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Presidential Documents

Title 3—

The President

Memorandum of May 6, 2022

Delegation of Authority Under Section 506(a)(1) and Section 614(a)(1) of the Foreign Assistance Act of 1961

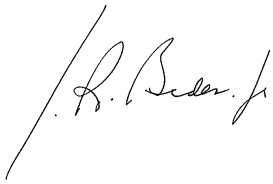
Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the following authorities, subject to fulfilling the requirements of section 614(a)(3) and section 652 of the FAA, in order to provide assistance to Ukraine:

(1) the authority under section 614(a)(1) of the FAA to determine whether it is important to the security interests of the United States to furnish up to $150 million in assistance without regard to any provision of law within the purview of section 614(a)(1) of the FAA; and

(2) the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $150 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, May 6, 2022

[FR Doc. 2022–10576
Filed 5–13–22; 8:45 am]
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Rules and Regulations

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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.

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1770]

RIN 7100–AG30

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.

DATES:

Effective date: The amendments to part 201 (Regulation A) are effective May 16, 2022.

Applicability date: The rate changes for primary and secondary credit were applicable on May 5, 2022.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Lyle Kumasaka, Lead Financial Institution & Policy Analyst (202–452–2382), or Laura Lipscomb, Deputy Associate Director (202–912–7964), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services (TRS), please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to review and determination of the Board.

On May 4, 2022, the Board voted to approve a 0.50 percentage point increase in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 0.50 percent to 1 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks increased by 0.50 percentage points as a result of the Board's primary credit rate action, thereby increasing from 1.00 percent to 1.50 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect these rate changes.

The 0.50 percentage point increase in the primary credit rate was associated with a 0.50 percentage point increase in the target range for the federal funds rate (from a target range of ¼ percent to ½ percent to a target range of ¾ percent to 1 percent) announced by the Federal Open Market Committee on May 4, 2022, as described in the Board's amendment of its Regulation D published elsewhere in today's **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'')[1] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.''[2] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[3] The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply ''to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.''[4]

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to these final amendments to Regulation A. The amendments involve a matter relating to loans and are therefore exempt under the terms of the APA. Furthermore, because delay would undermine the Board's action in responding to economic data and conditions, the Board has determined that ''good cause'' exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[5] As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

[1] 5 U.S.C. 551 *et seq.*

[2] 5 U.S.C. 553(b)(3)(A).

[3] 5 U.S.C. 553(d).

[4] 5 U.S.C. 553(a)(2) (emphasis added).

[5] 5 U.S.C. 603, 604.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[6] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

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

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.,* 347a, 347b, 347c, 348 *et seq.,* 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[3]

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 1.00 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 1.50 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–10386 Filed 5–13–22; 8:45 am]

BILLING CODE 6210–02–P

[6] 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

[3] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1771]

RIN 7100–AG31

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') has adopted final amendments to its Regulation D to revise the rate of interest paid on balances (''IORB'') maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 0.90 percent, a 0.50 percentage point increase from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (''FOMC'' or ''Committee'').

DATES:

Effective date: The amendments to part 204 (Regulation D) are effective May 16, 2022.

Applicability date: The IORB rate change was applicable on May 5, 2022.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel (202–452–3565), Legal Division, or Nicole Trachman, Financial Institution & Policy Analyst (202–973–5055), or Laura Lipscomb, Deputy Associate Director (202–834–2979), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services (TRS), please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (''Act'') imposes reserve requirements on certain types of deposits and other liabilities of depository institutions.[1] Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (''Reserve Bank'').[2] Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[3] Institutions that are eligible to receive earnings on their balances held at Reserve Banks (''eligible institutions'') include depository institutions and certain other institutions.[4] Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[5] Prior to these amendments, Regulation D established IORB at 0.40 percent.[6]

II. Amendment to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 0.90 percent. The amendment represents a 0.50 percentage point increase in IORB. This decision was announced on May 4, 2022, with an effective date of May 5, 2022, in the Federal Reserve Implementation Note that accompanied the FOMC's statement on May 4, 2022. The FOMC statement stated that the Committee decided to raise the target range for the federal funds rate to ¾ to 1 percent.

A Federal Reserve Implementation note stated, ''The Board of Governors of the Federal Reserve System voted unanimously to raise the interest rate paid on reserve balances to 0.9 percent, effective May 5, 2022.''

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 0.90 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (''APA'')[7] imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.''[8] Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.[9]

[1] 12 U.S.C. 461(b). In March 2020, the Board set all reserve requirement ratios to zero percent. See Interim Final Rule, 85 FR16525 (Mar. 24, 2020); Final Rule, 86 FR 8853 (Feb. 10, 2021).

[2] 12 CFR 204.5(a)(1).

[3] 12 U.S.C. 461(b)(1)(A) & (b)(12)(A).

[4] See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

[5] See 12 U.S.C. 461(b)(12)(B).

[6] See 12 CFR 204.10(b)(1).

[7] 5 U.S.C. 551 *et seq.*

[8] 5 U.S.C. 553(b)(3)(A).

[9] 5 U.S.C. 553(d).

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate change for IORB that is reflected in the final amendment to Regulation D was made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to this final amendment to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[10] As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995,[11] the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

[10] 5 U.S.C. 603, 604.

[11] 44 U.S.C. 3506; see 5 CFR part 1320 Appendix A.1.

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(1) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate (''IORB rate'') on a day multiplied by the total balances maintained on that day. The IORB rate is 0.90 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–10387 Filed 5–13–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1183; Project Identifier AD–2021–01193–E; Amendment 39–22029; AD 2022–09–09]

RIN 2120–AA64

Airworthiness Directives; CFM International, S.A. Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all CFM International, S.A. (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A model turbofan engines. This AD was prompted by the detection of melt-related freckles in the billet, which may reduce the life of certain compressor rotor stages 6–10 spools, high pressure turbine (HPT) rotor interstage seals, HPT rotor stage 2 disks, low pressure turbine (LPT) stage 1 disks, LPT stage 2 disks, LPT stage 3 disks, and LPT stage 4 disks. This AD requires revising the airworthiness limitations section (ALS) of the applicable CFM LEAP–1A Engine Shop Manual (ESM) and the operator's existing approved continuous airworthiness maintenance program (CAMP) to incorporate reduced life limits for these parts. This AD also requires the removal of certain LPT stage 4 disks identified by serial number (S/N) prior to their new life limits. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 21, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 21, 2022.

ADDRESSES: For service information identified in this final rule, contact CFM International, S.A., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *fleetsupport@ge.com*. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1183.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1183; 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: Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; fax: (781) 238–7199; email: *Mehdi.Lamnyi@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all CFM LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A model turbofan engines. The NPRM published

in the **Federal Register** on January 18, 2022 (87 FR 2563). The NPRM was prompted by the manufacturer's detection of melt-related freckles in the billet, which may reduce the life of certain compressor rotor stages 6–10 spools, HPT rotor interstage seals, HPT rotor stage 2 disks, LPT stage 1 disks, LPT stage 2 disks, LPT stage 3 disks, and LPT stage 4 disks (life-limited parts (LLPs)). Through the manufacturer's investigation, it was determined that these LLPs may have subsurface anomalies that developed during the manufacturing process, resulting in a lower life capability. In the NPRM, the FAA proposed to require revising the ALS of the CFM LEAP–1A ESM, as applicable to each affected engine model, and the operator's existing approved CAMP to incorporate reduced life limits for certain LLPs. In the NPRM, the FAA also proposed to require operators to remove certain LPT stage 4 disks, identified by S/N, before reaching their new life limits. The LPT stage 4 disks, identified by S/N in Figure 1 to paragraph (g)(2) of the NPRM, were discovered by the manufacturer after publication of the ALS revision.

After the NPRM was issued, CFM revised its service information by including additional part numbers for newly manufactured parts that did not exist prior to NPRM publication. Accordingly, the FAA has revised paragraph (g)(1)(iii) of this AD to require operators to update the ALS of the applicable CFM LEAP–1A ESM and the operator's existing approved CAMP to include CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 010–00, dated February 15, 2022, instead of CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 009–00, dated June 1, 2021.

The FAA has also added a credit for previous actions paragraph to this AD, providing credit to operators that incorporated CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 009–00, dated June 1, 2021, into the ALS of the applicable ESM and the operator's existing approved CAMP prior to the effective date of this AD.

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

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. The commenters were American Airlines (AA) and Air Line Pilot Association, International (ALPA). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Include Future Revisions to ESM

AA requested that the FAA add '' . . . or later'' to the following ALS references in paragraph (g) of this AD to allow for the use of future revisions;

(i) CFM High Pressure Compressor Rotor Life Limits LEAP 1A–05–11–02–01A–0B1B–C, Issue 010–00, dated September 15, 2021, or later;

(ii) CFM High Pressure Turbine Rotor Life Limits LEAP 1A–05–11–03–01A–0B1B–C, Issue 007–00, dated September 15, 2021, or later; and

(iii) CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 009–00, dated June 1, 2021, or later.

AA stated that they are currently using Issues 7, 9, and 10 of the referenced service information and their ALS and CAMP are already in compliance with this AD. AA also stated that CFM continues to update the referenced service information and Issues 7, 9, and 10 will be further revised. As a result, the requirements of this AD will cause AA to use outdated service information.

The FAA disagrees with adding ''or later'' when referencing the service information in paragraph (g) of this AD. Future revisions of the service information have not yet been published by the manufacturer or reviewed by the FAA. A request for an alternative method of compliance can be submitted to the FAA if future revisions of the service information referenced in paragraph (g) of this AD are published. Additionally, if future revisions of the service information are published by the manufacturer and approved by the FAA, the FAA may consider further rulemaking.

Request To Add Credit for Previous Actions

AA requested that the FAA add a new paragraph (h)(3) to this AD to allow credit for previous actions associated with the required actions proposed in paragraph (g)(1)(iii) of the NPRM, similar to the credit paragraphs proposed in (h)(1) and (h)(2) of the NPRM. AA requested that the new paragraph (h)(3) provide credit to operators if CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 008–00 was incorporated into the ALS of the applicable ESM and the operator's existing approved CAMP prior to the effective date of this AD.

The FAA notes that CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 009–00, dated June 1, 2021, was the first issue of this service information to include the reduced life limits for that module as a result of the investigation into melt-related freckles in the billet. Issue 008–00 and earlier issues do not include the reduced life limits so the FAA will not provide credit for issues released prior to Issue 009–00. Since the FAA issued the NPRM, the manufacturer published CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 010–00, dated February 15, 2022. As a result, the FAA has added paragraph (h)(3) to this AD, providing credit for actions required by paragraph (g)(1)(iii) of this AD if CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 009–00, dated June 1, 2021, was incorporated into the ALS of the applicable ESM and the operator's existing approved CAMP prior to the effective date of this AD.

Support for the AD

ALPA expressed support for the AD as written.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed CFM High Pressure Compressor Rotor Life Limits LEAP 1A–05–11–02–01A–0B1B–C, Issue 010–00, dated September 15, 2021 (CFM LEAP 1A–05–11–02–01A–0B1B–C); CFM High Pressure Turbine Rotor Life Limits LEAP 1A–05–11–03–01A–0B1B–C, Issue 007–00, dated September 15, 2021 (CFM LEAP 1A–05–11–03–01A–0B1B–C); and CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 010–00, dated February 15, 2022 (CFM LEAP 1A–05–11–04–01A–0B1B–C). CFM LEAP 1A–05–11–02–01A–0B1B–C provides the new life limits for the high-pressure compressor, CFM LEAP 1A–05–11–03–01A–0B1B–C provides the new life limits for the HPT rotor, and CFM LEAP 1A–05–11–04–01A–0B1B–C

provides the new life limits for the LPT rotor. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA reviewed CFM LEAP 1A–05–11–02–01A–0B1B–C, Issue 009–00, dated July 26, 2021; CFM LEAP 1A–05–11–03–01A–0B1B–C, Issue 006–00, dated July 26, 2021, and CFM LEAP 1A–05–11–04–01A–0B1B–C, Issue 009, dated June 1, 2021. This service information provides the new life limits for the LLPs.

The FAA also reviewed CFM Service Bulletin (SB) LEAP–1A–72–00–0413–01A–930A–D, Issue 004–00, dated December 11, 2021 (CFM SB LEAP–1A–72–00–0413–01A–930A–D). CFM SB LEAP–1A–72–00–0413–01A–930A–D specifies procedures for removing and replacing the LLPs, and provides new life limits for certain S/Ns of the LLPs.

Costs of Compliance

The FAA estimates that this AD affects 256 engines installed on airplanes of U.S. registry. The FAA estimates that 256 engines installed on airplanes of U.S. registry require revising the ALS of the CFM LEAP–1A ESM and the operator's existing approved CAMP. The FAA estimates that zero airplanes of U.S. registry require replacement of the LPT stage 4 disk.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise ALS of Engine Manual and the operator's existing approved CAMP.	1 work-hour × $85 per hour = $85	$0	$85	$21,760

The FAA estimates the following costs to replace the LPT stage 4 disk:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace LPT Stage 4 disk	225 work-hours × $85 per hour = $19,125	$129,000	$148,125	$0

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:

2022–09–09 CFM International, S.A.: Amendment 39–22029; Docket No. FAA–2021–1183; Project Identifier AD–2021–01193–E.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to CFM International, S.A. (CFM) LEAP–1A23, LEAP–1A24, LEAP–1A24E1, LEAP–1A26, LEAP–1A26CJ, LEAP–1A26E1, LEAP–1A29, LEAP–1A29CJ, LEAP–1A30, LEAP–1A32, LEAP–1A33, LEAP–1A33B2, and LEAP–1A35A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section, and JASC Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by the detection of melt-related freckles in the billet, which may reduce the life of certain compressor rotor stages 6–10 spools, high pressure turbine (HPT) rotor interstage seals, HPT rotor stage

2 disks, low pressure turbine (LPT) stage 1 disks, LPT stage 2 disks, LPT stage 3 disks, and LPT stage 4 disks. The FAA is issuing this AD to prevent the failure of the high-pressure compressor, HPT rotor, and LPT rotor. The unsafe condition, if not addressed, could result in release of uncontained debris, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 60 days after the effective date of this AD, revise the airworthiness limitations section (ALS) of the applicable CFM LEAP–1A Engine Shop Manual (the ESM) and the operator's existing approved continuous airworthiness maintenance program (CAMP) by incorporating the following service information:

(i) CFM High Pressure Compressor Rotor Life Limits LEAP 1A–05–11–02–01A–0B1B–C, Issue 010–00, dated September 15, 2021; and

(ii) CFM High Pressure Turbine Rotor Life Limits LEAP 1A–05–11–03–01A–0B1B–C, Issue 007–00, dated September 15, 2021; and

(iii) CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 010–00, dated February 15, 2022.

(2) Before the LPT stage 4 disk, part number (P/N) 362–039–520–0, with serial numbers identified in Figure 1 to paragraph (g)(2) of this AD (Figure 1) accumulates the cycles in Figure 1, or within 100 cycles after the effective date of this AD, whichever occurs later, remove the affected LPT stage 4 disk from service and replace with a part eligible for installation.

Figure 1 to Paragraph (g)(2) – Life Limits for LPT Stage 4 Disks, P/N 362-039-520-0

LPT Stage 4 Disk Serial Number	Life Limit for LEAP-1A23, -1A24, -1A24E1, -1A26, -1A26E1, -1A29, -1A30, -1A32, -1A33, -1A33B2, and -1A35A	Life Limit for LEAP-1A26CJ and -1A29CJ
PC975638	2,500 cycles	1,400 cycles
PC975635		

(h) Credit for Previous Actions

(1) You may take credit for the action required by paragraph (g)(1)(i) of this AD if the following service information was incorporated into the ALS of the applicable ESM and the operator's existing approved CAMP prior to the effective date of this AD: CFM High Pressure Compressor Rotor Life Limits LEAP 1A–05–11–02–01A–0B1B–C, Issue 009–00, dated July 26, 2021.

(2) You may take credit for the action required by paragraph (g)(1)(ii) of this AD if the following service information was incorporated into the ALS of the applicable ESM and the operator's existing approved CAMP prior to the effective date of this AD: CFM High Pressure Turbine Rotor Life Limits LEAP 1A–05–11–03–01A–0B1B–C, Issue 006–00, dated July 26, 2021.

(3) You may take credit for the action required by paragraph (g)(1)(iii) of this AD if the following service information was incorporated into the ALS of the applicable ESM and the operator's existing approved CAMP prior to the effective date of this AD: CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 009–00, dated June 1, 2021.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; fax: (781) 238–7199; email: *Mehdi.Lamnyi@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 the AD specifies otherwise.

(i) CFM High Pressure Compressor Rotor Life Limits LEAP 1A–05–11–02–01A–0B1B–C, Issue 010–00, dated September 15, 2021.

(ii) CFM High Pressure Turbine Rotor Life Limits LEAP 1A–05–11–03–01A–0B1B–C, Issue 007–00, dated September 15, 2021.

(iii) CFM Low Pressure Turbine Rotor Life Limits LEAP 1A–05–11–04–01A–0B1B–C, Issue 010–00, dated February 15, 2022.

