selling organic (transitioned) replacement heifers cannot comply with the requirements and operations that sell organic replacement heifers (organically managed from last third of gestation) cannot easily increase offerings. While this price increase is likely to be small, it would raise costs to any organic dairy farm that is a net buyer of organic replacement heifers, regardless of whether it continually transitions animals or purchases transitioned replacement heifers. This same price effect, however, would create an offsetting benefit to any dairy farm that is a net seller of organic replacement heifers.

AMS investigated the additional costs that could possibly arise due to limiting the movement of transitioned animals. Under the final rule, producers are unable to sell their transitioned animals as organic and must take the conventional price for these animals. This cost is likely to only impact producers seeking to liquidate their herd. The final rule does not alter the current regulations that prohibit transitioned animals from being sold for organic slaughter (therefore would not receive the organic premium at end of life) and operations can continue to manage a transitioned animal rather than sell it for a loss in most cases of continued operation. Only when an operation is forced to sell their animals at the lower conventional price because of the final rule would there be any additional cost due to the prohibition of the movement transitioned. The final rule provides for a variance request process (§ 205.236(d)) that could allow an organic operation to sell their transitioned animal in certain situations (bankruptcy, insolvency, intergenerational transfers).

AMS looked at all operations with listed dairy animals that were suspended or surrendered their organic certification between 2016–2021 and found at most five that could face costs due to limited movement of transitioned animals.[61] Between the five operations, they had less than 300 head in total at the time of exit from the organic market. While the increased costs possibly faced by these operations would increase the total cost of the rule, data indicate that all observed operations would likely have been eligible for the variance and thus been able to avoid additional costs. Because no operations would have faced additional costs due to the prohibition on the movement of transitioned animals between 2016–2021, AMS did not include this as an additional cost in the final analysis.

AMS estimates the costs of the final rule by estimating the total number of replacement animals purchased by U.S. organic dairy cattle operations annually. AMS then estimates the percentage of all purchased animals that do not meet the requirements of the final rule (*i.e.,* the percentage of animals bought by organic operations that are not organically managed from the last third of gestation). Due to the unavailability of precise data, AMS estimated a range of possibilities (25 percent to 50 percent of all purchased animals). AMS received no public comments that provided a more accurate estimate. To calculate costs, AMS then multiplied the number of animals by the price difference between organic (organically managed from last third of gestation) and nonorganic heifers (we use nonorganic heifer prices as a substitute for transitioned animals in the absence of that data). Finally, AMS considered a possible increase for the price of organically managed from the last third of gestation heifers to calculate the maximum expected costs. The data and calculations are discussed in detail below.

The ARMS survey includes farm-level data on purchases and sales of heifers weighing more than 500 pounds, a category that explicitly includes sales of springers.[62] While the ARMS survey does not identify whether purchased heifers have been organic from birth or have transitioned to organic status, it does identify whether the farms themselves are certified or transitioning to organic status. Since all cattle sold by organic dairies are themselves organic and all cattle sold by non-organic dairies are conventional, this analysis assumes that the difference in the large heifer sales prices for organic or transitioning farms and other farms reflects the difference in costs for those animals. This analysis estimates costs under the alternative assumptions that either 25 or 50 percent of all purchased heifers are transitioned heifers.

AMS used 2016 ARMS data to estimate the number of replacement animals purchased by organic

[61] Using the Organic Integrity Database, AMS identified dairy cattle operations with listed organic animals that were suspended or surrendered their organic dairy certification between 2016–2021.

[62] A springer is a heifer (*i.e.,* a female cow that has not previously calved) that is 7 to 9 months pregnant and will begin producing milk within 0 to 2 months.

operations. (This survey is conducted every 5 years, so these are the most recent numbers available at the time of this writing.) Table 4 provides the average numbers and prices of large heifers bought and sold by organic or transitioning farms, divided into four different size categories, along with figures for all organic or transitioning farms and all other non-organic farms. Compared with their non-organic counterparts, organic and transitioning dairy farms are more likely to purchase large heifers as replacements, and sell a smaller share of their large heifers. On average, organic dairies purchased replacement large heifers at a rate of 0.73 percent of their total herd size (or 0.75 head) and sold large replacement heifers at a rate of 1.27 percent of their total herd size. However, only 10.9 percent of organic and transitioning dairy farms purchased large heifers so that the average farm purchasing heifers bought 6.9 head. Based on a 2019 herd size of 337,540 milk cows,[63] all organic dairies purchase 2,464 large heifers annually. Rounding the large heifer purchase figure to 2,460, these figures imply that 615 purchased heifers are transitioned (rather than organically managed from the last third of gestation) under our 25 percent assumption, and 1,230 are transitioned heifers under our 50 percent assumption.

TABLE 4—HEIFER PURCHASE AND SALES PRICE AND RELATED STATISTICS BY DAIRY FARM SIZE AND ORGANIC STATUS [ARMS]

	1–49	49–99	100–199	200+	All
Organic and Organic Transitioning Farms					
Number of Farms in ARMS Survey	144	114	42	32	.....
Largest Number of Cows Milked	33	68	132	499	103
L. Heifers Sold (head per operation)	0.31	0.84	0.60	8.02	1.27
Sold L Heifers ($/Head)	$1,350	$1,993	$2,111	$1,918	$1,887
% of Farms Purchasing L. Heifers	8%	16%	10%	7%	10.9%
Purch. L. Heifers as a % of Herd	1.5%	1.0%	1.3%	0.2%	0.73%
Other Farms					
L. Heifers Sold (Head)	1.14	1.37	1.73	9.68	5.5
Sold L Heifers ($/Head)	$600	$1,161	$1,304	$989	$1,012
% of Farms Purchasing L. Heifers	3.3%	7.2%	4.8%	12.1%	8.7%
Purch. L. Heifers as a % of Herd	0.2%	1.0%	0.8%	3.2%	2.9%

AMS also used the 2016 ARMS data (again, the most recent data source of this type) to estimate the price difference between organic replacement animals and nonorganic replacement animals. Table 4 shows the price at which organic and transitioning dairies sold large replacement heifers. Because the price of transitioned heifers compared to organic heifers (organically managed from the last third of gestation) is not available, our analysis uses the cost of non-organic large heifers as a substitute. This is likely to exaggerate the cost differential. The large heifer selling price of $1,887 at organic and transitioning dairy farms was $865 more than the selling price of $1,012 at non-organic farms. Across individual farm size categories, however, this difference in prices between organic and non-organic selling prices varied across size categories, ranging from $750 (farms with 0–49 cows) to $937 (200+ cows). Based on the data, our analysis assumes that before the imposition of any of the changes, a transitioned heifer costs $1,000 and an organic heifer costs $2,000 so that the difference in price between the two animal types is slightly higher than the largest difference observed in the data.

Related data and public comments support these assumptions on price relationships. The approximately $1,000 price of non-organic bred heifers (our substitute for the price of a transitioned animal) is supported by livestock auction market prices.[64] These data show that bred heifers in the third trimester (*i.e.,* springers) of supreme and approved quality sold for $1,045. Additionally, the assumptions are supported by public comments that indicate it costs between $600 and $1,300 more to raise an organic calf than a nonorganic calf. Comments in 2021 echoed this cost difference. Additionally, several commenters pointed to an analysis completed in 2019 by the Cornell Cooperative Extension that determined the cost is on average $844 higher per animal for organic management during the first year of life. The study considered not just higher feed costs but also labor, buildings, machinery, health costs, trucking, manure handling and culling.[65]

The increased demand for 1,230 additional organic replacement heifers (organically managed from last third of gestation) under the 50 percent transitioning assumption (or 615 additional organic replacement heifers under the 25 percent transitioning assumption) is not expected to lead to large price increases for organic heifers because the additional organic pasture and feed required for 1,230 additional organic replacements constitutes a very small share of the input requirements for the 103,000 heifers currently retained by organic farms for their own replacements. Therefore, increased demand for organic dairy replacement animals is not expected to lead to dramatic price increases: because the

[63] USDA NASS 2019 Organic Survey, Table 17, dairy cow inventory as of December 31, 2019. *https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Organics/index.php.*

[64] This includes 2019 data collected in the AMS Livestock and Replacement Cattle Reports reported at *https://www.ams.usda.gov/market-news/feeder-and-replacement-cattle-auctions* for the following five auction: Mid-Georgia Livestock, Jackson, GA; Empire Livestock, Cherry Creek, NY, Mammoth Cave Dairy Auction, Smiths Grove, KY; New Holland Sales Stables, New Holland, PA; and Toppenish Monthly Dairy Replacement Sale, Toppenish, WA.

For the final rule, not all of the auctions previously used had available data. Using the three available reports in August 2021, AMS determined that the average price for non-organic springers was approximately $1,169. While this is higher than our previous measurement, AMS maintains the approximation of $1,000 because of the smaller available sample and the lower price produces an upper-bound on our cost estimates.

[65] Fay Benson. Cornell College of Agriculture and Life Sciences. ''USDA Puts Northeast Organic Dairies at a Disadvantage.'' Small Farms Quarterly. January 13, 2020. *https://smallfarms.cornell.edu/2020/01/usda-puts-northeast-organic-dairies-at-a-disadvantage/.*

increase in demand is relatively insignificant, supply should be able to match demand without spurring substantial price increases. However, this analysis assumes that the increased demand for organic replacement heifers pushes up their price by $500, or 25 percent,[66] to $2,500. In this case, the total cost of purchasing replacement heifers by organic dairy farms would be $6.15 million per year (2,460 replacements animals purchased from off farm at $2,500 per head). This would be the new total cost of purchasing organic heifers rather than the additional cost of purchasing organic heifers, which is considerably less.[67]

Table 5 shows the estimated costs to and intra-industry transfers between organic dairy farms purchasing organic heifers under alternative assumptions on price response and replacement heifer purchases. The costs capture the additional resources need to shift the supply of transitioned cattle into the supply of organic cattle. The intra-industry transfers may arise from the increased demand for organic dairy heifers, after accounting for shift of supply from transitioned supply to organic supply as described above, that may result in increased prices. Industry transfers are costs to a set of dairy farms (or possibly milk processors and consumers) that are exactly offset by benefits to another dairy farm (or possibly milk processors and consumers) which results in no additional resources being produced. When the final rule is enacted, transfers may flow from net buyers of organic heifers to net sellers of organic heifers as the price of organic heifers increases. If the price of organic heifers does not increase, then no transfers will occur.

AMS expects that organic dairy farms will purchase 2,460 replacement heifers per year based on our analysis of ARMS data.[68] If the price of organic dairy heifers were to be unchanged following the rule, our analysis finds that total costs would increase by $1,230,000 per year under the assumption that 50 percent of purchased replacement animals had been transitioned animals, or costs increase by $615,000 under the assumption that 25 percent of purchased replacement animals had been transitioned animals. In these cases, there are no transfers. If the price of organic dairy heifers rises to $2,500 and 25 percent of purchased replacements are transitioned, our analysis finds that total costs are $922,500 (reflecting 615 new organic replacement heifers purchased for $1,500 over the conventional price) and transfers are $922,500 (reflecting 1,845 previously purchased organic heifers purchased at price $500 higher).

If the price of organic dairy heifers rises to $2,500, and 50 percent of purchased replacements are transitioned, our analysis finds that total costs would be $1,845,000 (reflecting 1,230 new organic replacement heifers purchased for $1,500 over the conventional price) and transfers would be $615,000 (reflecting 1,230 previously purchased organic heifers purchased at price $500 higher). This information is presented in Table 5 below.