(3) For service information identified in this AD, contact CFM International, S.A., Aviation Operations Center, 1 Neumann Way, M/D Room 285, Cincinnati, OH 45125; phone: (877) 432–3272; email: *fleetsupport@ge.com.*

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

(5) You may view this 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 April 15, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–10447 Filed 5–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0086; Project Identifier MCAI–2021–01035–T; Amendment 39–22026; AD 2022–09–06]

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) 2021–13–06, which applied to certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2021–13–06 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2021–13–06, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require the actions in AD 2021–13–06 and requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, 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 June 20, 2022.

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

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of September 3, 2021 (86 FR 40934, July 30, 2021).

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–2022–0086.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0086; 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: Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email *dan.rodina@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0208, dated September 15, 2021 (EASA AD 2021–0208) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–13–06, Amendment 39–21611 (86 FR 40934, July 30, 2021) (AD 2021–13–06). AD 2021–13–06 applied to certain Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on February 9, 2022 (87 FR 7397). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to continue to require the actions in AD 2021–13–06 and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in EASA AD 2021–0208.

The FAA is issuing this AD to address hazardous or catastrophic airplane system failures. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment 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 2021–0208 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2020–0211, dated October 5, 2020, and EASA AD 2021–0026, dated January 20, 2021, which the Director of the Federal Register approved for incorporation by reference as of September 3, 2021 (86 FR 40934, July 30, 2021).

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

The FAA estimates the total cost per operator for the retained actions from AD 2021–13–06 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

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) 2021–13–06, Amendment 39–21611 (86 FR 40934, July 30, 2021); and

■ b. Adding the following new AD:

2022–09–06 Airbus SAS: Amendment 39–22026; Docket No. FAA–2022–0086; Project Identifier MCAI–2021–01035–T.

(a) Effective Date

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

(b) Affected ADs

(1) This AD replaces AD 2021–13–06, Amendment 39–21611 (86 FR 40934, July 30, 2021) (AD 2021–13–06).

(2) This AD affects AD 2019–20–01, Amendment 39–19754 (84 FR 55495, October 17, 2019) (AD 2019–20–01).

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 20, 2021.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address hazardous or catastrophic airplane system failures.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2021–13–06, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 22, 2020: 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 2020–0211, dated October 5, 2020 (EASA AD 2020–0211); and EASA AD 2021–0026, dated January 20, 2021 (EASA AD 2021–0026). Where EASA AD 2021–0026 affects the same airworthiness limitations (tasks and life limits) as those in EASA AD 2020–0211, the airworthiness limitations referenced in EASA AD 2021–0026 prevail. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2020–0211 and EASA AD 2021–0026, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2021–13–06, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 22, 2020:

(1) Where EASA AD 2020–0211 and EASA AD 2021–0026 refers to its effective date, this AD requires using September 3, 2021 (the effective date of AD 2021–13–06).

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0211 and EASA AD 2021–0026 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2020–0211 and EASA AD 2021–0026 specifies revising ''the approved AMP [aircraft maintenance program]'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2020–0211 and EASA AD 2021–0026 within 90 days after September 3, 2021 (the effective date of AD 2021–13–06).

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2020–0211 and EASA AD 2021–0026 is at the applicable ''thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2020–0211 and EASA AD 2021–0026, or within 90 days after September 3, 2021 (the effective date of AD 2021–13–06), whichever occurs later.

(5) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0211 do not apply to this AD.

(6) The provisions specified in paragraph (4) of EASA AD 2021–0026 do not apply to this AD.

(7) The ''Remarks'' section of EASA AD 2020–0211 and EASA AD 2021–0026 does not apply to this AD.

(i) Retained Provisions for Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (i) of AD 2021–13–06, with a new exception. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 22, 2020: Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0211 or EASA AD 2021–0026.

(j) New Maintenance or Inspection Program Revision

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0208, dated September 15, 2021. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2021–0208

(1) Where EASA AD 2021–0208 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2021–0208 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2021–0208 specifies to revise ''the AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2021–0208 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (3) of EASA AD 2021–0208, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraphs (4) and (5) of EASA AD 2021–0208 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2021–0208 does not apply to this AD.

(7) Where EASA AD 2021–0208 refers to Airbus A350 Airworthiness Limitations Section (ALS) Part 4, Revision 6 and Variation 6.1, replace the text ''Airbus A350 Airworthiness Limitations Section (ALS) Part 4, Revision 6 and Variation 6.1,'' with ''Airbus A350 Airworthiness Limitations Section (ALS) Part 4, Revision 6 and

Variation 6.1; for any airworthiness limitations (tasks and life limits) that are in both documents, the airworthiness limitations (tasks and life limits) specified in Variation 6.1 prevail.''

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0208.

(m) Terminating Action for Certain Requirements of AD 2019–20–01

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates the repetitive greasing task for batch 02 group of affected thrust reverser actuators required by paragraph (g) of AD 2019–20–01.

(n) 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 (o) 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.

(o) 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 and fax 206–231–3225; email *dan.rodina@faa.gov*.

(p) 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.

(3) The following service information was approved for IBR on June 20, 2022.

(i) European Union Aviation Safety Agency (EASA) AD 2021–0208, dated September 15, 2021.

(ii) [Reserved]

(4) The following service information was approved for IBR on September 3, 2021 (86 FR 40934, July 30, 2021).

(i) European Union Aviation Safety Agency (EASA) AD 2020–0211, dated October 5, 2020.

(ii) European Union Aviation Safety Agency (EASA) AD 2021–0026, dated January 20, 2021.

(5) For the EASA ADs identified 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 EASA AD on the EASA website at *https://ad.easa.europa.eu*.

(6) 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.

(7) 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 April 15, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–10460 Filed 5–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31427; Amdt. No. 4007]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective May 16, 2022. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 16, 2022.

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

For Examination

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

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

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

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

Availability

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

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP

for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on April 29, 2022.

Thomas J. Nichols,

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

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 16 June 2022

Colby, KS, KCBK, RNAV (GPS) RWY 17, Amdt 2
Ponca City, OK, KPNC, ILS OR LOC RWY 17, Amdt 3B
Ponca City, OK, KPNC, RNAV (GPS) RWY 17, Amdt 1B

Effective 14 July 2022

Iliamna, AK, PAIL, RNAV (GPS) RWY 18, Amdt 3
Mc Grath, AK, PAMC, Takeoff Minimums and Obstacle DP, Amdt 2C
Quinhagak, AK, PAQH, RNAV (GPS) RWY 30, Amdt 1A
Decatur, AL, KDCU, ILS OR LOC RWY 18, Amdt 1B
Decatur, AL, KDCU, ILS Y OR LOC Y RWY 18, Orig, CANCELLED
Mobile, AL, KMOB, ILS OR LOC RWY 15, ILS RWY 15 (SA CAT I), ILS RWY 15 (SA CAT II), Amdt 32A
Mobile, AL, KMOB, ILS OR LOC RWY 33, Amdt 7C
Mobile, AL, KMOB, RADAR–1, Amdt 5B
Mobile, AL, KMOB, RNAV (GPS) RWY 15, Amdt 2C
Mobile, AL, KMOB, RNAV (GPS) RWY 18, Amdt 1C
Mobile, AL, KMOB, RNAV (GPS) RWY 33, Amdt 2D
Mobile, AL, KMOB, RNAV (GPS) RWY 36, Amdt 1D
Benton, AR, KSUZ, ILS OR LOC RWY 2, Amdt 1
Benton, AR, KSUZ, RNAV (GPS) RWY 2, Amdt 1
Benton, AR, KSUZ, RNAV (GPS) RWY 20, Amdt 1
Burlington, CO, KITR, RNAV (GPS) RWY 33, Orig
Jacksonville, FL, KJAX, ILS Y OR LOC Y RWY 14, Amdt 7C
Miami, FL, KMIA, ILS OR LOC RWY 26L, Amdt 18
Miami, FL, KMIA LOC RWY 26R, Amdt 2
Miami, FL, KMIA, RNAV (GPS) RWY 26R, Amdt 5
Miami, FL, KMIA, RNAV (GPS) Y RWY 26L, Amdt 4
Canton, GA, KCNI, NDB RWY 5, Amdt 4B, CANCELLED
Gainesville, GA, KGVL, NDB RWY 5, Amdt 5D, CANCELLED
Coeur D'Alene, ID, KCOE, RNAV (GPS) RWY 2, Orig-A
Effingham, IL, 1H2, RNAV (GPS) RWY 1, Orig-E
Fairfield, IL, KFWC, NDB RWY 9, Amdt 3D
Flora, IL, KFOA, LOC RWY 21, Orig-G
Robinson, IL, KRSV, RNAV (GPS) RWY 9, Amdt 1B
Robinson, IL, KRSV, RNAV (GPS) RWY 17, Orig-B
Robinson, IL, KRSV, RNAV (GPS) RWY 27, Amdt 1B
South Bend, IN, KSBN, ILS OR LOC RWY 9R, Amdt 10B
South Bend, IN, KSBN, ILS OR LOC RWY 27L, ILS RWY 27L (SA CAT I), ILS RWY 27L (CAT II), Amdt 36A
South Bend, IN, KSBN, RNAV (GPS) RWY 9L, Amdt 1B
South Bend, IN, KSBN, RNAV (GPS) RWY 9R, Amdt 1B
South Bend, IN, KSBN, RNAV (GPS) RWY 18, Amdt 1C

South Bend, IN, KSBN, RNAV (GPS) RWY 27L, Orig-C
South Bend, IN, KSBN, RNAV (GPS) RWY 27R, Amdt 1A
South Bend, IN, KSBN, RNAV (GPS) RWY 36, Amdt 1B
South Bend, IN, South Bend Intl, Takeoff Minimums and Obstacle DP, Amdt 9A
Dodge City, KS, KDDC, VOR RWY 32, Amdt 5C
Hugoton, KS, KHQG, RNAV (GPS) RWY 2, Orig-B
Hugoton, KS, KHQG, RNAV (GPS) RWY 20, Orig-B
Hugoton, KS, KHQG, Takeoff Minimums and Obstacle DP, Amdt 2
Pittsburg, KS, KPTS, RNAV (GPS) RWY 4, Amdt 2
Pittsburg, KS, KPTS, VOR RWY 4, Amdt 3G, CANCELLED
Jackson, KY, KJKL, RNAV (GPS) RWY 1, Amdt 1
Lewisport, KY, KY8, RNAV (GPS) RWY 23, Amdt 2
Lewisport, KY, KY8, Takeoff Minimums and Obstacle DP, Amdt 1
Mayfield, KY, M25, RNAV (GPS) RWY 19, Amdt 2
New Orleans, LA, KMSY, ILS OR LOC RWY 2, Amdt 20A
New Orleans, LA, KMSY, RNAV (RNP) Z RWY 11, Amdt 1B
Frederick, MD, KFDK, RNAV (GPS) RWY 5, Amdt 1
Carrabassett, ME, B21, RNAV (GPS)–A, Amdt 1B
Majuro Atoll, MH, PKMJ, RNAV (GPS) RWY 7, Orig-F
Majuro Atoll, MH, PKMJ, RNAV (GPS) RWY 25, Orig-F
Detroit, MI, KYIP, ILS OR LOC RWY 5, Orig
Detroit, MI, KYIP, ILS OR LOC RWY 5R, Amdt 16, CANCELLED
Detroit, MI, KYIP, ILS OR LOC RWY 23, Orig
Detroit, MI, KYIP, ILS OR LOC RWY 23L, Amdt 8, CANCELLED
Detroit, MI, KYIP, RNAV (GPS) RWY 5, Orig
Detroit, MI, KYIP, RNAV (GPS) RWY 5R, Amdt 2, CANCELLED
Detroit, MI, KYIP, RNAV (GPS) RWY 23, Orig
Detroit, MI, KYIP, RNAV (GPS) RWY 23L, Amdt 2, CANCELLED
Detroit, MI, Willow Run, Takeoff Minimums and Obstacle DP, Amdt 11
Escanaba, MI, KESC, ILS OR LOC RWY 9, Amdt 3A
Iron Mountain Kingsford, MI, KIMT, RNAV (GPS) RWY 1, Orig-C
Iron Mountain Kingsford, MI, KIMT, RNAV (GPS) RWY 19, Orig-C
Iron Mountain Kingsford, MI, KIMT, VOR RWY 31. Amdt 16C
Menominee, MI, KMNM, ILS OR LOC RWY 3, Amdt 3A
Menominee, MI, KMNM, VOR–A, Amdt 3C, CANCELLED
Troy, MI, KVLL, RNAV (GPS) RWY 10, Amdt 3A
Troy, MI, KVLL, Takeoff Minimums and Obstacle DP, Amdt 4B
Detroit Lakes, MN, KDTL, VOR RWY 14, Amdt 2, CANCELLED
Cleveland, OH, KBKL, ILS OR LOC RWY 24R, Amdt 2
Columbus, OH, KOSU, Takeoff Minimums and Obstacle DP, Orig-A
Miami, OK, KMIO, VOR/DME–A, Amdt 2C, CANCELLED
La Grande, OR, KLGD, NDB–B, Amdt 2A
Sunriver, OR, S21, RNAV (GPS) RWY 18, Amdt 1
Erie, PA, KERI, RNAV (GPS) RWY 24, Amdt 2A
Conway, SC, KHYW, NDB RWY 4, Orig-C, CANCELLED
Conway, SC, KHYW, NDB RWY 22, Amdt 1A, CANCELLED
Canadian, TX, KHHF, RNAV (GPS) RWY 4, Amdt 2A
Dumas, TX, KDUX, RNAV (GPS) RWY 1, Amdt 1
Dumas, TX, KDUX, RNAV (GPS) RWY 19, Amdt 1
Gruver, TX, E19, RNAV (GPS) RWY 2, Orig-B
Gruver, TX, E19, RNAV (GPS) RWY 20, Orig-C
Pampa, TX, KPPA, RNAV (GPS) RWY 17, Orig-C
Pampa, TX, KPPA, VOR/DME–A, Amdt 3A, CANCELLED
Panhandle, TX, T45, RNAV (GPS) RWY 17, Orig-C
Perryton, TX, KPYX, RNAV (GPS) RWY 17, Orig-D
Spearman, TX, E42, VOR/DME RWY 2, Amdt 1, CANCELLED
Pasco, WA, KPSC, ILS OR LOC RWY 21R, Amdt 13C
Pasco, WA, KPSC, VOR RWY 30, Amdt 5C
Richland, WA, KRLD, LOC RWY 19, Amdt 9A
Sturgeon Bay, WI, KSUE, RNAV (GPS) RWY 20, Amdt 2
Sturgeon Bay, WI, KSUE, RNAV (GPS) RWY 28, Amdt 1

[FR Doc. 2022–10444 Filed 5–13–22; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31428; Amdt. No. 4008]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective May 16, 2022. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 16, 2022.

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

For Examination

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

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

Availability

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

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

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice

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

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section. The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

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

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

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

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

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on April 29, 2022.

Thomas J. Nichols,

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

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
16–Jun–22	UT	Provo	Provo Muni	2/0598	4/25/22	VOR/DME RWY 13, Amdt 2.
16–Jun–22	NE	Cozad	Cozad Muni	2/0746	4/25/22	VOR RWY 13, Amdt 2B.
16–Jun–22	KS	Atwood	Atwood-Rawlins County City-County	2/0749	4/25/22	Takeoff Minimums and Obstacle DP, Orig-A.
16–Jun–22	WI	Wautoma	Wautoma Muni	2/0751	4/21/22	Takeoff Minimums and Obstacle DP, Orig.
16–Jun–22	TX	Beaumont	Beaumont Muni	2/2086	4/18/22	VOR/DME RWY 13, Amdt 3D.
16–Jun–22	TX	Beaumont	Beaumont Muni	2/2087	4/18/22	VOR/DME RWY 31, Amdt 4D.
16–Jun–22	WI	Superior	Richard I Bong	2/3062	4/19/22	RNAV (GPS) RWY 4, Orig-C.
16–Jun–22	WI	Superior	Richard I Bong	2/3073	4/19/22	RNAV (GPS) RWY 14, Orig-C.
16–Jun–22	WI	Superior	Richard I Bong	2/3074	4/19/22	RNAV (GPS) RWY 22, Orig-B.
16–Jun–22	WI	Superior	Richard I Bong	2/3079	4/19/22	RNAV (GPS) RWY 32, Orig-C.
16–Jun–22	OR	Corvallis	Corvallis Muni	2/3151	4/7/22	VOR–A, Amdt 11.
16–Jun–22	IL	Decatur	Decatur	2/3252	4/13/22	RNAV (GPS) RWY 18, Amdt 1A.
16–Jun–22	NM	Grants	Grants-Milan Muni	2/4257	4/15/22	RNAV (GPS) RWY 31, Orig-B.
16–Jun–22	NM	Grants	Grants-Milan Muni	2/4258	4/15/22	RNAV (GPS) RWY 13, Orig-B.
16–Jun–22	GA	Atlanta	Hartsfield-Jackson Atlanta Intl	2/4353	4/14/22	ILS OR LOC RWY 10, ILS RWY 10 (SA CAT I), ILS RWY 10 (CAT II), ILS RWY 10 (CAT III), Amdt 5A.
16–Jun–22	CA	Visalia	Visalia Muni	2/4501	4/13/22	ILS OR LOC RWY 30, Amdt 9.
16–Jun–22	IA	Carroll	Arthur N Neu	2/7399	4/15/22	RNAV (GPS) RWY 13, Amdt 1B.
16–Jun–22	IA	Carroll	Arthur N Neu	2/7400	4/15/22	RNAV (GPS) RWY 31, Amdt 1B.
16–Jun–22	IA	Oelwein	Oelwein Muni	2/7413	4/15/22	RNAV (GPS) RWY 13, Orig-A.
16–Jun–22	PA	Johnstown	John Murtha Johnstown/Cambria County.	2/8118	4/21/22	RNAV (GPS) RWY 15, Amdt 1A.
16–Jun–22	MO	Lebanon	Floyd W Jones Lebanon	2/8522	4/19/22	RNAV (GPS) RWY 18, Orig-B.
16–Jun–22	MO	Lebanon	Floyd W Jones Lebanon	2/8523	4/19/22	RNAV (GPS) RWY 36, Orig-B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
16–Jun–22	OR	Redmond	Roberts Fld	2/8524	4/25/22	ILS OR LOC RWY 23, Amdt 5.
16–Jun–22	OR	Redmond	Roberts Fld	2/8525	4/25/22	RNAV (GPS) Z RWY 29, Amdt 1A.
16–Jun–22	TX	Austin	Austin Exec	2/8614	4/15/22	RNAV (GPS) RWY 13, Orig-A.
16–Jun–22	ID	Grangeville	Idaho County	2/8625	4/25/22	RNAV (GPS) RWY 26, Orig.
16–Jun–22	TX	Beaumont	Beaumont Muni	2/8948	4/18/22	RNAV (GPS) RWY 13, Amdt 1.
16–Jun–22	TX	Beaumont	Beaumont Muni	2/8953	4/18/22	RNAV (GPS) RWY 31, Amdt 1.
16–Jun–22	TX	Ennis	Ennis Muni	2/9668	4/21/22	VOR/DME–A, Amdt 1A.
16–Jun–22	PA	Butler	Pittsburgh/Butler Rgnl	2/9976	3/29/22	RNAV (GPS) RWY 26, Amdt 2.

[FR Doc. 2022–10443 Filed 5–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. FDA–2019–N–5192]

Microbiology Devices; Reclassification of Human Immunodeficiency Virus Serological Diagnostic and Supplemental Tests and Human Immunodeficiency Virus Nucleic Acid Diagnostic and Supplemental Tests

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, we, or the Agency) is issuing a final order to reclassify certain human immunodeficiency virus (HIV) serological diagnostic and supplemental tests and HIV nucleic acid (NAT) diagnostic and supplemental tests, postamendments class III devices with the product code MZF, into class II (special controls), subject to premarket notification. Through this final order, FDA is also adding two new device classification regulations and identifying special controls that the Agency believes are necessary to provide a reasonable assurance of safety and effectiveness for these device types. This final order will reduce the regulatory burdens associated with these device types, as manufacturers will no longer be required to submit a premarket approval application (PMA) but can instead submit a premarket notification (510(k)) and receive clearance before marketing their device.

DATES: This order is effective June 15, 2022.

FOR FURTHER INFORMATION CONTACT: Melissa Segal, Center for Biologics Evaluation and Review, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background—Regulatory Authorities

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended, establishes a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the FD&C Act (21 U.S.C. 360c) established three categories (classes) of devices, reflecting the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (general controls and special controls), and class III (general controls and premarket approval).

Devices that were not in commercial distribution prior to May 28, 1976 (generally referred to as postamendments devices), are automatically classified by section 513(f)(1) of the FD&C Act into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until, (1) FDA reclassifies the device into class I or class II, or (2) FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. FDA determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act and part 807 (21 CFR part 807), subpart E, of the regulations.

A postamendments device that has been initially classified in class III under section 513(f)(1) of the FD&C Act may be reclassified into class I or II under section 513(f)(3) of the FD&C Act. Section 513(f)(3) of the FD&C Act provides that FDA, acting by administrative order, can reclassify the device into class I or class II on its own initiative, or in response to a petition from the manufacturer or importer of the device. To change the classification of the device, the proposed new class must have sufficient regulatory controls to provide a reasonable assurance of the safety and effectiveness of the device for its intended use.

On February 21, 2020, FDA published in the **Federal Register** a proposed order (85 FR 10110) to reclassify certain HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests from class III to class II (special controls), subject to premarket notification. The comment period on the proposed order closed on April 21, 2020.

II. Comments on the Proposed Order

In response to the February 21, 2020, proposed order, FDA received several comments from public health organizations, device manufacturers, and individuals by the close of the comment period, each containing one or more comments on one or more issues. We describe and respond to the comments in this section of the document. The order of response to the comments is purely for organizational purposes and does not signify the comment's value or importance nor the order in which the comments were received.

(Comment 1) Nearly all comments expressed general support for the proposed reclassification along with appropriate controls to assure safety and efficacy. The comments noted that reclassification could improve access to HIV testing, support earlier diagnosis and facilitate prevention of HIV, enhance laboratory efficiency and patient management, and strengthen public health surveillance.

(Response 1) We acknowledge and appreciate the supportive comments. We are reclassifying these devices and establishing the special controls published in the proposed order with some clarifications and modifications, as summarized in section III.

(Comment 2) Several comments recommended the reclassification of HIV viral load monitoring tests, which were not included within the scope of the proposed order. The comments expressed differing opinions regarding whether HIV viral load reclassification should be included in this final order. One comment also noted that, at the 119th meeting of the Blood Products Advisory Committee (BPAC) held on July 19, 2018 (the Panel), there was clear support from the committee for reclassification of HIV viral load monitoring tests.

(Response 2) We appreciate the comments and note that FDA published

a proposed order to reclassify HIV viral load monitoring tests from class III into class II on November 24, 2021 (86 FR 66982). HIV viral load monitoring tests have different intended uses than HIV serological and NAT diagnostic tests and raise different issues of safety and effectiveness. We do not think it is appropriate to reclassify HIV viral load monitoring tests in this final order without providing the public with the opportunity to comment on the basis of the proposed reclassification or on the special controls. Thus, we are proceeding with finalizing reclassification of HIV serological and NAT diagnostic and supplemental tests and are separately pursuing reclassification of HIV viral load tests.

(Comment 3) One comment recommended reclassification of home-use HIV diagnostic devices and stated that reclassification of such tests from class III to class II would encourage manufacturers to develop new tests for home use, which could help address current gaps and barriers to testing in certain populations. However, another comment did not support reclassification of HIV tests intended for home use.

(Response 3) FDA has approved only one home-use HIV diagnostic test to date, which is indicated as an in vitro diagnostic home-use test for detecting HIV (HIV–1 and HIV–2) in oral fluid. A positive result is preliminary and followup confirmatory testing is needed. As noted by one of the comments, home-use HIV diagnostic tests were not within the scope of the proposed order, and there are distinct performance considerations and risks associated with home-use HIV diagnostic tests. Thus, FDA does not intend to reclassify home-use HIV diagnostic tests at this time, and such devices are not included in the scope of this final order.

(Comment 4) Several comments, while generally expressing support for the proposed reclassification of HIV serological and NAT diagnostic and supplemental tests from class III to class II, expressed concerns regarding the proposed special controls on clinical sensitivity and specificity:

• *Performance of Currently Approved HIV Diagnostic Tests:* The comments stated that currently approved tests may not perform at the level specified in the special controls. One comment said that ''none of the currently approved assays perform at the level specified by the special controls.'' Another comment said that during the July 19, 2018, Panel meeting, it was noted that ''many of the currently approved assays don't actually perform at these levels.''

• *Performance Levels—Harmonization with Hepatitis C Virus (HCV) Tests:* Several comments expressed concerns about the proposed sensitivity and specificity levels for HIV tests being too stringent in general and not harmonized with those proposed for HCV tests. Others suggested that the proposed performance levels for sensitivity and specificity were inconsistent with the discussion at the July 19, 2018, Panel meeting. One of these comments recommended that the performance measure level of stringency should be a point estimate of 99 percent with a 95 percent lower bound of the 95 percent confidence interval and noted that the proposed special controls currently require a lower bound of the 95 percent confidence interval greater than or equal to 99 percent.

• *Characterization of Performance Measures—Harmonization with HCV Tests:* One comment indicated that, in order to harmonize HCV test requirements and HIV serologic and nucleic acid test requirements, the HIV test performance measures should be characterized as Positive Percent Agreement and Negative Percent Agreement with a predicate assay, rather than clinical sensitivity and specificity (*i.e.,* comparing the performance of antibody tests with other antibody tests, rather than with the presence or absence of disease).

• *Sample Size:* Two comments noted the investment needed to conduct clinical trials with sufficiently large sample size to demonstrate the required levels of sensitivity and specificity will serve as a disincentive for manufacturers to develop new assays or to adapt existing assays and will ultimately not meet the reclassification goal of improving access to quality HIV testing. The comments noted that sensitivity and specificity requirements, with related sample size needs, are one of the main driving forces of clinical trial cost.

(Response 4) We disagree with the comments regarding the performance of currently approved diagnostic tests, harmonization with HCV performance levels, and clinical trial sample size. FDA's experience with HIV diagnostic and supplemental tests demonstrates that the proposed criteria are consistent with the performance demonstrated by currently approved tests, which have a long history of safe and effective use. There may be, under some circumstances, differences observed in the performance of a test when used in a real-world setting and its performance in the more controlled environment of a clinical study. However, FDA believes that lowering the criteria for clinical study performance raises the risk that future devices will not provide the same level of safety and effectiveness as currently approved devices and, thus, will not provide a reasonable assurance of safety and effectiveness. The comments indicating that ''none of the currently approved assays perform at the level specified by the special controls'' and that ''many of the currently approved assays don't actually perform at these levels'' are inaccurate; all currently approved HIV diagnostic tests met or exceeded FDA's proposed criteria in the primary clinical studies submitted for approval.

FDA does not consider the sensitivity or specificity of tests meeting a 95 percent lower bound confidence interval of 95 percent to be equivalent to the sensitivity or specificity of tests meeting a lower bound of 99 percent. Tests that are unable to meet FDA's criteria in the special controls could potentially generate a much higher number of incorrect results than tests that meet FDA's proposed criteria. This risk is present with the lower bound of 95 percent even if the point estimate is constrained to 99 percent. Thus, introduction into the market of new HIV tests with decreased performance compared with currently available tests may result in a large increase in the number individuals who would receive incorrect results. Incorrect test results, both false positive and false negative results, endanger both individual and public health because people may undergo unneeded treatment or may be denied needed treatment and may inadvertently spread HIV.

Regarding aligning the proposed performance criteria with the performance criteria proposed as special controls for certain HCV antibody tests and nucleic acid-based HCV ribonucleic acid (RNA) tests, the performance necessary to provide a reasonable assurance of safety and effectiveness of an in vitro diagnostic device is based on, among other things, the specific analyte measured, the disease or condition for which the particular device is intended to be used in diagnosis, and the conditions of use. This means that the performance criteria identified in special controls may vary between devices that measure different analytes (*e.g.,* HIV and HCV) or with different conditions of use (*e.g.,* point of care (PoC) versus lab-based) because the risks associated with each device are different.

The performance criteria FDA proposed and finalized for HCV antibody tests and nucleic acid-based HCV RNA tests have been demonstrated to provide a reasonable assurance of

safety and effectiveness of these tests that aid in the diagnosis of HCV infection (see 85 FR 18483, April 2, 2020, and 86 FR 66173, November 22, 2021); likewise, the criteria FDA proposed for HIV diagnostic and supplemental tests have been demonstrated to provide a reasonable assurance of safety and effectiveness for these tests that aid in diagnosis of infection with HIV. Lowering performance criteria for HIV diagnostic and supplemental tests raises the risk that lower-performing tests, for which there is not a reasonable assurance of safety and effectiveness, will be on the market. Therefore, the performance criteria FDA is finalizing in this order do not mirror those FDA has finalized for HCV tests.

With respect to the concerns expressed about the number of samples that will be needed to conduct the clinical studies, we note that the final special controls do not specify a minimum number of samples that must be used. The number of samples needed in the study is dependent on the performance of the assay. Although reclassification of these devices to class II may not always result in smaller clinical studies than were conducted for HIV diagnostic and supplemental tests approved under PMAs, we believe that other effects of the reclassification of these devices into class II, such as typically shorter review timelines for 510(k) submissions, will decrease the burden associated with obtaining marketing authorization of these devices. For all the reasons mentioned above, FDA is retaining the proposed specificity and sensitivity performance criteria in this final order.

(Comment 5) Several comments addressed the special control to submit a complaint log to FDA. One comment requested clarification on which devices would be subject to the special control, the timeframe for submission of the complaint log, and how FDA will act on the information included in the complaint log. One comment indicated that this information will duplicate the information submitted under part 803 (21 CFR part 803), which requires the submission of malfunction reports. Another comment stated that the required submission of a complaint log to monitor decreases in test performance, manufacturing failures, or trends in false positive results is redundant and an unnecessary mitigation measure, and that current postmarket controls for complaint handling, trending, and safety reporting are sufficient to mitigate these risks and are subject to routine inspection. The comment further asserted that this special control would impose reporting requirements that are typically reserved for class III devices.

(Response 5) The submission of the complaint log to FDA is not intended to act as a replacement for a periodic report that is submitted for a PMA-approved device under 21 CFR 814.84 or to duplicate the information submitted to fulfill the requirements for medical device reports (MDRs) under part 803. Instead, we are requiring the submission of a log of the complaints a manufacturer receives about these devices that includes certain available information for each complaint. These complaints must already be reviewed and evaluated by manufacturers under 21 CFR 820.198. Therefore, we expect that submission of this log to FDA should not be burdensome to manufacturers. We have revised the special controls in this final order to clarify that the information about each complaint listed at §§ 866.3956(b)(1)(iii) and 866.3957(b)(1)(iii) (21 CFR 866.3956(b)(1)(iii) and 866.3957(b)(1)(iii)) must be included in the log to the extent it is available and that the types of complaints listed in the parenthetical are examples of the types of complaints manufacturers may receive about these devices.

Manufacturers may submit the information electronically through the FDA Electronic Submission Gateway or on paper or electronic media (*e.g.,* CD, DVD) to the Center for Biologics Evaluation and Research Document Control Center. The complaint log must be submitted only for a period of 5 years following device clearance. The requirement does not apply to devices previously approved by FDA following submission of a PMA application. However, if a manufacturer of a device previously approved under a PMA subsequently submits a traditional 510(k) for a change to that device, the requirement in the special controls would apply. The 5-year period does not restart because of minor changes to a device that do not necessitate the submission of a new 510(k). FDA intends to review the information submitted in the complaint logs in a timely way and engage with manufacturers as necessary.

The submission of the complaint log to FDA as required in the special control will alert FDA to potential problems with devices that may not meet the definition of MDR reportable events under part 803, but that can potentially affect the safety and effectiveness of these devices. Such problems may include an unusually high invalid rate or issues with users conducting the test. The submission of the complaint log will allow FDA to be alerted earlier to these concerns and to whether they have been adequately addressed, which we believe is important to providing reasonable assurance of safety and effectiveness for these devices. The Agency usually would not evaluate this kind of complaint information until an FDA inspection, which typically occurs less frequently than annually.

(Comment 6) Two comments indicated that the cost of conducting clinical trials to meet the performance requirements in the proposed special controls for HIV diagnostic and supplemental tests as compared to those proposed for HCV tests will be a disincentive for manufacturers to develop multiplex laboratory assays or dual point-of-care assays with both analytes. It was noted that, with the high burden of co-occurring HIV and HCV infection, the capability to fully and efficiently integrate diagnostic testing for HIV and HCV is essential.

(Response 6) FDA supports efforts to integrate diagnostic testing for HIV and HCV. However, as noted in Response 4 of this final order, the performance necessary to provide a reasonable assurance of safety and effectiveness of in vitro diagnostic devices is based on, among other things, the analyte, the disease or condition for which the particular device is intended to be used in diagnosis, and the conditions of use. Accordingly, the performance criteria necessary to provide a reasonable assurance of safety and effectiveness for an HIV diagnostic or supplemental test are reflected in this final order. Device manufacturers with questions on their plans for development of multiplex devices for HIV and HCV, including on the design of clinical studies, can request FDA feedback through the Q-Submission Program (Ref. 1).

(Comment 7) One comment noted that the proposed reclassification of HIV diagnostic and supplemental tests from class III to class II with special controls decreases some regulatory burden, including the reduced costs associated with a 510(k), compared to a PMA and supplements. However, the comment expressed concern that considerable burden remains associated with the cost of clinical trials to demonstrate the required performance criteria and to add a new specimen type, for example a dried blood spot, to a marketed device. The comment asserted that the clinical trial required to add a new specimen type under the proposed regulatory pathway would be equivalent to the current pathway and would be a disincentive to manufacturers to address changing needs in the field by

submitting changes to their original submission.