TABLE 5—ESTIMATED COSTS UNDER ALTERNATIVE ASSUMPTIONS FOR PRICE RESPONSE AND THE QUANTITY OF TRANSITIONED ANIMALS PURCHASED BY CERTIFIED ORGANIC OPERATIONS ANNUALLY

Assumptions regarding . . .		Estimated additional costs net of transfers	Estimated transfers
. . . Price response[69]	. . .Transitioning heifers		
The price of organic heifers remains at $2,000	25 percent of heifers are transitioning	$615,000	$0
The price of organic heifers remains at $2,000	50 percent of heifers are transitioning	1,230,000	0
The price of organic heifers rises from $2,000 to $2,500.	25 percent of heifers are transitioning	922,500	922,500
The price of organic heifers rises from $2,000 to $2,500.	50 percent of heifers are transitioning	1,845,000	615,000

If some of the sellers of the 1,230 additional organic heifers required under the 50 percent assumption (or the 615 additional organic heifers required under the 25 percent assumption) have costs to supplying these animals that are less than $2,500, then industry transfers would exceed the values stated in Table 5. Increased sales are expected to benefit operations that have more flexibility in capacity (*e.g.,* available pasture) to accommodate raising organic replacement heifers for the organic market. Importantly, sales response across individual farms will likely be uneven and depend on site-specific factors such as the farm's ability to access new buyers and increase organic pasture.

Differences in purchase patterns of milk cows and replacement heifers also vary by size in a way that affects the distribution of costs associated with the final rule. Ten percent of operations with fewer than 50 cows reported purchasing *milk cows*, and the average number purchased was 6 head. Five percent of operations with between 50 and 99 cows reported purchasing milk cows, and the average number purchased was 14 head. Three percent of operations with between 100 and 199 cows reported purchasing milk cows, and the average number purchased was 10 head. No operations with 200 or more cows reported purchasing milk cows.

The pattern is different for purchasing *heifers*. Eight percent of operations with fewer than 50 cows reported purchasing heifers, and the average number purchased annually was 7 head. Sixteen (16) percent of operations with between 50 and 99 cows reported purchasing heifers, and the average number purchased annually was 4 head. Ten (10) percent of operations with between 100 and 199 cows reported purchasing heifers, and the average number purchased annually was 17 head. Seven (7) percent of operations with 200 or more cows reported purchasing heifers, and the average number purchased was 12 head.

[66] A 25 percent price increase resulting from a 50 percent increase in quantity supplied is consistent with an elasticity of supply of 2.

[67] These costs reflect only those for dairy cattle. Costs for purchasing dairy sheep and goats are not included in this analysis.

[68] This estimate accounts only for replacement animals, not any animals that would be required to facilitate growth in the industry.

[69] As discussed above, AMS has found that organic heifer prices have changed slightly from the proposed rule, but are still close to original estimates and chose to represent organic and conventional heifer prices as $2,000 and $1,000 respectively for simplicity. This does not impact the estimated cost impact of the rule.

Based on the range created by the scenarios presented in Table 5,[70] the average dairy with fewer than 50 cows would pay an additional $127–$510; dairies with between 50 and 99 cows would pay an additional $166–$666; dairies with between 100 and 199 cows would pay an additional $439–$1,755; and dairies with 200 or more cows would pay an additional $209–$837. The costs by size of operation are summarized in Table 6.

TABLE 6—COSTS BY SIZE OF OPERATION FOR PURCHASING ORGANIC HEIFERS

	Size of Operation			
	Fewer than 50 cows	50–99 cows	100–199 cows	200 or more cows
Number of Farms	1,359	1,076	396	302
Share of Operations	43%	34%	13%	10%
Average Cost Per Farm	$127–$510	$166–$666	$439–$1,755	$209–$837
Total annual cost for purchase of replacement heifers across size class	$173,210–$692,839	$179,127–$716,506	$173,915–$695,660	$63,189–$252,757
Percent of operations that purchased replacement heifers annually	7.6%	16.4%	10.2%	6.8%
Average number of replacement heifers purchased annually (for operations purchasing heifers)	6.68	4.06	17.22	12.33
Cost per operation annually (25% to 50% transitioned heifers) (for operations purchasing heifers)	$1,670–$6,678	$1,016–$4,063	$4,306–$17,225	$3,082–$12,330

The costs in Table 6 do not reflect the offsetting effect of transfers (*i.e.,* they only capture the cost of transfers at a producer level, not accounting for how the producers selling will gain from this). For this reason, the sum of the total costs of replacing heifers across all size categories ($0.56 million and $2.37 million) in Table 6 roughly equals the sum costs (net of transfer) and transfers in Table 5 ($0.615 million and $2.46 million) with minor discrepancies reflecting rounding differences.

Effects on Heifer-Raising Operations

Organic dairy operations that continually source transitioned heifers will need to change their practices to meet the requirements of the final rule. In some cases, organic dairy operations source their transitioned heifers from off-site heifer-raising operations. Here, AMS discusses the potential effects of the final rule on these operations.

A 2011 USDA NAHMS study on heifer-raising operations[71] found that most heifers sent to heifer-raising operations (80 percent) are returned to their dairy of origin. The study also found that most heifer-raising operations receive weaned calves (rather than wet calves) and send them back as pregnant heifers. AMS specifically requested comments and data on the likely impacts on heifer-raising operations. AMS did not receive any data on the number of heifer-raising operations that continually transition animals for sale to organic dairies or on the number of animals raised by such operations annually. Aside from fragmentary evidence in the AMS Organic Integrity Database, AMS does not currently have specific data on the locations, numbers, or sizes of organic heifer-raising operations.[72]

In the absence of specific information, AMS considered that organic dairy operations could be using organic heifer-raising operations to transition animals on a continual basis by taking in nonorganic weaned calves (*e.g.,* 12-month old heifers) and providing organic management for 12 months before returning the pregnant organic heifers to an organic dairy.

Under the final rule, organic heifer-raising operations will not be required to change their *animal production practices.* These operations are certified organic and currently manage animals in compliance with the USDA organic regulations as a requirement of their organic certification. However, the final rule does not allow any operations, once certified, to source nonorganic animals. Therefore, these operations will be able to accept only weaned calves that have been organically managed from the last third of gestation.

Within the analysis, AMS assumed that competitive markets for both transitioning and replacement heifers have resulted in prices for these animals that are sufficiently high enough to allow sellers to recover the cost of raising these animals along with a ''normal'' rate of return on capital investment. The analysis assumes that the 50 percent conjectured increase in price of organic replacement heifers is sufficient to simultaneously ensure that markets clear (*i.e.,* quantity supplied equals quantity demanded) at the higher number of transacted animals and offset the increased costs to supplying more animals.