(Response 7) FDA concurs that reclassification of HIV diagnostic and supplemental tests from class III to class II with special controls will reduce regulatory burdens as manufacturers will no longer be required to submit a PMA but can instead submit a 510(k) and receive clearance before marketing their device. However, we decline to revise the special controls necessary to provide a reasonable assurance of safety and effectiveness of these devices for the reasons discussed in Response 4 above. FDA remains open to discussions with device manufacturers about clinical study designs.

(Comment 8) One comment objected to requiring prescriptions for HIV diagnostic testing, noting that the requirement would result in more HIV transmissions.

(Response 8) FDA believes that the reclassification of HIV diagnostic and supplemental tests to class II with special controls will provide a reasonable assurance of safety and effectiveness of these devices while expanding access to HIV testing and reducing the regulatory burden on manufacturers. Under this final order, the HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests subject to this reclassification are identified as prescription use only devices. There are different performance considerations and risks associated with non-prescription HIV diagnostic and supplemental tests. Although not subject to this final order, FDA has approved one home-use device for which a prescription is not required.

III. Final Order

Based on the information discussed in the preamble to the proposed order (85 FR 10110), the comments received on the proposed order, the Panel discussions (Ref. 2), and FDA's experiences over the years with these device types, FDA concludes that special controls, in conjunction with general controls, will provide reasonable assurance of the safety and effectiveness of HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests. FDA is adopting its findings under section 513(f)(3) of the FD&C Act, as published in the preamble to the proposed order (85 FR 10110).

FDA is issuing this final order to reclassify certain HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests from class III into class II and to establish special controls that will be codified at §§ 866.3956 and 866.3957.[1] In this final order, the Agency has identified special controls under section 513(a)(1)(B) of the FD&C Act which, together with general controls, provide a reasonable assurance of the safety and effectiveness of HIV serological and NAT diagnostic and supplemental tests.

FDA is making a few clarifications and modifications to the special controls as published in the proposed order after considering public comments, as discussed above, and on its own initiative. These include: (1) Correcting a reference to ''prescription use only'' in § 866.3957(a) to read ''for professional use only'' and moving the placement of the text stating the tests are for professional use only within both §§ 866.3956(a) and 866.3957(a); (2) referring to ''blood products'' instead of ''plasma'' in § 866.3956(a) and (b)(1)(i)(A) and in § 866.3957(a) and (b)(1)(i)(A) for consistency with the labeling of more recently approved tests; (3) clarifying in §§ 866.3956(b)(1)(v)(A) and 866.3957(b)(1)(v)(A) that multisite clinical studies required for devices intended for PoC use must be conducted at appropriate PoC sites; (4) clarifying that the procedures for determining when to submit an MDR described in § 866.3956(b)(1)(ii)(K) and in § 866.3957(b)(1)(ii)(K) must be appropriate and acceptable so that they ensure appropriate adverse event reporting; (5) clarifying certain aspects of the special controls regarding submission of complaint log; (6) adding references to ''labeling'' in § 866.3956(b)(2), (b)(3), and (b)(5) and in § 866.3957(b)(2), (b)(3), and (b)(5) to make clearer that certain required statements must be included in the device labeling and making other minor wording changes to labeling statements required under §§ 866.3956(b)(2) and 866.3957(b)(2); (7) changing references to the PoC or supplemental ''claim'' to ''PoC use'' or ''supplemental use'' for consistency with terminology used elsewhere in the special controls; and (8) identifying more clearly that certain information must be included in 510(k) submissions for HIV diagnostic and supplemental tests.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide a reasonable assurance of the safety and effectiveness of HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests. Therefore, these device types are not exempt from premarket notification requirements. Persons who intend to market theses device types must submit and obtain clearance of a premarket notification and demonstrate compliance with the special controls in this final order, prior to marketing the device.

The devices that are the subject of this reclassification are assigned the generic names ''human immunodeficiency virus (HIV) serological diagnostic and supplemental tests'' and ''human immunodeficiency virus (HIV) nucleic acid (NAT) diagnostic and supplemental tests.'' HIV serological diagnostic and supplemental tests are identified as prescription devices for the qualitative detection of HIV antigen(s) and/or detection of antibodies against HIV in human body fluids or tissues. HIV NAT diagnostic and supplemental tests are identified as prescription devices for the qualitative detection of HIV nucleic acid in human body fluids or tissues. HIV serological diagnostic and supplemental tests and the NAT diagnostic and supplemental tests are intended for use as an aid in the diagnosis of infection with HIV, and their results are intended to be interpreted in conjunction with other relevant clinical and laboratory findings. These tests are for professional use only and are not intended to be used for monitoring patient status or for screening donors of blood or blood products, or human cells, tissues, and cellular and tissue-based products (HCT/Ps).

Under this final order, the HIV serological diagnostic and supplemental tests and HIV NAT diagnostic and supplemental tests are identified as prescription use only devices. Prescription in vitro diagnostic devices are exempt from the requirement for adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as all the conditions of 21 CFR 801.109 are met. A premarket notification submission for these devices will be required in the circumstances described in 21 CFR 807.81.

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

IV. Codification of Orders

Under section 513(f)(3) of the FD&C Act, FDA may issue final orders to reclassify devices. FDA will continue to codify classifications and reclassifications in the Code of Federal Regulations (CFR). Changes resulting from final orders will appear in the CFR as newly codified orders. In accordance with section 513(f)(3) of the FD&C Act, we are codifying in this final order the classification of HIV serological diagnostic and supplemental tests in the new § 866.3956, under which these devices are reclassified from class III to class II. In addition, we are codifying the classification of HIV NAT diagnostic and supplemental tests in the new § 866.3957, under which these devices are reclassified from class III to class II.

V. Analysis of Environmental Impact

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

VI. Paperwork Reduction Act of 1995

This final order contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The information collection provisions in §§ 866.3956(b)(1)(iii) and 866.3957(b)(1)(iii) have been approved under OMB control number 0910–0437. This approval expires on March 31, 2025. 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.

This final order also refers to previously approved FDA collections of information. These collections of information are subject to review by the OMB under the PRA. The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in part 803 have been approved under OMB control number 0910–0437; and the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485.

VII. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA, ''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program,'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/requests-feedback-and-meetings-medical-device-submissions-q-submission-program.*
2. Transcript of the July 19, 2018, Meeting of the Blood Products Advisory Committee (BPAC), available at: *https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/BloodProductsAdvisoryCommittee/ucm597841.htm.*

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for part 866 continues to read as follows:

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

■ 2. Add § 866.3956 to subpart D to read as follows:

§ 866.3956 Human immunodeficiency virus (HIV) serological diagnostic and/or supplemental test.

(a) *Identification.* Human immunodeficiency virus (HIV) serological diagnostic and supplemental tests are prescription devices for the qualitative detection of HIV antigen(s) and/or detection of antibodies against HIV in human body fluids or tissues. The tests are intended for use as an aid in the diagnosis of infection with HIV and are for professional use only. The test results are intended to be interpreted in conjunction with other relevant clinical and laboratory findings. These tests are not intended to be used for monitoring patient status, or for screening donors of blood or blood products, or human cells, tissues, and cellular and tissue-based products (HCT/Ps).

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

(1) For all HIV serological diagnostic and supplemental tests

(i) The labeling must include:

(A) An intended use that states that the device is not intended for use for screening donors of blood or blood products or HCT/Ps.

(B) A detailed explanation of the principles of operation and procedures used for performing the assay.

(C) A detailed explanation of the interpretation of results and recommended actions to take based on results.

(D) Limitations, which must be updated to reflect current clinical practice and disease presentation and management. The limitations must include, but are not limited to, statements that indicate:

(1) The matrices with which the device has been cleared, and that use of this test kit with specimen types other than those specifically cleared for this device may result in inaccurate test results.

(2) The test is not intended to be used to monitor individuals who are undergoing treatment for HIV infection.

(3) A specimen with a reactive result should be investigated further following current guidelines.

(4) All test results should be interpreted in conjunction with the individual's clinical presentation, history, and other laboratory results.

(5) A test result that is nonreactive does not exclude the possibility of exposure to or infection with HIV. Nonreactive results in this assay may be due to analyte levels that are below the limit of detection of this assay.

(ii) Device verification and validation must include:

(A) Detailed device description, including the device components, ancillary reagents required but not provided, and an explanation of the methodology. Additional information appropriate to the technology must be included, such as the amino acid sequence of antigen(s) and design of capture antibodies.

(B) For devices with assay calibrators, the design of all primary, secondary, and subsequent quantitation standards used for calibration as well as their traceability to a reference material. In addition, analytical testing must be performed following the release of a new lot of the standard material that was used for device clearance, or when there is a transition to a new calibration standard.

(C) Detailed documentation of analytical performance studies

conducted as appropriate to the technology, specimen types tested, and intended use of the device, including, but not limited to, limit of blank, limit of detection, cutoff determination, precision, endogenous and exogenous interferences, cross reactivity, carryover, quality control, matrix equivalency, and sample and reagent stability. Samples selected for use in analytical studies or used to prepare samples for use in analytical studies must be from subjects with clinically relevant circulating genotypes in the United States.

(D) Multisite reproducibility study that includes the testing of three independent production lots.

(E) Analytical sensitivity of the test must be the same as or better than that of other cleared or approved tests. Samples tested must include appropriate numbers and types of samples, including real clinical samples near the lower limit of detection. Analytical specificity of the test must be the same as or better than that of other cleared or approved tests. Samples must include appropriate numbers and types of samples from patients with different underlying illnesses or infections and from patients with potential endogenous interfering substances.

(F) Detailed documentation of performance from a multisite clinical study. Performance must be analyzed relative to an FDA-cleared or approved comparator. This study must be conducted using patient samples, with an appropriate number of HIV positive and HIV negative samples in applicable risk categories. Additional subgroups or types must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. The study designs, including number of samples tested, must be sufficient to meet the following criteria:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(G) Strategies for detection of new strains, types, subtypes, genotypes, and genetic mutations as they emerge.

(H) Risk analysis and management strategies, such as Failure Modes Effects Analysis and/or Hazard Analysis and Critical Control Points summaries and their impact on test performance.

(I) Final release criteria to be used for manufactured test lots with appropriate evidence that lots released at the extremes of the specifications will meet the claimed analytical and clinical performance characteristics as well as the stability claims.

(J) All stability protocols, including acceptance criteria.

(K) Appropriate and acceptable procedure(s) for evaluating customer complaints and other device information that determines when to submit a medical device report.

(L) Premarket notification submissions must include the information contained in paragraph (b)(1)(ii)(A) through (K) of this section.

(iii) Manufacturers must submit a log of all complaints. The log must include the following information regarding each complaint if available: The type of event (*e.g.,* false negative/false nonreactive or false positive/false reactive), lot, date, population, and whether or not the complaint was reported under part 803 of this chapter (Medical Device Reporting). The log must be submitted annually on the anniversary of clearance for 5 years following clearance of a traditional premarket notification.

(2) If the test is intended for Point of Care (PoC) use, the following special controls, in addition to those listed in paragraph (b)(1) of this section apply:

(i) The PoC labeling must include a statement that the test is intended for PoC use.

(ii) The PoC labeling must include the following information near the statement of the intended use:

(A) That the test is for distribution to clinical laboratories that have an adequate quality assurance program, including planned systematic activities that provide adequate confidence that requirements for quality will be met and where there is assurance that operators will receive and use the instructional materials.

(B) That the test is for use only by an agent of a clinical laboratory.

(C) Instructions for individuals to receive the ''Subject Information Notice'' prior to specimen collection and appropriate information when test results are provided.

(iii) PoC labeling must include instructions to follow current guidelines for informing the individual of the test result and its interpretation.

(iv) The instructions in the labeling must state that reactive results are considered preliminary and should be confirmed following current guidelines.

(v) Device verification and validation for PoC use must include:

(A) Detailed documentation of performance from a multisite clinical study conducted at appropriate PoC sites. Performance must be analyzed relative to an FDA cleared or approved comparator. This study must be conducted using patient samples, with appropriate numbers of HIV positive and HIV negative samples in applicable risk categories. Additional subgroup or type claims must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. If the test is intended solely for PoC use, the test must meet only the performance criteria in paragraphs (b)(2)(v)(A)(*1*) and (*2*) of this section and not the criteria in paragraph (b)(1)(ii)(F) of this section:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(B) Premarket notification submissions must include the information contained in paragraph (b)(2)(v)(A) of this section.

(3) If the test is intended for supplemental use in addition to use as an aid in initial diagnosis, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, as appropriate, apply:

(i) The labeling must include a statement that the test is intended for use as an additional test to confirm the presence of HIV antibodies or antigens in specimens found to be repeatedly reactive by a diagnostic screening test.

(ii) Device validation and verification for supplemental use must include a clinical study, including samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a different confirmatory test. Premarket notification submissions must include this information.

(4) If the test is intended solely as a supplemental test, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, except those in paragraphs (b)(1)(ii)(F) and (b)(2)(v)(A) of this section, as appropriate, apply:

(i) The labeling must include a statement that the test is intended for use as an additional test to confirm the presence of HIV antibodies or antigens in specimens found to be repeatedly reactive by a diagnostic screening test.

(ii) The labeling must clearly state that the test is not for use for initial diagnosis or is not intended as a first-line test.

(iii) Device validation and verification must include a clinical study including samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a confirmatory test. Premarket notification submissions must include this information.

(5) If the test is intended to differentiate different HIV types, the following special controls, in addition to those listed in paragraphs (b)(1) through (4) of this section, as appropriate, apply:

(i) The labeling must include the statement that the test is intended for the confirmation of initial results from a diagnostic test and differentiation of different HIV types.

(ii) The results interpretation in the labeling must include instructions for the user on how to interpret the results, including un-typeable and co-infection results.

(iii) Device validation and verification must include evaluation of analytical and clinical sensitivity and specificity for each of the HIV types, strains, and subtypes of HIV intended to be differentiated. Premarket notification submissions must include this information.

■ 3. Add § 866.3957 to subpart D to read as follows:

§ 866.3957 Human immunodeficiency virus (HIV) nucleic acid (NAT) diagnostic and/or supplemental test.

(a) *Identification.* Human immunodeficiency virus (HIV) nucleic acid (NAT) diagnostic and supplemental tests are prescription devices for the qualitative detection of HIV nucleic acid in human body fluids or tissues. The tests are intended for use as an aid in the diagnosis of infection with HIV and are for professional use only. The test results are intended to be interpreted in conjunction with other relevant clinical and laboratory findings. These tests are not intended to be used for monitoring patient status, or for screening donors of blood or blood products, or human cells, tissues, or cellular or tissue-based products (HCT/Ps).

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

(1) For all HIV NAT diagnostic and/or supplemental tests

(i) The labeling must include:

(A) An intended use that states that the device is not intended for use for screening donors of blood or blood products, or HCT/Ps.

(B) A detailed explanation of the principles of operation and procedures used for performing the assay.

(C) A detailed explanation of the interpretation of results and recommended actions to take based on results.

(D) Limitations, which must be updated to reflect current clinical practice and disease presentation and management. The limitations must include, but are not limited to, statements that indicate:

(1) The matrices with which the device has been cleared, and that use of this test kit with specimen types other than those specifically cleared for this device may result in inaccurate test results.

(2) The test is not intended to be used to monitor individuals who are undergoing treatment for HIV infection.

(3) A specimen with a reactive result should be investigated further following current guidelines.

(4) All test results should be interpreted in conjunction with the individual's clinical presentation, history, and other laboratory results.

(5) A test result that is nonreactive does not exclude the possibility of exposure to or infection with HIV. Nonreactive results in this assay may be due to analyte levels that are below the limit of detection of this assay.

(ii) Device verification and validation must include:

(A) Detailed device description, including the device components, ancillary reagents required but not provided, and an explanation of the methodology. Additional information appropriate to the technology must be included, such as design of primers and probes.

(B) For devices with assay calibrators, the design and nature of all primary, secondary, and subsequent quantitation standards used for calibration as well as their traceability to a reference material. In addition, analytical testing must be performed following the release of a new lot of the standard material that was used for device clearance, or when there is a transition to a new calibration standard.

(C) Detailed documentation of analytical performance studies conducted as appropriate to the technology, specimen types tested, and intended use of the device, including, but not limited to, limit of blank, limit of detection, cutoff determination, precision, endogenous and exogenous interferences, cross reactivity, carryover, quality control, matrix equivalency, and sample and reagent stability. Samples selected for use in analytical studies or used to prepare samples for use in analytical studies must be from subjects with clinically relevant circulating genotypes in the United States. The effect of each claimed nucleic-acid isolation and purification procedure on detection must be evaluated.

(D) Multisite reproducibility study that includes the testing of three independent production lots.

(E) Analytical sensitivity of the test must be the same as or better than that of other cleared or approved tests. Samples tested must include appropriate numbers and types of samples, including real clinical samples near the lower limit of detection. Analytical specificity of the test must be as the same as or better than that of other cleared or approved tests. Samples must include appropriate numbers and types of samples from patients with different underlying illnesses or infections and from patients with potential endogenous interfering substances.

(F) Detailed documentation of performance from a multisite clinical study. Performance must be analyzed relative to an FDA cleared or approved comparator. This study must be conducted using appropriate patient samples, with appropriate numbers of HIV positive and negative samples in applicable risk categories. Additional subtype, strain, or types must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. The study designs, including number of samples tested, must be sufficient to meet the following criteria:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 99 percent.

(G) Strategies for detection of new strains, types, subtypes, genotypes, and genetic mutations as they emerge.

(H) Risk analysis and management strategies, such as Failure Modes Effects Analysis and/or Hazard Analysis and Critical Control Points summaries and their impact on test performance.

(I) Final release criteria to be used for manufactured test lots with appropriate evidence that lots released at the extremes of the specifications will meet the claimed analytical and clinical performance characteristics as well as the stability claims.

(J) All stability protocols, including acceptance criteria.

(K) Appropriate and acceptable procedure(s) for evaluating customer complaints and other device

information that determine when to submit a medical device report.

(L) Premarket notification submissions must include the information contained in paragraph (b)(1)(ii)(A) through (K) of this section.

(iii) Manufacturers must submit a log of all complaints. The log must include the following information regarding each complaint, if available: The type of event (*e.g.,* false negative/false nonreactive or false positive/false reactive), lot, date, population, and whether or not the complaint was reported under part 803 of this chapter (Medical Device Reporting). The log must be submitted annually on the anniversary of clearance for 5 years following clearance of a traditional premarket notification.

(2) If the test is intended for Point of Care (PoC) use, the following special controls, in addition to those listed in paragraph (b)(1) of this section, apply:

(i) The PoC labeling must include a statement that the test is intended for PoC use.

(ii) The PoC labeling must include the following information near the statement of the intended use:

(A) That the test is for distribution to clinical laboratories that have an adequate quality assurance program, including planned systematic activities that provide adequate confidence that requirements for quality will be met and where there is assurance that operators will receive and use the instructional materials.

(B) That the test is for use only by an agent of a clinical laboratory.

(C) Instructions for individuals to receive the ''Subject Information Notice'' prior to specimen collection and appropriate information when test results are provided.

(iii) PoC labeling must include instructions to follow current guidelines for informing the individual of the test result and its interpretation.

(iv) The instructions in the labeling must state that reactive results are considered preliminary and should be confirmed following current guidelines.

(v) Device verification and validation for PoC use must include:

(A) Detailed documentation from a well-conducted multisite clinical study conducted at appropriate PoC sites. Performance must be analyzed relative to an FDA cleared or approved comparator. This study must be conducted using patient samples, with appropriate numbers of HIV positive and HIV negative samples in applicable risk categories. Additional subgroup or type claims must be validated using appropriate numbers and types of samples. The samples may be a combination of fresh and repository samples, sourced from within and outside the United States, as appropriate. If the test is intended solely for PoC use, the test must meet only the performance criteria in paragraphs (b)(2)(v)(A)(*1*) and (*2*) of this section and not the criteria in paragraph (b)(1)(ii)(F) of this section:

(1) Clinical sensitivity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(2) Clinical specificity of the test must have a lower bound of the 95 percent confidence interval of greater than or equal to 98 percent.

(B) Premarket notification submissions must include the information contained in paragraph (b)(2)(v)(A) of this section.

(3) If the test is intended for supplemental use in addition to use as an aid in initial diagnosis, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, as appropriate, apply:

(i) The labeling must include a statement that the test is intended for use as an additional test to confirm the presence of HIV viral nucleic acid in specimens found to be repeatedly reactive by a diagnostic screening test.

(ii) Device validation and verification for supplemental use must include a clinical study, including samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a confirmatory test. Premarket notification submissions must include this information.

(4) If the test is intended solely as a supplemental test, the following special controls, in addition to those listed in paragraphs (b)(1) and (2) of this section, except those in paragraphs (b)(1)(ii)(F) and (b)(2)(v)(A) of this section, as appropriate, apply:

(i) The labeling must include a statement that the test is intended for use as an additional test to confirm the presence of HIV viral nucleic acid in specimens found to be repeatedly reactive by a diagnostic screening test.

(ii) The labeling must clearly state that the test is not for use for initial diagnosis or is not intended as a first-line test.

(iii) Device validation and verification must include a clinical study including samples that were initially reactive and repeatedly reactive on a diagnostic test but were negative or indeterminate on a confirmatory test. Premarket notification submissions must include this information.

(5) If the test is intended to differentiate different HIV types, the following special controls, in addition to those listed in paragraphs (b)(1) through (4) of this section, as appropriate, apply:

(i) The labeling must include the statement that the test is intended for the confirmation of initial results and differentiation of different HIV types.

(ii) The results interpretation in the labeling must include instructions for the user on how to interpret the results, including un-typeable and co-infection results.

(iii) Device validation and verification must include evaluation of analytical and clinical sensitivity and specificity for each of the types, strains, and subtypes of HIV intended to be differentiated. Premarket notification submissions must include this information.

Dated: May 11, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–10461 Filed 5–13–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2020–0154]

RIN 1625–AA01

Anchorage Regulations; Ten Anchorages on the Mississippi River Mile Markers 12–85 AHP

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

ACTION: Final rule.

SUMMARY: The Coast Guard is amending anchorage regulations for the Lower Mississippi River (LMR) between mile marker (MM) 12 above head of passes (AHP), to MM 85 AHP. This amendment modifies nine anchorage grounds and establishes one new anchorage ground. This regulation increases the available anchorage areas necessary to accommodate vessel traffic, promote navigational safety, provide for the overall safe and efficient flow of vessel traffic and commerce, and bolster the economy through increased anchorage capacity.

DATES: This rule is effective June 15, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0154 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 William Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AHP Above Head of Passes
CFR Code of Federal Regulations
COTP Captain of the Port Sector New Orleans
CPRA Coastal Protection and Restoration Authority
CRPPA Crescent River Port Pilots' Association
DHS Department of Homeland Security
FR Federal Register
LDB Left Descending Bank
LMR Lower Mississippi River
MM Mile Marker
MNSA Maritime Navigation Safety Association
NOI Notice of Inquiry
NPRM Notice of proposed rulemaking
RDB Right Descending Bank
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The legal basis and authorities for this rulemaking are found in 46 U.S.C. 70006, 33 CFR 109.05, 33 CFR 1.05–1, and DHS Delegation No. 0170.1, Revision No. 01.2, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorage grounds. Under title 33 of the Code of Federal Regulations (CFR) part 109, § 109.05, U.S. Coast Guard District Commanders are delegated the authority to establish anchorage grounds by the Commandant of the U.S. Coast Guard. The Coast Guard established Anchorage Grounds under 33 CFR 110.1(b)(32 FR 17728, Dec. 12, 1967, as amended by 52 FR 33811, Sept. 8, 1987; 63 FR 5526, June 30, 1998).

The project to modify or establish ten anchorage grounds along the LMR was initiated in 2019. From 2019 through 2022, certain port stakeholders, (including Crescent River Port Pilots' Association (CRPPA), Maritime Navigation Safety Association (MNSA), Coastal Protection and Restoration Authority (CPRA) and United States Coast Guard (USCG)) worked to determine if the proposed modifications were necessary and in suitable locations, with consideration given to, among other things, environmental factors.

In 2021, a notice of proposed rulemaking (NPRM) was published on August 29, 2021 (86 FR 48354), the Coast Guard solicited comments from the maritime stakeholders. At the end of the comment period ending on September 29, 2021, the project received a total of one comment that recommended adding a Note identifying revetments into the text of each of the applicable proposed changes to anchorage grounds.

III. Legal Authority and Need for Rule

The legal basis and authorities for this rulemaking are found in 46 U.S.C. 70006, 33 CFR 109.05, 33 CFR 1.05–1, and DHS Delegation No. 0170.1, Revision No. 01.2, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorage grounds. Under Title 33 of the Code of Federal Regulation (CFR) part 109.05, U.S. Coast Guard District Commanders are delegated the authority to establish anchorage grounds by the Commandant of the U.S. Coast Guard. The Coast Guard established Anchorage Grounds under title 33 CFR 110.1(b)(32 FR 17728, Dec. 12, 1967, as amended by 52 FR 33811, Sept. 8, 1987; 63 FR 5526, June 30, 1998).

The Commander of Coast Guard District Eight is establishing one new anchorage ground and amending nine existing anchorage grounds along the LMR, ranging from MM 12 to MM 85 AHP. Currently, there are not adequate anchorage grounds along the river system to facilitate the safe anchorage of shallow and deep draft vessels along the LMR. This action would ensure safe navigation of vessels on LMR.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on the NPRM published on August 29, 2021. This comment proposed to include additional text to 6 of the anchorage grounds that would identify revetments located within or adjacent to those specific anchorage grounds. The Coast Guard agrees that, since the NPRM proposed to include notes to Cedar Grove and Lower 12 Mile, which identify revetments located within/adjacent to those specific anchorage grounds, the proposed changes to the anchorage grounds would be beneficial.

The changes in the regulatory text of this rule from the rule in the NPRM are discussed below. The specific anchorage boundaries are described in detail in the regulatory text at the end of the document. In general, this rule will have the following effects:

1. Increase the length of the Boothville Anchorage from 5.5 miles to 6.45 miles and add a note to the text of the Boothville Anchorage (33 CFR 110.195(a)(4)).
2. Increase the length of the Magnolia Anchorage from 2.1 miles to 2.2 miles and add a note to the text of the Magnolia Anchorage (33 CFR 110.195(a)(7)).
3. Increase the length of the Davant Anchorage from 1.1 miles to 1.4 miles (33 CFR 110.195(a)(9)).
4. Decrease the width of the Wills Point Anchorage from 600 feet to 500 feet (33 CFR 110.195(a)(11)).
5. Add a note to the text of the Cedar Grove Anchorage (33 CFR 110.195(a)(12)).
6. Increase the length of the Belle Chasse Anchorage from 2.1 miles to 2.15 miles, decrease the width from 575 feet to 500 feet and add a note to the text of the Belle Chasse Anchorage ((33 CFR 110.195(a)(13)).
7. Add a Note to the text of the Lower 12 Mile Point Anchorage (33 CFR 110.195(a)(14)).
8. Increase the length of the Lower 9 Mile Point Anchorage from 2.3 miles to 2.4 miles add a note to the text of the Lower 9 Mile Anchorage (33 CFR 110.195(a)(15)).
9. Increase the length of the Point Michel Anchorage from 1.4 miles to 2.2 miles and add a note to the text of the Point Michel Anchorage (33 CFR 110.195(a)(35)).
10. Add a new anchorage, the Phoenix Anchorage, to include the area, 0.6 miles in length, along the left descending bank of the river extending from mile 57.82 to mile 58.42 Above Head of Passes. The width of the anchorage is 400 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP. Add a note to the text of the Phoenix Anchorage.

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 minimal impact to routine navigation. The anchorage areas do not restrict traffic as they are located well outside the established navigation channel. Vessels maneuver in, around and through the anchorages.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the anchorage grounds may be small entities, for the reasons stated in section V.A. above, this rule would 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 the establishment of one new anchorage grounds and the modification of nine existing anchorage grounds along the LMR. It is categorically excluded from further review under paragraph Land L59 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 110

Anchorage Regulations.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C 2071, 46 U.S.C. 70006, 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2

■ 2. Amend § 110.195 by:
■ a. Revising paragraphs (a)(4), (7), (9), and (11) through (15);
■ b. Revising the headings for the notes following pargraphs (a)(16), (18), and (22);
■ c. Revising paragraph (a)(35);
■ d. Adding paragraph (a)(37); and
■ e. Revising the heading for the note following paragraph (c)(6).

The revisions and addition to read as follows:

§ 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(4) Boothville Anchorage. An area, 6.45 miles in length, along the right descending bank of the river extending from mile 12.05 to mile 18.5 Above Head of Passes. The width of the anchorage is 750 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 250 feet from the water's edge into the river as measured from the Low Water Reference Plane (LWRP). The outer boundary of the anchorage is a line parallel to the nearest bank 1,000 feet from the water's edge into the river as measured from the LWRP.

Note 1 to paragraph (a)(4): Venice Revetment extends/runs adjacent to this anchorage. Mariners are urged to use caution in this anchorage.

* * * * *

(7) Magnolia Anchorage. An area, 2.2 miles in length, along the right descending bank of the river extending from mile 45.4 to mile 47.6 Above Head of Passes. The width of the anchorage is 700 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's

edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 1,100 feet from the water's edge into the river as measured from the LWRP.

Note 2 to paragraph (a)(7): Point Michel and Diamond Revetments extend/run adjacent to this anchorage. Mariners are urged to use caution in this anchorage.

* * * * *

(9) Davant Anchorage. An area, 1.4 miles in length, along the left descending bank of the river extending from mile 52.5 to mile 53.9 Above Head of Passes. The width of the anchorage is 800 feet.

* * * * *

(11) Wills Point Anchorage. An area, 1.1 miles in length, along the left descending bank of the river extending from mile 66.5 to mile 67.6 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 200 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

(12) Cedar Grove Anchorage. An area, 1.34 miles in length, along the right descending bank of the river extending from mile 69.56 to mile 70.9 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 200 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

Note 3 to paragraph (a)(12): Jesuit Bend Revetment extends/runs adjacent to the lower portion of this anchorage. Mariners are urged to use caution in this anchorage.

(13) Belle Chasse Anchorage. An area, 2.15 miles in length, along the right descending bank of the river extending from mile 73.05 to mile 75.2 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 375 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 875 feet from the water's edge into the river as measured from the LWRP.

Note 4 to paragraph (a)(13): Oak Point Revetment extends/runs adjacent to the lower portion of this anchorage. Mariners are urged to use caution in this anchorage.

(14) Lower 12 Mile Point Anchorage. An area, 2.2 miles in length, along the right descending bank of the river extending from mile 78.6 to mile 80.8 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 300 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

Note 5 to paragraph (a)(14): English Turn Revetment extends/runs adjacent to the lower portion of this anchorage. Mariners are urged to use caution in this anchorage.

(15) Lower 9 Mile Anchorage. An area, 2.4 miles in length, along the right descending bank of the river extending from mile 82.6 to mile 85.0 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 300 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

Note 6 to paragraph (a)(15): Twelve Mile Point Revetment extends/runs adjacent to the lower portion of this anchorage. Mariners are urged to use caution in this anchorage.

Caution: A wreck is located within the boundaries of this anchorage. Mariners are urged to use caution in this anchorage.

* * * * *

Note 7 to paragraph (a)(16): * * *

* * * * *

Note 8 to paragraph (a)(18): * * *

* * * * *

Note 9 to paragraph (a)(22): * * *

* * * * *

(35) Point Michel Anchorage. An area, 2.2 miles in length, along the right descending bank of the river extending from mile 40.0 to mile 42.2 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 325 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 825 feet from the water's edge into the river as measured from the LWRP.

Note 10 to paragraph (a)(35): Point Michel Revetment extends/runs adjacent to this anchorage. Mariners are urged to use caution in this anchorage.

* * * * *

(37) Phoenix Anchorage. An area, 0.6 miles in length, along the left descending bank of the river extending from mile 57.82 to mile 58.42 Above Head of Passes. The width of the anchorage is 400 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

Note 11 to paragraph (a)(37): Myrtle Grove Revetment extends/runs adjacent to this anchorage. Mariners are urged to use caution in this anchorage.

* * * * *

(c) * * *

(6) * * *

Note 12 to paragraph (c)(6): * * *

* * * * *

Dated: 2 May 2022.

John W. Reed,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 2022–10356 Filed 5–13–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 13

RIN 2900–AR11

Fiduciary Bond

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations that govern fiduciary activities. More specifically, the amendments revise specific procedures to exempt a VA-appointed fiduciary who is also serving as a court-appointed fiduciary from posting multiple bonds and to also exempt a VA-appointed fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond from having to obtain an additional bond payable to the Secretary of Veterans Affairs (Secretary).

DATES: This rule is effective June 15, 2022.

FOR FURTHER INFORMATION CONTACT: Kevin Baresich, Program Analyst, Pension and Fiduciary Service (21PF), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal**

Register on September 29, 2021, at 86 FR 53913, VA proposed to amend its fiduciary activity regulations by providing an exception to certain eligibility requirements to exempt a VA-appointed fiduciary who is also a court-appointed fiduciary, or a State agency with existing State-mandated liability insurance or a blanket bond from obtaining a separate surety bond payable to the Secretary. The 60-day public comment period ended on November 29, 2021. VA received comments from two individuals.

The first commenter was fully supportive of the proposed rule. The other commenter was not in support of the proposed rule. Neither commenter recommended revisions to the proposed rule. However, the second commenter expressed general concerns with the purpose of the rulemaking. The commenter opposed the exemption of a VA bond requirement, even if redundant, to protect a VA beneficiary's funds. The commenter was not persuaded that a bond made payable to the Secretary is unnecessary when VA funds under management are also protected by bonds ordered by a court, State-mandated liability insurance, or a blanket bond. The commenter believed that a VA-specific bond provides an additional layer of protection and safeguards the funds of a vulnerable VA beneficiary. However, the commenter did not explain how removing redundant coverage would increase risk to beneficiaries. We do not agree that our proposed regulation would disadvantage a VA beneficiary or limit any protections provided and make no changes based upon this comment.