As with other aspects of our analysis regarding supply response, AMS assumes that the ability of individual sellers of replacement heifers to adjust management practices to market conditions will vary with the site-specific characteristics of operations, such as their ability to find new buyers and access to additional organic pasture. Whether heifer-raising operations will increase or decrease sales of organic heifers following the implementation of the rule cannot be determined with the available data.

Regulatory Impacts and Effects on Consumers

Most dairies report that they source at least some of their replacement cows from their own calves, and only 11 percent of all dairies purchase replacement heifers, with less than 1 percent of all replacements being purchased externally (off the farm). The majority of producers that do not purchase replacement heifers would not see an increase in costs. To replace purchased transitioned heifers, dairies would have to either raise their own replacements or buy them from an

[70] Scenario 1 presents the low cost estimate, with only 25% of heifers purchased associated with the additional $1,000 organic premium. Scenario 4 presents the high cost estimate, with 50% of heifers associated with a $1,500 dollar organic premium (the difference between the cost of transition and the increased price due to demand) and 50% of heifers incurring a $500 dollar premium from the increased prices due to increased demand. [The $500 dollar premium is an industry transfer, but AMS keeps the cost for individual operations to better acknowledge the possible high end costs for operations who only purchase animals.]

[71] USDA, Animal Plant Health Inspection Service. Dairy Heifer Raiser, 2011 (October 2012). Available online at: *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/monitoring-and-surveillance/nahms/nahms_dairy_studies.*

[72] The Organic Integrity Database includes descriptions of the products for which organic farms are certified as recorded by the certifying agent. It lists 220 operations that recorded dairy cattle but not milk production (*i.e.,* a possible indicator for a heifer-raising operation). These operations were often identified as being involved with ''dairy cows,'' ''breeding operations,'' and ''replacements.'' Unfortunately, the database does not provide sufficient information to use in our analysis of heifer-raising operations.

operation that sells organic replacement heifers (organically managed from the last third of gestation). Since the current supply of replacement heifers can be increased without large price increases, as detailed above, it is unlikely that the final rule will significantly increase milk production or milk costs to the consumer.

The final rule will provide producers and consumers of organic foods with multiple benefits that extend beyond the organic livestock producers that are directly impacted. First, the rule will provide uniformity to the enforcement of regulations relating to the origin of livestock, removing avenues for inefficiencies and risks created by different certifier standards and potentially reducing consumer confusion about the nature of production of dairy products. Second, the rule will create uniformity in the application of the USDA organic regulations, by generally requiring organic management for an animal's entire life. This has the potential to decrease information asymmetries associated with the meaning of the organic seal and reduce transactions costs to consumers in interpreting the meaning of the seal with respect to milk products. In addition, some consumers may actually be willing to pay more for milk that they know to have been produced by animals that were managed as organic from the last third of gestation. While other policy options would also achieve consistency, the policy choice to restrict the transitioning of organic dairy animals is considered most consistent with producer and consumer expectations for the organic management of an animal throughout its life.

Together, the provisions in this rule could enhance and protect the value of organic premiums that some consumers are willing to pay for milk certified under the USDA organic regulations, as it reinforces consumer trust and demand in the label. Research has shown that consumers purchase organic products for various reasons.[73] A number of these reasons, including environmental and animal welfare concerns, accrue benefits over the entire period of production. The final rule should increase these consumer benefits (due to increased number of dairy animals that are managed as organic throughout their productive lives) while also protecting against shocks to consumer demand due to reaction to inconsistent practices.

The 2019 NASS Certified Organic Production Survey shows that organic milk is the top organic commodity in sales value, worth $1.6 billion in 2019.[74] Sales of organic milk increased by 14 percent from 2016. At the retail level, the OTA 2021 U.S. Industry Survey [75] found sales of organic dairy products, including milk, cream, yogurt, cheese, butter, cottage cheese, sour cream, and ice cream, exceeded $7.4 billion in 2020. As a result, even a fraction-of-a-percentage increase in willingness to pay would more than justify the quantified costs of the rule. Table 2 shows the organic dairy market characteristics by subcategory.

Organic dairy cattle producers who sell organic dairy females may receive a benefit as part of an intra-industry transfer. AMS estimates that on the high side, the price of an organic heifer may increase by $500 over current prices due to increased demand. If this price increase were to occur, dairy producers who are net sellers of replacement springers would benefit through the intra-industry transfer.

While AMS does not know whether the final rule will increase demand for organic milk, AMS believes there is value in creating a uniform origin of livestock rule that prevents organic dairies from continuously transitioning non-organic animals into organic milk production. If inconsistent practices were to persist in the industry, consumer confidence and the organic premium as a whole would be at risk to confusion about the benefits of the label. Strengthened consumer confidence should be valuable for organic milk producers as it strengthens the value of the organic brand in the mind of consumers.

Survey results from a producer survey, sent out by the Cornucopia Institute to certified organic dairies in the country, provide general support for prohibiting continuous transition of heifers and ensuring a uniform interpretation of organic origin of livestock rules. Of 174 responses received, 70% supported immediate implementation of a ban on continuous transition of dairy cows, and not a single respondent said allowing continuous transition has had a positive economic impact on their operation. Of the 41 respondents that listed a specific dollar loss resulting from the lack of consistent standards with respect to livestock origin rules, the mean loss reported per milking animal was $490. A total of 86 respondents indicated the uneven standards have had a negative economic impact on their operation, either due to lower heifer prices or lower milk prices. In addition to these quantitative estimates of perceived losses, some producers expressed their opinion that inconsistent interpretation of the origin of livestock rules harm the organic brand, lower milk prices, contribute to an oversupply of organic milk, tilt the market towards large dairies against small dairies, increase psychological stress for farmers, and lead to the loss of organic milk contracts.