In 2018, VA amended its fiduciary program regulations. 83 FR 32716 (July 13, 2018). VA promulgated new regulations meant to establish a national standard for the appointment and supervision of VA fiduciaries. Specifically, VA implemented a requirement that certain potential VA fiduciaries obtain a surety bond payable to the Secretary to ensure that VA would be able to recoup misused funds from a surety company as opposed to initiating collections against a fiduciary. 38 CFR 13.230(d). However, as explained in the proposed rule, we recognize that the purpose for which this requirement was imposed would be defeated in instances where a court-appointed fiduciary or State-agency already had a bond in place. We noted that in these instances, the bond typically would be payable to the state where the court is located, and for this reason VA would be unable to make a direct claim against that bond. This circumstance highlighted a potential problem with VA's practice of requiring multiple bonds, that if a surety company already paid out on a misused-benefits claim under a state-court bond, another surety company would not pay out on a VA bond for the same misconduct. Therefore, a second bond would not satisfy its intended purpose. Further, it would not make sense to burden a VA beneficiary with paying a second bond premium where there already is adequate protection in place. Indeed, to do so would be contrary to VA's core mission to ensure that a VA beneficiary's benefits are managed in their best interest. A VA beneficiary would not be financially disadvantaged by the removal of a duplicative bond requirement because VA is now required to reimburse a beneficiary of any misused funds. 38 U.S.C. 6107.

Finally, the same commenter stated that if a fiduciary breaches his or her duties as a fiduciary, that individual should be held accountable by both the State and VA.

The amendments under this rule do not waive VA's obligation under the law to hold a fiduciary who has misused VA benefits accountable for such misuse. 38 CFR 13.400, 13.500.

VA adopts the rule as proposed without change.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Paperwork Reduction Act

This final rule includes provisions constituting a revised collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

Regulatory Flexibility Act

The Secretary certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This regulation has the potential to impact all 2,350 small entities within the North American Industry Classification System Code 524126 (casualty and bonding companies). There is a projected loss of revenue of $66,989 per firm which yields a 0.16% revenue loss to each entity. Based on this analysis, the Secretary certifies that the adoption of this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Assistance Listing

The Assistance Listing program number and title for programs affected by this rule are as follows: 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as 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).

List of Subjects in 38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 5, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 13 as set forth below:

PART 13—FIDUCIARY ACTIVITIES

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 38 U.S.C. 501, 5502, 5506–5510, 6101, 6106–6108, and as noted in specific sections.

Source: 83 FR 32738, July 13, 2018, unless otherwise noted.

■ 2. Amend § 13.230 by revising paragraph (c)(1) to read as follows:

§ 13.230 Protection of beneficiary funds.

* * * * *

(c) * * *. (1) The provisions of paragraphs (a) and (b) of this section do not apply to:

(i) A fiduciary that is a trust company or a bank with trust powers organized under the laws of the United States or a state;

(ii) A fiduciary who is the beneficiary's spouse;

(iii) A fiduciary in the Commonwealth of Puerto Rico, Guam, or another territory of the United States, or in the Republic of the Philippines, who has entered into a restricted withdrawal agreement in lieu of a surety bond;

(iv) A fiduciary that is also appointed by a court and has obtained a state-court bond, as referenced in 38 CFR 14.709, sufficient to cover both VA and non-VA funds; or

(v) A fiduciary that is also a state agency with existing, state-mandated liability insurance or a blanket bond sufficient to cover both VA and non-VA funds.

* * * * *

[FR Doc. 2022–10388 Filed 5–13–22; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 241

Post Office Organization and Administration: Discontinuance of USPS-Operated Retail Facilities

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The United States Postal Service® has revised its regulations concerning the Postal Service-Operated Retail Facilities Discontinuance Guide to conform to organizational changes.

DATES: Effective May 16, 2022.

FOR FURTHER INFORMATION CONTACT: Sal Faraglia, 202–494–3329, Post Office Operations and Processing Logistics and Integration.

SUPPLEMENTARY INFORMATION: The revision makes minor changes to § 241.3 to update the text with the correct job titles following organizational changes.

List of Subjects in 39 CFR Part 241

Organization and functions (Government agencies).

Accordingly, 39 CFR part 241 is amended as follows:

PART 241—ESTABLISHMENT CLASSIFICATION, AND DISCONTINUANCE

■ 1. The authority citation for part 241 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 403, 404, 410, 1001.

■ 2. Amend § 241.3 by revising paragraphs (b)(2) and (d)(3) introductory text to read as follows:

§ 241.3 Discontinuance of USPS-operated retail facilities.

* * * * *

(b) * * *

(2) *ZIP Code assignment.* The ZIP Code for each address formerly served from the discontinued USPS-operated retail facility should be kept, wherever practical. In some cases, the ZIP Code originally assigned to the discontinued USPS-operated retail facility may be changed if the responsible District Manager receives approval from his or her Vice President of Area Delivery and Retail Operations before any proposal to discontinue the USPS-operated retail facility is posted.

* * * * *

(d) * * *

(3) *Other steps.* In addition to providing notice and inviting comment, the District Manager must take any other steps necessary to ensure that the persons served by affected USPS-operated retail facilities understand the nature and implications of the proposed action. A community meeting must be held to provide outreach and gain public input after the proposal is posted, unless otherwise instructed by the responsible Headquarters Vice President or the applicable Vice President of Area Delivery and Retail Operations. Authorization to forgo a community meeting should issue only where exceptional circumstances make a community meeting infeasible, such as where the community no longer exists because of a natural disaster or because residents have moved elsewhere.

* * * * *

Joshua J. Hofer,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–10283 Filed 5–13–22; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA–HQ–OPP–2017–0543; FRL–9803–01–OCSPP]

Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements; Court Order; Stay of Effectiveness

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; court-ordered stay of effectiveness.

SUMMARY: On December 28, 2020, the United States District Court for the Southern District of New York issued an order in the case of *State of New York et al.* v. *United States Environmental Protection Agency,* which resulted in a stay of the effectiveness for an October 30, 2020 final rule (2020 AEZ Rule) amending certain provisions of EPA's Agricultural Worker Protection Standard (WPS) regulations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) related to the application exclusion zone (AEZ). Subsequent orders have extended this stay of the effectiveness. Although the text of the Code of Federal Regulations reflects the amendments to the AEZ provisions under the 2020 AEZ Rule, the district court's stay orders have prevented those amendments from going into effect. Accordingly, the regulatory text prior to the amendments provides the operative regulatory language during the current stay and any future extensions of the stay.

DATES: As of February 15, 2022, the effectiveness of the final rule published

at 85 FR 68760 (October 30, 2020) is stayed by court order until August 22, 2022. EPA intends to publish another document in the **Federal Register** to address the status of the 2020 final rule if the stay of effectiveness expires or is lifted, but the Agency does not intend to publish additional **Federal Register** documents to announce any additional court orders entered to further stay the effectiveness of the 2020 final rule.

FOR FURTHER INFORMATION CONTACT: Carolyn Schroeder, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–2376; email address: *schroeder.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this announcement affect me?

You may be interested in this announcement if you work in or employ persons working in crop production agriculture where pesticides are applied. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Agricultural Establishments (NAICS code 111000).
- Nursery and Tree Production (NAICS code 111421).
- Timber Tract Operations (NAICS code 113110).
- Forest Nurseries and Gathering of Forest Products (NAICS code 113210).
- Farm Workers (NAICS codes 11511, 115112, and 115114).
- Pesticide Handling on Farms (NAICS code 115112).
- Farm Labor Contractors and Crew Leaders (NAICS code 115115).
- Pesticide Handling in Forestry (NAICS code 115310).
- Pesticide Manufacturers (NAICS code 325320).
- Farm Worker Support Organizations (NAICS codes 813311, 813312, and 813319).
- Farm Worker Labor Organizations (NAICS code 813930).
- Crop Advisors (NAICS codes 115112, 541690, 541712).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this announcement, identified by docket identification (ID) number EPA–HQ–OPP–2017–0543, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

II. Announcement of Court Order

On December 28, 2020, the United States Southern District of New York issued an order granting plaintiffs' request for a temporary restraining order (TRO) and injunctive relief in the case of *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642 (Ref. 1). The Court's order stayed the December 29, 2020 effective date of the 2020 AEZ Rule (Ref. 2) and enjoined all EPA authorities who would otherwise take action to make the 2020 AEZ Rule effective from doing so (Ref. 1). Following the December 2020 Order, the Court has issued several additional stipulated orders further extending the preliminary injunction staying the effectiveness of the 2020 AEZ Rule (Refs. 3–10). The most recent stipulated order, issued on February 15, 2022, continues the stay of the effectiveness of the 2020 AEZ Rule through August 22, 2022. Additional stay orders may be entered in the future.

III. Current Status of the WPS in Light of Court Orders

In November 2015, the Agency finalized amendments to the WPS that included the establishment of the AEZ and related provisions (2015 WPS) (Ref. 11). The text of the 2015 WPS and the AEZ provisions within the rule is available at 80 FR 67496 (November 2, 2015) (FRL–9931–81). As described above, court orders have stayed the effectiveness of the 2020 AEZ Rule, which would have modified the AEZ provisions in the 2015 WPS, until August 22, 2022. Additional court orders may extend this stay.

Because the 2020 AEZ Rule has not taken effect, the AEZ provisions from the 2015 WPS remain in effect and will continue to remain in effect in the event of future stays of the effectiveness. Accordingly, any enforcement activity by EPA officials and other authorities tasked with enforcing the WPS should be conducted based on the AEZ requirements in the 2015 WPS, until such time as a subsequent rule goes into effect.

IV. Status of Rulemaking

EPA has commenced a new rulemaking effort to address the AEZ and anticipates issuing a proposal in 2022, which is identified in the Semi-Annual Unified Regulatory Agenda under RIN 2070–AK92. As part of the future proposed rulemaking, EPA intends to thoroughly review the 2020 AEZ Rule to determine the extent to which it is consistent with the policies established in Executive Order 13990, entitled ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis'' (86 FR 7037, January 25, 2021). Any final rule resulted from this rulemaking process may modify content of the 2015 WPS, the 2020 AEZ Rule, or both.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, December 28, 2020). Amended Order Re: Complaint for Declaratory and Injunctive Relief.
2. EPA. Pesticides; Agricultural Worker Protection Standard Revisions; Revision of the Application Exclusion Zone Requirements; Final Rule. **Federal Register**. 85 FR 68760, October 30, 2020 (FRL–10016–03).
3. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, January 19, 2021). Stipulation and Consent Order Extending Stay and Entering Injunction.
4. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, February 10, 2021). Stipulation and Consent Order Further Extending Stay and Extending Injunction.

5. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, April 12, 2021). Second Stipulation and Consent Order Further Extending Stay and Extending Injunction.
6. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, June 14, 2021). Third Stipulation and Consent Order Further Extending Stay and Extending Injunction.
7. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, August 12, 2021). Fourth Stipulation and Consent Order Further Extending Stay and Extending Injunction.
8. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, October 12, 2021). Fifth Stipulation and Consent Order Further Extending Stay and Extending Injunction.
9. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, December 14, 2021). Sixth Stipulation and Consent Order Further Extending Stay and Extending Injunction.
10. *State of New York et al.* v. *United States Environmental Protection Agency,* Case No. 1:20–cv–10642; (United States Southern District of New York, February 15, 2022). Seventh Stipulation and Consent Order Further Extending Stay and Extending Injunction.
11. EPA. Pesticides; Agricultural Worker Protection Standard Revisions; Final Rule. **Federal Register**. 80 FR 67496, November 2, 2015 (FRL–9931–81).

Authority: 7 U.S.C. 136–136y.

Dated: May 5, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–10019 Filed 5–13–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2444–F]

RIN 0938–AU73

Medicaid Program; Reassignment of Medicaid Provider Claims

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule reinterprets the scope of the general requirement that State payments for Medicaid services under a State plan must generally be made directly to the individual practitioner or institution providing services or to the beneficiary, in the case of a class of practitioners for which the Medicaid program is the primary source of revenue. Specifically, this final rule explicitly authorizes States to make payments to third parties on behalf of individual practitioners, for individual practitioners' health insurance and welfare benefits, skills training, and other benefits customary for employees, if the individual practitioner consents to such payments on their behalf.

DATES: These regulations are effective June 15, 2022.

FOR FURTHER INFORMATION CONTACT: Christopher Thompson, (410) 786–4044.

SUPPLEMENTARY INFORMATION:

I. Background

A. Prohibition on Payment Reassignment

Congress established the Medicaid program in 1965 to provide health care services for low-income beneficiaries and beneficiaries with disabilities. Section 1902(a)(32) of the Social Security Act (the Act) imposes certain requirements on how States may make payments for services furnished to Medicaid beneficiaries. Section 1902(a)(32) of the Act provides generally that ''no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise.'' This prohibition is followed by four enumerated exceptions. On September 29, 1978, we codified these exceptions under 42 CFR 447.10, the regulation implementing section 1902(a)(32) of the Act, in the ''Payment for Services'' final rule (43 FR 45253) (hereinafter referred to as the ''1978 final rule''). The 1978 final rule simply reorganized and redesignated existing Medicaid regulations that previously appeared at 42 CFR 449.31. Since the 1990s, we have mostly understood this provision as governing only assignments and other similar Medicaid payment arrangements.

Consistent with this understanding, from 2012 to 2014, we engaged in rulemaking in the ''State Plan Home and Community-Based Services, 5-Year Period for Waivers Provider Payment Reassignment, and Setting Requirements for Community First Choice'' proposed rule published in the May 3, 2012 **Federal Register** (77 FR 26362) (hereinafter referred to as the ''2012 proposed rule'') to make it explicit that section 1902(a)(32) of the Act did not apply to certain payments made by the State Medicaid program on behalf and for the benefit of individual Medicaid practitioners whose primary source of revenue is the State Medicaid program. We finalized this regulation in the ''State Plan Home and Community Based Services, 5-Year for Waivers, Provider Payment Reassignment, and Home and Community-Based Setting Requirements for Community First Choice and Home and Community Based Services (HCBS) Waivers'' final rule published in the January 16, 2014 **Federal Register** (79 FR 2948) (hereinafter referred to as the ''2014 final rule''). In that rulemaking, we reasoned that the statute permitted this policy because the apparent purpose of section 1902(a)(32) of the Act was to prohibit factoring arrangements, the practice by which providers sold their claims for a percentage of their value to companies that would then submit the claims to the State. The purpose was not to preclude a Medicaid program that is functioning as the practitioner's primary source of revenue from fulfilling the basic employer-like responsibilities that are associated with that role, a scenario that was not contemplated by section 1902(a)(32) of the Act and was outside of the intended scope of the statutory prohibition.

We codified this policy as a regulatory exception under § 447.10(g)(4) to permit withholding from the payment due to the individual practitioner for amounts paid by the State directly to third parties for health and welfare benefits, training costs, and other benefits customary for employees. In an August 3, 2016 Center for Medicaid and CHIP Services Informational Bulletin, we outlined suggested approaches for strengthening and stabilizing the Medicaid home care workforce, including by supporting home care worker training and development. We noted that under § 447.10(g)(4), State Medicaid agencies could facilitate this goal by, with the consent of the individual practitioner, making payment on behalf of the practitioner to a third party that provides benefits to the workforce, such as health insurance, skills training, and other benefits customary for employees.[1]

[1] *https://www.medicaid.gov/federal-policy-guidance/downloads/cib080316.pdf.*

B. Current Medicaid Payment Assignment Regulations

Medicaid regulations at § 447.10 (''Prohibition against reassignment of provider claims'') implement the requirements of section 1902(a)(32) of the Act by providing that State plans may allow payments to be made only to certain individuals or entities. Specifically, payment may only be made to the individual practitioner that provided the service (the ''provider''), the recipient (the ''beneficiary''), if he or she is a non-cash recipient eligible to receive payment under § 447.25, or under one of the limited exceptions. The regulations specifically state that payment for any service furnished to a recipient by a provider may not be made to or through a factor, either directly or by power of attorney.

The exceptions to the general direct payment principle at § 447.10 generally mirror those enumerated in the statute. They include payment in accordance with a reassignment to a government agency or reassignment under a court order. There are also exceptions permitting payments to third parties for services furnished by individual practitioners where certain employment or contractual conditions are met. Additionally, there is another exception for payment to a business agent, such as a billing service or accounting firm, that furnishes statements and receives payments in the name of the individual practitioner, if the business agent's compensation for this service is related to the cost of processing the billing, and not dependent on the collection of the payment.

In 2018 and 2019, in a departure from our prior interpretation of this statute, we engaged in rulemaking to interpret the statutory prohibition as applying more broadly to prohibit any type of Medicaid payment to a third party other than the four exceptions enumerated in the statute. In doing so, we interpreted the statutory phrase ''or otherwise'' as encompassing any and all Medicaid payment arrangements involving third parties. We proposed this broad interpretation of the statutory language in the ''Reassignment of Medicaid Provider Claims'' proposed rule in the July 12, 2018 **Federal Register** (83 FR 32252) (hereinafter referred to as the ''2018 proposed rule'') and finalized it in the ''Reassignment of Medicaid Provider Claims'' final rule in the May 6, 2019 **Federal Register** (84 FR 19718) (hereinafter referred to as the ''2019 final rule''). This rulemaking eliminated the regulatory exception added by the 2014 final rule.

C. California v. Azar

Six States and 11 intervenors challenged the 2019 final rule. In *California* v. *Azar,* 501 F. Supp. 3d 830 (N.D. Cal. 2020), the district court rejected the Department of Health and Human Services' (HHS') arguments that section 1902(a)(32) of the Act expressly prohibited the agency's pre-2018 interpretation and the States' related practices, remanded the case to HHS for further proceedings, and vacated the 2019 final rule. Secretary Azar then appealed to the U.S. Court of Appeals for the Ninth Circuit in a case that is currently in abeyance and captioned *California* v. *Becerra,* No. 21–15091 (9th Cir.).

D. Individual Practitioner Workforce Stability and Development Concerns

Since the direct payment principle was originally enacted in statute in 1972 and expanded in 1977, Congress changed the definition of medical assistance under section 1905(a) of the Act to permit States to offer coverage of categories of practitioner services in the Medicaid program that are not offered in other health insurance programs, such as personal care services and other HCBS. For these practitioners, who often provide services independently, rather than as employees of a service provider agency, the Medicaid program may be their primary, or only, source of payment. Some States have sought methods to improve and stabilize the workforce by offering health and welfare benefits to such practitioners, and by requiring that such practitioners pursue periodic training.

Within Medicaid, long-term services and supports (LTSS) expenditures are shifting from institutional care (hospitals, nursing facilities, etc.) to HCBS. In FY 2013, HCBS LTSS expenditures reached 51 percent of total Medicaid LTSS expenditures and increased to 58.6 percent in FY 2019.[2] HCBS represented a majority of LTSS expenditures in 28 States and the District of Columbia, and over 75 percent of expenditures in five States in FY 2018.

Several States have requested that we adopt additional exceptions to the direct payment policy to permit a State to withhold from a payment due to the individual practitioner amounts that the practitioner is obligated to pay for health and welfare benefits, training costs, and other benefits customary for employees. These amounts would not be retained by the State, but would be paid to third parties on behalf of the practitioner for the stated purpose. We recognize that HCBS workforce issues, such as workforce shortages and staff turnover, have a direct and immediate impact on the quality of and access to services available to beneficiaries. We believe that State Medicaid agencies can play a key role in influencing the stability of this workforce by determining payment rates and facilitating greater access to benefits that support this class of providers.[3]

II. Provisions of the Proposed Regulations

In the August 3, 2021 **Federal Register**, we published the ''Medicaid Program; Reassignment of Medicaid Provider Claims'' proposed rule (86 FR 41803) (hereinafter referred to as the ''2021 proposed rule''). The following is a summary of those proposed provisions.

A. Prohibition Against Reassignment of Provider Claims (§ 447.10)

Under title XIX of the Act, State Medicaid programs generally pay for Medicaid-covered practitioner services through direct payments to the treating practitioners. States may develop State plan payment rates that account for costs related to health and welfare benefits, training, and other benefits customary for employees. However, under our previous interpretation of the statutory provision at section 1902(a)(32) of the Act, as reflected in regulations at § 447.10 under the 2019 final rule, the entire rate was required to be paid to the individual practitioner who provided the service, unless certain exceptions applied. Under the 2019 final rule, none of the exceptions applied to payments for health and welfare benefits, training, and other benefits customary for employees when the practitioner is not in a direct employment or contractual relationship with a third party that submits claims on the practitioner's behalf. While the 2019 final rule did not directly prevent practitioners from purchasing health insurance, enrolling in trainings, or paying dues to a union or other association, it did create an unnecessary administrative burden on practitioners, and may have increased costs for those practitioners by eliminating access to lower group rates.

Following the district court's decision and analysis in *California* v. *Azar,* we re-examined the statutory language and legislative history, and now conclude

[2] *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltssexpenditures2019.pdf.*

[3] *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-toolkit.pdf.*

that the prohibition in section 1902(a)(32) of the Act is better read to be limited in its applicability to Medicaid payments to a third party under an assignment, power of attorney, or other similar arrangement. In other words, and consistent with the longstanding title of the provision at § 447.10 (''Prohibition against reassignment of provider claims''), a title which the regulation has consistently had since at least 1978, the statutory prohibition is better viewed as an anti-reassignment provision that only governs assignment-like payment arrangements.[4] We do not believe this provision should be interpreted as a broad prohibition on any and all types of Medicaid payment arrangements beyond payments made directly to Medicaid beneficiaries and providers or enumerated in the statutory exceptions. As such, we proposed to amend § 447.10 to add a new paragraph (i), which would incorporate similar language from the previous paragraph (g)(4), as a new provision clarifying that certain types of third-party payments on behalf of a particular category of practitioners are outside the scope of the statutory provision in section 1902(a)(32) of the Act, rather than describing those payments as an exception to that prohibition.

Specifically, § 447.10(i) as proposed specified that the payment prohibition in section 1902(a)(32) of the Act and § 447.10(d) would not apply to payments to a third party on behalf of, and with the consent of, an individual practitioner for benefits such as health insurance, skills training, and other benefits customary for employees, in the case of a class of practitioners for which the Medicaid program is the primary source of revenue.

As discussed in the 2021 proposed rule, the text of the statute addresses only assignments and related payment arrangements wherein a provider's right to claim or receive full payment for services furnished to Medicaid beneficiaries is transferred to a third party. The statute includes examples of the types of payment arrangements intended to be prohibited, ''under an assignment or power of attorney or otherwise.'' The 2021 proposed rule included our reasoning that the language ''or otherwise'' is best read as referencing payments made under arrangements that are similar to an ''assignment'' and a ''power of attorney'' such that the reach of the prohibition under section 1902(a)(32) of the Act does not extend to payment arrangements that are wholly distinct from such types of arrangements. Consistent with this interpretation, we also proposed to amend § 447.10(a) to include the phrase ''under an assignment or power of attorney or a similar arrangement.'' We stated that this change would align the regulation with the applicable statutory language and our reading of that language and would create a consistent framework for the proposed new paragraph (i).

The introductory language in section 1902(a)(32) of the Act specifies that no payment under the plan for any care or service furnished to an individual shall be made to anyone other than such individual or the person or institution providing such care or service. This prohibition applies only to payments ''for any care or service,'' which we interpret to prohibit full diversion of the right to claim and receive such payments to third parties absent an exception, but not to apply to partial deductions from payments at the request or with the consent of the provider, to make payments to third parties on behalf of the provider.

A re-examination of the statutory exceptions to the general prohibition also supports the conclusion that the prohibition under section 1902(a)(32) of the Act does not extend to payment arrangements that are outside the category of payments with assignments or assignment-like arrangements. The excepted arrangements or transactions are all similar to assignments in that they involve third parties submitting claims directly to the State Medicaid agency for payment or having the right to receive the full amount of all payments due to the provider for services furnished to Medicaid beneficiaries. More specifically, section 1902(a)(32) of the Act contains several enumerated exceptions to the general principle of direct payment to individual practitioners. As described in the proposed rule, these exceptions may appear to be largely unrelated; however, they all involve payment arrangements where third parties are submitting claims to the Medicaid agency or where the right to receive all of the payments due to a provider for services furnished to Medicaid beneficiaries is transferred to a third party.

The fact that the only types of transactions that are explicitly excepted by the statute are assignment-like transactions that involve the transfer to a third party of either a provider's right to submit claims directly to the State or to receive all payments otherwise due a provider for services furnished supports our interpretation that the scope of the statutory prohibition extends only to payments to a third party that involve similar types of arrangements. By contrast, partial deductions from Medicaid payments requested by a provider to make separate payment to a third party on behalf of the provider for benefits customary for employees does not involve third parties receiving direct payment from the State for care or services provided to Medicaid beneficiaries. Nor does this arrangement allow such third parties to pursue independent claims against the State for Medicaid payment.

The legislative history of section 1902(a)(32) of the Act also supports our conclusion that the statutory text is best read as an anti-assignment prohibition. When Congress adopted the original version of this statute in 1972, it was focused on the practice of factoring—a practice which often led to the submission of inflated or false claims, raising concerns that the factoring industry was a breeding ground for Medicaid fraud.[5] When Congress amended this provision in 1977, it reiterated that it understood the provision simply as a response to and an attempt to prevent factoring. Indeed, in 1977, Congress amended the anti-reassignment provision to close what it perceived to be a loophole that factoring companies were exploiting.[6] This legislative history supports our proposed interpretation of the statutory prohibition as extending only to assignments and assignment-like arrangements that involve a potential for the type of abuse that the statute was intended to prevent.

For classes of practitioners for whom the State's Medicaid program is the only or primary payer, the ability of the State to ensure a stable and qualified workforce may be enhanced by the ability to deduct from Medicaid payments at the request or with the consent of a provider to make separate payment to a third party on behalf of the provider. Deductions for these purposes

[4] *See, for example, Gorman* v. *Nat'l Transp. Safety Bd.,* 558 F.3d 580, 588 & n.5 (D.C. Cir. 2009) (holding that a regulatory heading confirmed the reasonableness of an agency's reading of the rule in that case, and observing that as a general matter ''a short and simple, if ambiguous, subsection of a regulation'' may be ''clarified by the heading,'' and that headings ''may be of use'' '' 'when they shed light on some ambiguous word or phrase.' '') (internal citations omitted).

[5] *See, for example,* H.R. REP. NO. 92–231, at 104 (1972), reprinted in 1972 U.S.C.C.A.N. 4989, 5090; H.R. REP. NO. 92–231, at 205, reprinted in 1972 U.S.C.C.A.N. at 5090; S. REP. NO. 92–1230, at 204 S. REP. NO. 92–1230, at 204 (1972); *Professional Factoring Service Association* v. *Mathews,* 422 F. Supp. 250, 251–52 (S.D.N.Y. 1976).

[6] *See, for example,* H. REP. NO. 95–393(II), at 43, reprinted in 1977 U.S.C.C.A.N. at 3045; H. REP. NO. 95–393(II), at 46, reprinted in 1977 U.S.C.C.A.N. at 3048; H. REP. NO. 95–393(II), at 48–49 (1977), reprinted in 1977 U.S.C.C.A.N. 3039, 3051; S. REP. NO. 95–453, at 6–8 (1977).

are an efficient and effective method for ensuring that the workforce has provisions for basic needs and is adequately trained for their functions as health care professionals, thus ensuring that beneficiaries have access to such practitioners and higher quality services. Requiring practitioner consent for such deductions ensures that Medicaid provider payments are treated appropriately, and in a manner consistent with the wishes of the practitioner, for purposes of receiving benefits such as health insurance, skills training, and other benefits customary for employees.

Although we proposed that these deduction practices fall outside the scope of what the statute prohibits, we stated in the 2021 proposed rule that we consider it important to document the flexibility in regulation to ensure confidence in the provider community, particularly for front line workers during the Coronavirus Disease 2019 (COVID–19) pandemic. Within broad Federal Medicaid law and regulation, we have long sought to ensure maximum State flexibility to design State-specific payment methodologies that help ensure a strong, committed, and well-trained workforce. Currently, certain categories of Medicaid covered services, for which Medicaid is a primary payer, such as home and personal care services, suffer from especially high rates of turnover and low levels of participation in Medicaid which negatively impact access to and quality of providers available to Medicaid beneficiaries.[7] These issues often result in higher rates of institutional stays for beneficiaries. We also noted that the proposed rule would support our previous efforts to strengthen the home care workforce by specifying what actions are permitted to help foster a stable and high-performing workforce.[8] As proposed, under the amendment to § 447.10, State Medicaid programs would be permitted, as authorized under State law and with the consent of the individual practitioner, to deduct from the practitioner's payment to pay third parties for health and welfare benefit contributions, training costs, and other benefits customary for employees.

For States, the third-party payment arrangements authorized by the provisions in the proposed rule would be optional; States that choose to implement them can use existing administrative processes to make deductions for certain benefits on behalf of the individual practitioner and with consent of the practitioner, from a practitioner's Medicaid payment. For practitioners, we stated that the proposed rule would enhance the ability of the practitioners, regardless of their employment arrangement, to perform their functions as health care professionals, and thus support beneficiary access to quality home care. The Medicaid program, at both the State and Federal levels, has a strong interest in ensuring the development and maintenance of a committed, well-trained workforce.

With the majority of LTSS expenditures spent on HCBS, rather than institutional services, the importance of a strong home care workforce in Medicaid cannot be understated. HCBS provides critical services to millions of individuals across the county, including people with disabilities and older Americans. As the COVID–19 pandemic continues to impact health care in the United States, it is crucial that Medicaid beneficiaries are able to receive the home-based care they need in their homes and communities. Section 9817 of the American Rescue Plan Act of 2021 (Pub. L. 117–2) reinforces the importance of HCBS in Medicaid and during the COVID–19 pandemic by providing a temporary 10 percentage point increase to the Federal medical assistance percentage for certain HCBS, including those delivered by home care providers. As we explained in the proposed rule, the flexibility permitted under the rule would help protect the economic security for home care providers as well as protect and strengthen the HCBS workforce and accelerate LTSS reform and innovation. Facilitating access to benefits customary for employees for home care providers is critically important to improve workforce standards. Moreover, because the majority of home care workers are women and people of color,[9] permitting this type of payment arrangement will directly benefit those populations and address inequities.

Further, as discussed in the proposed rule, the increasing shortage of home care providers due to high turnover, low participation in Medicaid, low wages, and lack of benefits and training has significantly reduced access to home care services for older adults and people with disabilities. State Medicaid agencies can play a key role in increasing such access by improving workforce stability of these practitioners by addressing training, wages and benefits, and provider payment.[10] Under the rule as proposed, State Medicaid agencies would be authorized to make deductions from a practitioner's Medicaid payment, with the consent of the individual practitioner, to pay a third party on behalf of the individual practitioner for benefits that provide the workforce with freedom to advocate for higher wages and career advancement, access to health insurance and necessary trainings, and other customary employee benefits.

States typically have an established administrative process for their own employees' deductions for benefits that can also be applied to classes of practitioners for whom Medicaid is the only or primary payer. Additionally, State Medicaid agencies often perform employer-like responsibilities without a formal relationship to a certain class of practitioners for whom Medicaid is the only or primary payer, such as home care providers or personal care assistants. Using the State's established administrative processes to deduct funds to pay third parties on behalf of the practitioner, with the consent of the individual practitioner, may simplify administrative functions and program operations for the State and provide advantages to practitioners. For example, a practitioner could receive continuous health care coverage because the State automatically deducts funds for health insurance premiums on behalf of the practitioner. Providing State Medicaid agencies with the authority to make deductions from Medicaid payments, with the consent of the individual practitioner, to make payments to a third party on behalf of the individual practitioner for benefits such as health insurance, skills training, and other benefits customary for employees will ensure many of the country's most vulnerable workers, who care for the country's most vulnerable individuals, gain or retain benefits which help them support themselves and their families, and subsequently benefit those individuals they care for.

We noted in the 2021 proposed rule that these provisions would not authorize a State to claim, as a separate expenditure under its approved Medicaid State plan, amounts that are deducted from payments to individual practitioners (that is, health and welfare

[7] Kim J. (2020), Occupational Credentials and Job Qualities of Direct Care Workers: Implications for Labor Shortages. *Journal of Labor Research,* 1–18. Advance online publication. *https://doi.org/10.1007/s12122-020-09312-5.*

[8] *https://www.medicaid.gov/federal-policy-guidance/downloads/cib080316.pdf.*

[9] *https://www.kff.org/coronavirus-covid-19/event/march-30-web-event-unsung-heroes-the-crucial-role-and-tenuous-circumstances-of-home-health-aides-during-the-pandemic/.*

[10] *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-toolkit.pdf.*

benefit contributions, training, and similar benefits customary for employees). As explained in the proposed rule, should a State wish to recognize such costs, they would need to be included as part of the rate paid for the service to be eligible for Federal financial participation. No Federal financial participation would be available for such amounts apart from the Federal match available for a rate paid by the State for the medical assistance service. These costs also could not be claimed by the Medicaid agency separately as an administrative expense. As a result, we noted that the rule would have little to no impact on Federal Medicaid funding levels as the 2014 final rule is the status quo in light of the district court's decision in *California* v. *Azar.*

As discussed in the 2014 final rule, the similar policies proposed in the 2021 proposed rule would not require any change in State funding to the extent that practitioner rates have already factored in the cost of benefits, skills training, and other benefits customary for employees. As proposed, this rule would simply ensure flexibility for States to pay for such costs directly on behalf of practitioners and ensure access to benefits, such as health insurance, skills training, and other benefits customary for employees. We noted that should the rule be finalized as proposed, there may even be cost savings resulting from the collective purchase of such benefits and greater workforce stability.

We solicited public comments on the extent to which the payment arrangements that would be permitted under the 2021 proposed rule would benefit States and practitioners, particularly if and how a practitioner's access to benefits would be impacted, as well as any adverse impacts that may have not been anticipated. Additionally, we sought comments on other permissible actions based on our proposed statutory interpretation that might similarly simplify and streamline States' operations of their Medicaid State plans and payment processes.