AMS sees these observations as indicators of risk to demand for organic dairy product. Studies show that consumers value organic standards for the environmental and health benefits they perceive flowing from them. Lack of consistency in organic standards may shake some consumers' confidence in the label. Reduced consumer confidence could lead to lower demand for organic milk (and perhaps other products), which would lower quantity and price of organic milk products on average. Confidence from organic producers is also important in sustaining the organic market to meet growing demand. If organic dairy producers become discouraged by the known differences in interpretation and application of origin of livestock provisions, they may exit the market, believing the system to be unfair.

Overall, the survey responses identify a series of perceived negative consequences to the respondents individual operations stemming from inconsistent standards, and likewise from any alternative that would continue to allow continuous transition of conventional animals into organic dairy production. Finally, outreach by organic producers on this rule, both to AMS and Congress, emphasize the importance of this rule to the broader organic industry, beyond organic dairy. Inconsistency in the implementation of this set of provisions is seen as part of a broader need to ensure consistent implementation of the standards in accordance with the OFPA. Again, while this consistency could be achieved in different ways, AMS has selected the policy path that aligns with many public comments over many years encouraging the limitation of organic transitions of livestock.

Alternatives Considered

AMS considered alternatives that would be both less stringent (less costly)

[73] Hughner, R.S., McDonagh, P., Prothero, A., Shultz, C.J., & Stanton, J. (2007) Who are organic food consumers? A compilation and review of why people purchase organic food. Journal of Consumer Behaviour: An International Research Review, 6(2–3), 94–110.

[74] USDA NASS organic surveys are available at: *https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Organic_Production/index.php.*

[75] Organic Trade Association (OTA)/Nutrition Business Journal, 2021 Organic Industry Survey (pp. 3).

and more stringent (more costly). The alternatives considered are shown in Table 7 and discussed below.

TABLE 7—ALTERNATIVES CONSIDERED

Alternative	Description
(A) Allow Continual Transition for All Operations	Allow any operation to transition nonorganic dairy animals into organic production over a 12-month period on a continual basis.
(B) Prohibit All Transitions	Remove all exceptions for transition of nonorganic animals.

Alternative A—Allow Continual Transition for All Operations

AMS considered amending the regulations to specify that any operation could transition dairy animals into organic production over a 12-month period on a continual basis. Under OFPA, a dairy animal from which milk or milk products will be sold or labeled as organically produced must be raised in accordance with OFPA for not less than the 12-month period immediately prior to the sale of such milk and milk products (7 U.S.C. 6509(e)(2)(A)). The final rule will typically require more than a 12-month period of organic management prior to the sale of milk and milk products for established dairies (*i.e.,* from the last third of gestation). OFPA specifies that dairy livestock be managed organically for a period *not less than* a 12-month period, so AMS could presumably allow transition of any dairy animal into organic production after a period of exactly 12 months of organic management.

This is the legal standard currently in effect. While current regulations allow for continual transition of nonorganic dairy animals into organic dairy operations, that is not occurring under the current regulations. As a result, AMS estimates no immediate changes in costs or benefits associated with leaving existing regulations in place. However, in this scenario, organic dairy farms may be more likely to source or transition animals if the practice is affirmed by the program and universally allowed by certifiers. If more transitioned animals are sourced, more young dairy animals will be treated with antibiotics and other medications prohibited in organic livestock production and/or provide nonorganic feed until one year. Relatedly, operations wanting to assure consumers that they had raised organic heifers under organic conditions through their entire lives would have to do so under a separate certification program.

ARMS Data indicated that the average organic dairy operation kept 40.4 heifers (or 39.3 percent of its herd) for breeding, of which 36.6 heifers (or 35.7 percent of its herd) were kept for breeding and raised on the operation. The difference of these values (3.6 percent) represents the likely proportion of organic heifers raised on outside heifer-raising operations (as a share of the total herd). If all those animals become transitioned heifers, then an additional 12,154 animals (*i.e.,* 337,540 head * 3.6 percent) would be transitioned. AMS assumes that the price difference between organic (organically managed from the last third of gestation) and transitioned heifers reflects the $1,000 cost difference in raising dairy heifers between these two comparative production systems. In this case, the reduced cost of allowing for continuous transitioning of heifers is $12,154,000.

The potential cost associated with the adoption of the continuous transition for all organic dairies could be illustrated by a deleterious effect on markups to products marketed under the organic label; although a markup reduction is not a cost, from the society-wide perspective taken for purposes of Executive Order 12866 and OMB Circular A–4, it may signify a greater incentive for the (costly) establishment of alternative certifications to USDA organic certification. Table 2 shows that milk products marketed under the organic label earned an average premium of 61 percent over conventional products that total $2.4 billion in total value. A one percent fall in total premiums would be associated with a $24 million reduction in organic premiums at the retail level.

While continual transition could theoretically support a regulatory objective to establish a consistent and uniform standard for all operations, AMS is not selecting this alternative. Based on available information, AMS understands that most established organic dairies can (and do) readily raise dairy animals for a period longer than the 12-month minimum required in OFPA. If AMS selected Alternative A, it would likely be more disruptive to existing operations and require more operational changes than we expect will be required by this final rule. Furthermore, the National Organic Standards Board's recommendations, and stakeholder comments support and inform AMS's decision to not select this alternative.

OFPA directs organic animal production practices to be free of antibiotics (7 U.S.C. 6509(c)(3) and 6509(d)(1)). While a one-time transition allowance is necessary to support growth in the organic dairy market, AMS believes that the policy option that minimizes antibiotics (and provides for lifelong organic management) is the best course to remain true to the broad range of organic production practices described in OFPA. Comments indicate that at least some consumers already expect organic milk is produced without the use of any antibiotics (and other substances prohibited under the USDA organic regulations) and expect organic management of all animals on organic operations from the last third of gestation. Alternative A would not meet these expectations, and adopting the alternative could cause a decline in consumer confidence, lower demand for organic milk and dairy products, and lower organic milk prices for producers. The aforementioned survey results presented by the Cornucopia Institute strongly support this reasoning.

Alternative B—Prohibit All Transitions

A second alternative AMS considered was to remove any allowance for dairy operations to transition animals to organic production, including new and nonorganic dairies seeking to convert to organic production. Under this option, all dairy animals would need to be managed organically from the last third of gestation for milk and dairy products to be sold, labeled, or represented as organic.

The costs of this alternative are threefold. First, producers would bear the increased annual costs of $1,845,000 described in Table 5 and under the one-time transition scenario where 50 percent of heifers are transitioning. Because conventional dairy farms transitioning to organic would also need to purchase heifers and milking cows approximately equal to the size of their current operations, AMS believes this alternative may lead to price increases for organic heifers of significantly more

than 50 percent. This would increase the costs of the rule.

Second, this alternative would limit the ability of the industry to expand to meet growing demand and could thereby create price instability within the market. In periods of stable demand, firm entry into the organic market is modest, reflecting factors such as population and income growth. In these stable periods under current rules, the cost of producing organic milk for established producers reflects both the higher cost of production in terms of feed costs, land requirements, and animal husbandry practices, and the higher cost of replacement heifers. In periods of rapid industry growth (*i.e.,* high demand), entrants to this industry bear those costs as well, but also face the significant additional costs of converting land for organic feed and pasture over a 3-year period.

Under this alternative, in periods of industry growth (*i.e.,* high demand) new entrants to the industry would face the additional cost of acquiring organic heifers and milking cows under periods of tight supply and this alternative could lengthen the time required for new entrants to begin production. While a subset of organic dairies would see higher returns on sales of heifers, incumbent farms seeking to grow would see higher costs of expanding herds through heifer purchases and the additional time required to certify additional land under the organic program. While some incumbent producers may benefit under this alternative in the short-term, the added costs to entry and expansion would likely foster price volatility for organic heifers and wholesale organic milk, as the industry's ability to quickly expand in response to demand fluctuations would be severely handicapped.

Furthermore, organic heifers are an input to wholesale organic milk production, and wholesale milk is an input to retail organic milk products such as organic cheese, yogurt, butter, and retail-level milk. Bringing organic milk products to market requires complementary investments in retail marketing outlets and brand development. Bernanke (1983), Cabellero and Pindyck (1996), and Carruth et al. (2000) find that increasing input price volatility reduces investment since the value of the option to delay the investment rises with increased uncertainty about the investment's return.[76] [77] [78] Such volatility could limit long-term growth in organic milk demand if downstream milk processors (for cheese and other milk products) and retailers require an organic milk supply with stable prices to allow for planning of other investments such as equipment, brand promotion, and retail promotion, which in some cases constitutes building retail stores focused solely on the sale of organic products.

This alternative would simplify enforcement of the requirements by applying a single standard, without exceptions, to all organic dairy operations. It would also align the requirements for dairy animals with the requirements for organic slaughter stock, but AMS does not believe this option is necessary for several reasons. First, AMS believes that certifiers will be able to enforce a rule that allows for a limited and well-defined transition. Second, AMS believes that allowing one-time transitions for organic dairy operations maintains market stability while simultaneously preserving the value of the organic label. Transition is also permitted by OFPA (7 U.S.C. 6509(e)(2)). Third, AMS notes that other aspects of the USDA organic regulations slow entry into this market and believes that eliminating its historic allowance of dairy animal transitions could impact downstream organic processors and retailers, who have invested in the industry based on the expectation of the continuation of regulations that ensure a stable and responsive market supply. Most commenters supported a one-time allowance.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Pursuant to the requirements set forth in RFA, AMS performed an economic impact analysis on small entities. Small entities include producers and agricultural service firms, such as handlers and accredited certifying agents. AMS has determined that the final action would impact small entities but that it would not have a significant economic impact on them.

The RFA permits agencies to prepare the regulatory flexibility analysis in conjunction with other analyses required by law, such as the RIA. AMS notes that several requirements of the regulatory flexibility analysis overlap with those of the RIA. For example, the RFA requires a description of the reasons why the action by the agency is being considered and an analysis of the rule's costs to small entities. The RIA likewise describes the need for the rule, the alternatives considered, and the potential costs and benefits of the rule. In order to avoid duplication, AMS combined some analyses, as allowed in § 605(b) of the RFA. As explained below, AMS expects that the entities that could be impacted by the final rule would qualify as small businesses. In the RIA, the discussion of alternatives and the potential costs and benefits pertains to impacts upon all entities, including small entities. Therefore, the scope of those discussions in the RIA is applicable to regulatory flexibility analysis under the RFA. The RIA should be referred to for more detail.

Potentially Affected Small Entities

AMS has considered the economic impact of the final action on small entities. Small entities include producers transitioning into organic dairy production, existing organic dairy producers, producers that raise replacement animals for organic dairies, and certifying agents. AMS believes that the cost of implementing the rule will fall primarily on organic dairies that currently purchase transitioned heifers, although any organic dairies that purchase organic heifers would be expected to pay higher prices in the short-term due to increased competition for these animals. Farms that sell their excess organic replacement heifers may see an increase in demand for their heifers, and farms that raise their own organic replacement heifers would not likely be affected by the rule. AMS believes heifer development operations also could be impacted by this action. However, limited information on the number and size of heifer development operations prevents our estimation of the number of such entities and any increased costs for those entities.

The Small Business Administration (SBA) defines small agricultural service firms, which include certifying agents, as those having annual receipts of less than $8,000,000 (13 CFR 121.201). There are currently 76 USDA-accredited certifying agents; based on a query of AMS's Organic Integrity Database (OID), there are approximately 57 certifying

[76] Bernanke, Ben S. (1983) ''Irreversibility, Uncertainty and Cyclical Investment'', *Quarterly Journal of Economics* (98) 85–106.

[77] Caballero, Ricardo J. and Pindyck, Robert S. ''Uncertainty, Investment, and Industry Evolution'' *International Economic Review* (1996)37:641–663.

[78] Carruth, A., Dickerson, A., and Henley, A. (2000) ''What do We Know About Investment Under Uncertainty?'' *Journal of Economic Surveys* (14)2: 119–154.

agents (38 domestic and 19 foreign) who are currently involved in the certification of organic livestock operations. While certifying agents are small entities that would be affected by the final rule, AMS does not expect that these certifying agents would incur significant costs as a result of this action. Certifying agents already must comply with the current regulations. The recordkeeping burden of these routine certification activities are accounted for in the information collection package OMB #0581–0191, *e.g.,* maintaining certification records for organic dairy operations.

For the final regulatory flexibility analysis, AMS estimated how organic dairy operations of different sizes (small versus large) would be impacted as a result of purchasing only organic dairy replacement animals (organically managed from the last third of gestation). As defined by SBA (13 CFR 121.201), small agricultural producers are those having annual receipts of less than $1,000,000. AMS used this SBA criterion to identify large organic dairy operations as those with cash receipts of more than $1,000,000 and small operations as those with cash receipts of $1,000,000 or less.

Data on the exact shares of organic dairy farms that have sales above and below $1,000,000 are not available. However, ARMS data indicates that the average sales revenue of dairy farms from sales of organic milk and animals is $2,855 per milked cow, a figure that indicates that revenues exceed $1,000,000 for farms with more than 350 head.

Within the 2016 ARMS data, 90 percent of organic dairy farms (300 of the 332) had fewer than 200 milking animals. Lacking more detailed information, AMS assumes that 90 percent of all organic dairy farms, or 2,832 operations of the 3,134 operations, qualify as small businesses under the SBA standard. AMS also assumes that these farms purchase replacement heifers in the same pattern as the average farm with 200 or fewer head. In this case, small organic dairy farms purchase 0.7 replacement heifers on average, with the 11.3 percent of small farms that purchase replacement heifers buying 6.6 head on average. In contrast, large organic dairy farms purchase 0.8 replacement heifers on average, with the 6.8 percent of large farms that purchase replacement heifers buying 12.3 head on average.

TABLE 8—COSTS BY SIZE OF OPERATION FOR PURCHASING ORGANIC HEIFERS

	Fewer than 50 cows	50–99 cows	100–199 cows	200 or more cows
Size of Operation				
Number of Farms	1,359	1,076	396	302
Share of Operations	43%	34%	13%	10%
Average Cost Per Farm	$127–$510	$166–$666	$439–$1,755	$209–$837
Total annual cost for purchase of replacement heifers across size class	$173,210–$692,839	$179,127–$716,506	$173,915–$695,660	$63,189–$252,757
Percent of operations that purchased replacement heifers annually	7.6%	16.4%	10.2%	6.8%
Average number of replacement heifers purchased annually (for operations purchasing heifers)	6.68	4.06	17.22	12.33
Cost per operation annually (25% to 50% transitioned heifers) (for operations purchasing heifers)	$1,670–$6,678	$1,016–$4,063	$4,306–$17,225	$3,082–$12,330

For this cost analysis (shown in Table 8), AMS assumed that the difference in cost between transitioned replacement heifers and organic replacement heifers (organically managed from the last third of gestation) is currently $1,000 per head, that half of organic replacement heifers currently purchased are transitioned. In our more conservative scenario, we assumed only 25% of replacement heifers were bought transitioned and would face a $1,000 increase in cost. Our most costly scenario assumes that the increased demand for organic replacement heifers raises their price by $500, for a total of $1,500 in additional costs to 50% of all replacement heifers. Based on our analysis, AMS estimates that, under the final rule, small operations would collectively spend an additional $526,251 (25% at a $1,000 increase cost per head) to $2,105,005 (50% at a $1,500 increase cost per head) for heifers. Large operations would collectively pay an additional $63,189 to $252,757 for heifers. Of the operations that purchase heifers, the average additional cost per operation in the scenarios would be between $1,642 to $6,569 for small operations and $3,082 [79] [80] Table 8 summarizes the cost analysis using SBA criterion for small businesses (*i.e.,* producers with less than $1,000,000 in cash receipts).

TABLE 9—COST OF ORGANIC REPLACEMENT HEIFERS BY SBA CRITERION FOR SMALL BUSINESSES

	Small operations (<$1,000,000)	Large operations (>=$1,000,000)
Number of Operations	2,832	302
Total cost (all operations)	$526,251–$2,105,005	$63,189–$252,757
Per operation purchasing replacement heifers	$1,642–$6,569	$3,082–$12,330

To understand the potential costs in context, AMS used the higher average cost estimate per operation from Table 9 the purchase of organic replacement heifers (*i.e.,* $6,569 for small; $12,330 for large) and compared it to the average gross cash farm income for farms with 200 head or fewer and for farms with more than 200 head using a revenue

[79] Small operations making purchases buy 6.57 heifers and will pay $1,000 more for half those animals and $2,000 on the others. Large operations making purchases buy 12.33 heifers and will also pay $1,000 more for half those animals and $2,000 on the others.

[80] As with the Table 6 costs breakout by operation size, total costs in Table 8 ($0.59 million and $2.36 million under the 25 percent transition at $1,000 in cost and 50 percent transition at $1,500 in cost scenarios) roughly equal the Table 4 estimates of costs net of transfers ($0.615 million and $2.46 million). Discrepancies are attributed to rounding errors.

estimate from ARMS data that farms earn $2,855 per head. Of farms with 200 head or fewer and an average of $158,003 in sales, the 11.3 percent of farms purchasing replacement heifers will have their costs increase 4.2 percent on average in the costliest scenario. Of large farms with more than 200 head and $1,683,366 in revenue, the 12.33 percent purchasing replacement heifers will see costs increase by 0.7 percent.

It is important to note that these cost figures do not include the potential offsetting effect of transfers or increased revenue from replacement heifer sales as organic replacement heifer prices increase. This revenue is recorded as a transfer in the benefit-cost analysis.

AMS is including additional flexibility for certified dairy operations that are small businesses, specifically, by allowing those operations (in certain limited circumstances) to request a variance from a portion of this final rule. Procedures described at § 205.236(d) allow small businesses to request movement of transitioned animals between certified organic operations in specific and limited situations (*e.g.,* bankruptcy, intergenerational transfers). These procedures should increase flexibility for small business production decisions and lower the upper bound of the costs estimated in Table 9.

AMS has not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with the final rule. The action will provide additional clarity on the origin of livestock requirements that are specific and limited to the USDA organic regulations.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agricultural commodities, Agriculture, Animals, Archives and records, Fees, Imports, Labeling, Livestock, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205 is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation continues to read:

Authority: 7 U.S.C. 6501–6524.

■ 2. Section 205.2 is amended by adding in alphabetical order the terms ''organic management'', ''third-year transitional crop'', and ''Transitioned animal'' to read as follows:

§ 205.2 Terms defined.

* * * * *

Organic management. Management of a production or handling operation in compliance with all applicable provisions under this part.

* * * * *

Third-year transitional crop. Crops and forage from land included in the organic system plan of a producer's operation that is not certified organic but is in the third year of organic management and is eligible for organic certification in one year or less.

Transitioned animal. A dairy animal converted to organic milk production in accordance with § 205.236(a)(2) that has not been under continuous organic management from the last third of gestation; offspring born to a transitioned animal that, during its last third of gestation, consumes third-year transitional crops; and offspring born during the one-time transition exception that themselves consume third-year transitional crops.

* * * * *

■ 3. Section 205.236 is revised to read as follows:

§ 205.236 Origin of livestock.

(a) Livestock products that are to be sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation or hatching: *Except,* That:

(1) *Poultry.* Poultry or edible poultry products must be from poultry that has been under continuous organic management beginning no later than the second day of life;

(2) *Dairy animals.* Subject to the requirements of this paragraph, an operation that is not certified for organic livestock and that has never transitioned dairy animals may transition nonorganic animals to organic production only once. After the one-time transition is complete, the operation may not transition additional animals or source transitioned animals from other operations; the operation must source only animals that have been under continuous organic management from the last third of gestation.

Eligible operations converting to organic production by transitioning organic animals under this paragraph must meet the following requirements and conditions:

(i) Dairy animals must be under continuous organic management for a minimum of 12 months immediately prior to production of milk or milk products that are to be sold, labeled, or represented as organic. Only certified operations may represent or sell products as organic.

(ii) The operation must describe the transition as part of its organic system plan. The description must include the actual or expected start date of the minimum 12-month transition, individual identification of animals intended to complete transition, and any additional information or records deemed necessary by the certifying agent to determine compliance with the regulations. Transitioning animals are not considered organic until the operation is certified.

(iii) During the 12-month transition period, dairy animals and their offspring may consume third-year transitional crops from land included in the organic system plan of the operation transitioning the animals;

(iv) Offspring born during or after the 12-month transition period are transitioned animals if they consume third-year transitional crops during the transition or if the mother consumes third-year transitional crops during the offspring's last third of gestation;

(v) Consistent with the breeder stock provisions in paragraph (a)(3) of this section, offspring born from transitioning dairy animals are not considered to be transitioned animals if they are under continuous organic management and if only certified organic crops and forages are fed from their last third of gestation (rather, they are considered to have been managed organically from the last third of gestation);

(vi) All dairy animals must end the transition at the same time;

(vii) Dairy animals that complete the transition and that are part of a certified operation are transitioned animals and must not be used for organic livestock products other than organic milk and milk products.

(3) *Breeder stock.* Livestock used as breeder stock may be brought from a nonorganic operation onto an organic operation at any time, *Provided,* That the following conditions are met:

(i) Such breeder stock must be brought onto the operation no later than the last third of gestation if their offspring are to be raised as organic livestock; and

(ii) Such breeder stock must be managed organically throughout the last third of gestation and the lactation period during which time they may nurse their own offspring.

(b) The following are prohibited:

(1) Livestock that are removed from an organic operation and subsequently managed or handled on a nonorganic operation may not be sold, labeled, or represented as organic.

(2) Breeder stock, dairy animals, or transitioned animals that have not been

under continuous organic management since the last third of gestation may not be sold, labeled, or represented as organic slaughter stock.

(c) The producer of an organic livestock operation must maintain records sufficient to preserve the identity of all organically managed animals, including whether they are transitioned animals, and edible and nonedible animal products produced on the operation.

(d) A request for a variance to allow sourcing of transitioned animals between certified operations must adhere to the following:

(1) A variance from the requirement to source dairy animals that have been under continuous organic management from the last third of gestation, as stated in paragraph (a)(2) of this section, may be granted by the Administrator to certified operations that are small businesses, as determined in 13 CFR part 121, for any of the following reasons:

(i) The certified operation selling the transitioned animals is part of a bankruptcy proceeding or a forced sale; or

(ii) The certified operation has become insolvent, must liquidate its animals, and as a result has initiated a formal process to cease its operations; or

(iii) The certified operation wishes to conduct an intergenerational transfer of transitioned animals to an immediate family member.

(2) A certifying agent must request a variance on behalf of a certified operation, in writing, to the Administrator within ten days of receiving the request of variance from the operation. The variance request shall include documentation to demonstrate one or more of the circumstances listed in paragraph (d)(1) of this section.

(3) The Administrator will provide written notification to the certifying agent and to the operation(s) involved as to whether the variance is granted or rejected.

■ 4. Section 205.237 is amended by revising paragraph (a) to read as follows:

§ 205.237 Livestock feed.

(a) The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and handled by operations certified under this part, except as provided in § 205.236(a)(2)(iii) and (a)(3), except, that, synthetic substances allowed under § 205.603 and nonsynthetic substances not prohibited under § 205.604 may be used as feed additives and feed supplements, *Provided,* That, all agricultural ingredients included in the ingredients list, for such additives and supplements, shall have been produced and handled organically.

* * * * *

■ 5. Section 205.239 is amended by revising paragraph (a)(3) to read as follows:

§ 205.239 Livestock living conditions.

(a) * * *

(3) Appropriate clean, dry bedding. When roughages are used as bedding, they shall have been organically produced in accordance with this part by an operation certified under this part, except as provided in § 205.236(a)(2)(iii), and, if applicable, organically handled by operations certified under this part.

* * * * *

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

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