III. Analysis of and Responses to Public Comments

We received 32 public comments in response to 2021 proposed rule. The following is a summary of the comments we received and our responses.

A. General

Comment: Most commenters stated support for the 2021 proposed rule. Commenters appreciated the flexibility provided by this rule, which would be optional for States to avail themselves of, and view the rule as a beneficial policy for States and providers. Commenters believe the rule aligns with the previous 2014 final rule, and will enhance and strengthen HCBS programs. One commenter noted that the ability of States to process payroll and make deductions for taxes and other workplace benefits for independent provider home care workers provides parity between independent providers and agency-employed workers for whom such deductions are a standard practice. Some commenters opposed the rule and alleged that there is no or insufficient statutory authority to create this regulation and raised concerns about the inclusion of union dues in payments that may be made to third parties.

Response: We appreciate the support for the changes in the 2021 proposed rule. We wish to clarify an imprecise characterization of the rule regarding who and what entities the rule affects and what the rule authorizes. As clarified in a subsequent response, individual practitioners affected by this rule are individual providers of Medicaid services whose primary source of revenue is Medicaid. The rule does not authorize States to process payroll or make tax deductions for independent providers. This rule provides State Medicaid agencies with the authority to make deductions from Medicaid payments, with the consent of the individual practitioner, to make payment to a third party on behalf of the individual practitioner for benefits such as health insurance, skills training, and other benefits customary for employees. We address concerns regarding statutory authority and unions more specifically in subsequent responses.

Comment: One commenter supported the proposed revision to § 447.10(a) as the provision aligns with the court's ruling in *California* v. *Azar* and the interpretation of the statutory prohibition as extending only to assignments and assignment-like arrangements that involve a potential for factoring that the statute was intended to prevent.

Response: We agree with the district court's decision and analysis in *California* v. *Azar.* We appreciate the comment that expressed support for the proposed revision to § 447.10(a).

Comment: One commenter requested CMS define the term ''individual practitioner'' used in the rule.

Response: In the context of § 447.10, ''individual practitioner'' simply refers to an individual as opposed to an entity or institution providing Medicaid services. Individual practitioners can include individuals that have a contractual employment relationship with the State agency. This rule pertains specifically to a class of practitioners who are not employees of the State, or a service agency that is paid by the State, such as a home health agency, but whose primary source of revenue is Medicaid. To make this determination, States may look only at revenue related to Medicaid-covered services furnished by the practitioner. Medicaid-covered service revenue does not include revenue related to unallowable facility costs, such as room and board or food. The proposed regulatory text, which we are finalizing, provides the necessary latitude for a State to determine whether it is acting in an employer-like role for a particular class of practitioners.

Comment: One commenter requested CMS modify the regulatory language in § 447.10(i) to explicitly include all providers of home and community-based services. Specifically, the commenter proposed using the term ''providers of Home and Community Based Services'' rather than ''individual practitioner'' in § 447.10(i).

Response: We are maintaining the term ''individual practitioner'' to prevent any unintentional exclusions of the types of providers affected by this rule. As stated in the 2012 proposed rule, we included the payment reassignment provisions in the HCBS proposed rule because State Medicaid programs often operate as the only or primary payer for a class of practitioners that includes HCBS providers. While the final rule does apply to a large number of HCBS workers, there are other provider types affected as well, such as personal care services and home health workers.

Comment: Several commenters offered lists of the types of benefits offered to practitioners affected by this rule: health insurance premiums, life insurance premiums, retirement plan contributions, union and association dues, job training (for example, CPR/first aid, dementia care, stress management, fall prevention, nutrition, and health) and education trusts. One commenter indicated that the health insurance premium for individual practitioners affected by this final rule in the State of Washington was $25, deducted monthly. A few commenters provided single statistics regarding the number of providers affected by this final rule in their area or State. One commenter indicated there were 26,300 providers in Alameda County in California, while another commenter indicated a quarter of a million providers in California have elected voluntary deductions, and 24 percent of Wyoming's small, independent

providers of developmental disabilities waiver services offer health insurance to their employees.

Response: In the 2021 proposed rule, we sought public comments and data on the type and amount of benefit deductions broken down by benefit that may be included under § 447.10(i). We appreciate the commenter's submission of State-specific information about the types and amounts of benefits available to providers. Based on the public comments and data received, none of the information suggested a need to further revise § 447.10(i).

B. Statutory Authority

Comment: Several commenters agreed with the district court's decision in *California* v. *Azar,* which rejected HHS's arguments in that case that section 1902(a)(32) of the Act expressly and unambiguously prohibited the agency's pre-2018 interpretation, an interpretation which had been set forth in the 2014 final rule, and States' related practices. Several commenters also agreed with CMS' analysis that the statutory prohibition is better viewed as an anti-reassignment provision that only governs assignment-like payment arrangements. Commenters commended CMS' quick action to issue a proposed rule to amend the relevant regulations under the new statutory interpretation described in the 2021 proposed rule.

Response: We also agree with the district court's decision and analysis in *California* v. *Azar.* We appreciate the commenters' support of our statutory analysis described in the 2021 proposed rule and recognition of the agency's swift action in response to the district court's decision.

Comment: Nearly every commenter opposed to the rule cited a lack of CMS authority to add the § 447.10(i) language to the regulatory text under part 447. Those commenters stated that the language in section 1902(a)(32) of the Act both prohibited these types of deductions from Medicaid payments, and did not have ambiguity to allow us to interpret the statute differently than the way we interpreted it in the 2019 final rule. Most asserted that the principle of direct payments that begins section 1902(a)(32) of the Act does not leave room for interpretations that permit payment deductions outside of the subsequent enumerated exceptions. Some commenters stated that the 2021 proposed rule contradicted some of the agency's own prior interpretations of the statute, with one citing correspondence with a State seeking to formally permit such practices.

Response: Federal administrative agencies generally have authority from Congress to regulate certain activities. An agency's authority often derives from specific statutory directives, which the agency is charged with interpreting. The Supreme Court has long noted Congress's delegation of ''extremely broad regulatory authority to the Secretary in the Medicaid area.'' [11] Here, we are relying on our interpretation that section 1902(a)(32) of the Act does not prohibit payments made by the State Medicaid program for certain benefits on behalf of individual Medicaid practitioners whose primary source of revenue is the State Medicaid program, which we discuss in subsequent responses. From there, we are utilizing our general rulemaking authority at section 1102 of the Act, which authorizes the agency to publish regulations as necessary for the efficient function of, in relevant part, the Medicaid program. Ensuring that individual practitioners whose primary source of revenue is the State Medicaid program have the training and benefits necessary to remain in the workforce and to continue furnishing quality services, particularly to some of Medicaid's most vulnerable beneficiaries, is necessary for the Medicaid program's efficient operation, especially as more and more needy beneficiaries choose to receive care in their homes.[12]

Agencies are not bound by their prior interpretations of a statutory provision and may change their minds. Indeed, the Supreme Court has indicated that ''an initial agency interpretation is not instantly carved in stone. On the contrary, the agency . . . must consider varying interpretations and the wisdom of its policy on a continuing basis,'' [13] and ''an administrative agency is not disqualified from changing its mind.'' [14]

In the 2021 proposed rule, and in adherence to the order of the district court in *California* v. *Azar* to revisit the statutory question, we reviewed the statute anew, focusing on the language of the statute itself and the issues Congress sought to address as indicated by the legislative history. From this analysis, we determined that the payments to third parties addressed in this rulemaking fall outside of what is covered by the statute. Notably, when we first enacted this policy as an exception in 2014, some States were already making the types of deductions and payments expressly authorized under that 2014 exception, based on a belief that it was permitted under the statute. While we did initially raise concerns with a State about whether deductions it was making from practitioner payments were in line with the statute, it was not until the 2012 proposed and 2014 final rules that we chose to use rulemaking to address these payment deductions under the statute. We concluded that the statute did not seek to limit administrative efficiency for a class of practitioners for which the Medicaid program is the primary source of revenue. In the present rule, we merely proposed, and are now finalizing, a different approach to the foundational principle we discerned from the intent of the statute, and from which our only deviation was in the 2019 final rule.

Comment: Some commenters suggested that this rulemaking is not the result of new evidence, but rather political motivations, citing the change in administration since CMS finalized the 2019 final rule.

Response: The cause of the change was our thorough statutory analysis conducted in compliance with a court order, and not the result of political interests. In *California* v. *Azar,* the court vacated the 2019 final rule and remanded to HHS for further consideration of the appropriate interpretation of the statute. Upon our re-examination of the statute, as well as consideration of the court's analysis that resulted in the remand, we determined that a wholly new statutory interpretation was appropriate and correct.

Comment: Many commenters agreed with CMS' conclusion that the purpose of section 1902(a)(32) of the Act was to prohibit factoring and that it extends only to assignments and assignment-like arrangements that involve a potential for the type of abuse that the statute was intended to prevent. One commenter stated that section 1902(a)(32) of the Act is not an unbounded prohibition on all third-party payments. Another commenter indicated that a provision of a statute should be understood in the context of the whole statute, and not read in isolation, citing *King* v. *St. Vincent's Hosp.,* 502 U.S. 215, 221 (1991) (referencing ''the cardinal rule that a statute is to be read as a whole, since the meaning of statutory language, plain or not, depends on context''). The commenter stated that, in reading the statute in its entirety, the prohibition of ''payments'' prohibits assignments of

[11] *See, for example, Wisconsin Dep't of Health and Family Servs.* v. *Blumer,* 534 U.S. 473, 496, n. 13 (2002) (collecting authorities).

[12] *See, for example, Wisconsin Dept. of Health and Family Servs.,* 534 U.S. at 496, n. 13.

[13] *Nat'l Cable & Telecomms. Ass'n* v. *Brand X internet Servs.,* 545 U.S. 967, 981 (2005) (quoting *Chevron U.S.A. Inc.* v. *Nat. Res. Def. Council, Inc.,* 467 U.S. 837, 863–64 (1984)).

[14] *NLRB* v. *Local 103, Int'l Ass'n of Bridge Workers,* 434 U.S. 335, 351 (1978).

the right to payment and the words ''or otherwise'' refers to assignments in which claims for payment from individuals other than providers or agencies would occur. A third commenter stated that statutory interpretation canons of *noscitur a sociis* (that is, ''a word is known by the company it keeps'') and *ejusdem generis* (which limits general terms that follow specific ones to matters similar to those specified) supported CMS' conclusions; therefore, payment deductions, including partial deductions, are not exceptions to the anti-assignment provision and fall outside of the scope of what the statute prohibits.

Response: We agree that section 1902(a)(32) of the Act was intended by Congress to prohibit factoring-type arrangements. For the reasons explained in the 2021 proposed rule and in our response to the next set of comments about the ''or otherwise'' language, we agree that the provision is not an unbounded prohibition on all third-party payments, but instead a prohibition that only extends to assignments and assignment-like arrangements that involve a potential for the type of abuse that the statute was intended to prevent. We also agree that both looking at the statute as a whole and applying the *ejusdem generis* canon of statutory construction support our conclusion that section 1902(a)(32) of the Act does not unambiguously prohibit all third-party payment arrangements that are not explicitly excepted by the statute, and that the canon *noscitur a sociis* may apply as well.

Comment: Some opposing commenters stated the statute was clearly drafted in a way to end all payments to third parties, other than in the specific exceptions, with one pointing to the comma before ''under an assignment or power of attorney or otherwise,'' as evidence that those terms are non-essential rather than limiting. Two commenters closely scrutinized CMS' assessment of the meaning of ''or otherwise'' in the Act, disagreeing with our conclusion and the associated change to § 447.10(a). Both stated the phrase is broadly inclusive, as supported by some cited case law, and therefore CMS' more narrow interpretation was incorrect. One commenter noted CMS' use of the principle of *ejusdem generis* did not apply because of the broad meaning of the phrase in question. One commenter stated if a court were to review our interpretation, the court would not find in our favor.

Response: We do not agree with these commenters. The Medicaid statute at section 1902(a)(32) contains no clear prohibition on all non-excepted third-party payments as some commenters suggest. Viewing these commenters' statements in the most favorable light, the statutory language is, at best, ambiguous about whether such payments are authorized. When considering the language of the statute as a whole, along with its legislative history and programmatic purpose, we have concluded that the best interpretation of the statute is that it does not bar payments to third parties for health and welfare benefits, training, and other benefits customary for employees for certain categories of individual practitioners who consent to such payments on their behalf. We believe the best reading of the anti-assignment statutory text suggests that the States' payment arrangements with home care workers at issue in this rulemaking are authorized. While consideration of the legislative history is not strictly necessary to reach our conclusion, the legislative history further supports our narrow reading of the anti-reassignment provision.[15] More specifically, the legislative history of section 1902(a)(32) of the Act supports our conclusion that the statutory text is best read as an anti-assignment prohibition and provides important context to show that that the opposing comments misunderstand the scope of section 1902(a)(32) of the Act. The legislative history shows that Congress acted specifically to address a problematic circumstance, factoring, and then to close a loophole it had missed when first enacting section 1902(a)(32).

The commenters' statement that ''or otherwise'' is broadly inclusive would mean Congress had intended their statutory restriction to apply almost unbounded, a position not supported by the legislative history of the original statutory provision nor the reasons for the expansion of the statutory language to include ''an assignment or power of attorney or otherwise.'' Because ''or otherwise'' is non-specific, it is by its very nature ambiguous. Where statutory language is ambiguous, we must arrive at a reasonable interpretation of the statute by applying general canons of statutory construction and examining the legislative history of the provision. Under the canon of *ejusdem generis,* when general words follow specific words in a statutory enumeration, ''the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words.''[16] We believe that approach is appropriately applied to the list structure of this statutory language. Accordingly, the language ''or otherwise'' is best read as referencing payments made under arrangements that are similar to an ''assignment'' and a ''power of attorney'' such that the reach of the prohibition under section 1902(a)(32) of the Act does not extend to payment arrangements that are wholly distinct from such types of arrangements. To interpret ''or otherwise'' as an all-encompassing term would make meaningless the illustrative examples Congress listed before it.

This interpretation is further supported by the legislative history of section 1902(a)(32) of the Act discussed previously in this response. As we explained in the 2021 proposed rule, when Congress adopted the original version of this provision in 1972, it was focused on the practice of factoring, based on concerns that the factoring industry was a breeding ground for Medicaid fraud.[17] Then in 1977, when Congress amended the anti-reassignment provision, it did so specifically to close what it perceived to be a loophole that factoring companies were exploiting.[18] The legislative history demonstrates that the statutory language was tailored to address certain issues, rather than the phrase ''under an assignment or power of attorney or otherwise'' being added as a nonessential descriptor. To interpret the scope of the statute as extending beyond that goal is to make it overburdensome on the very providers whose payments Congress sought to protect.

Finally, we note that our interpretation is largely consistent with the court's analysis in *California* v. *Azar.* No court has held otherwise.

Comment: One commenter, citing a desire for environments where practitioners can thrive, agreed with CMS' reinterpretation of the scope of section 1902(a)(32) of the Act as long as a practitioner voluntarily consented to such payments to third parties on the practitioner's behalf, as described in the 2021 proposed rule under § 447.10.

[15] *See Samantar* v. *Yousuf,* 560 U.S. 305, 316 n.9, 130 S.Ct. 2278, 176 L.Ed.2d 1047 (2010).

[16] Sutherland Statutory Construction section 47:17 (1991); *Circuit City Stores, Inc.* v. *Adams,* 532 U.S. 105 (2001).

[17] *See, for example,* H.R. REP. NO. 92–231, at 104 (1972), reprinted in 1972 U.S.C.C.A.N. 4989, 5090; H.R. REP. NO. 92–231, at 205, reprinted in 1972 U.S.C.C.A.N. at 5090; S. REP. NO. 92–1230, at 204 S. REP. NO. 92–1230, at 204 (1972); *Professional Factoring Service Association* v. *Mathews,* 422 F. Supp. 250, 251–52 (S.D.N.Y. 1976).

[18] *See, for example,* H. REP. NO. 95–393(II), at 43, reprinted in 1977 U.S.C.C.A.N. at 3045; H. REP. NO. 95–393(II), at 46, reprinted in 1977 U.S.C.C.A.N. at 3048; H. REP. NO. 95–393(II), at 48–49 (1977), reprinted in 1977 U.S.C.C.A.N. 3039, 3051; S. REP. NO. 95–453, at 6–8 (1977).

Response: We acknowledge the importance of practitioner consent in § 447.10(i), which we are finalizing as proposed.

Comment: Several opposed commenters referred to the new language in § 447.10(i) as an additional exception to the direct payment provision in the Act and its specific enumerated exceptions. They pointed to those specific exceptions as evidence that there was not room or authority to make an additional exception, a principle with which CMS agreed in our 2019 final rule. One commenter acknowledged that the new provision is not an exception, but functionally is the same.

Response: The final rule does not create a new exception under section 1902(a)(32) of the Act. In the 2021 proposed rule, we reinterpreted the scope of the statute and concluded that these deductions from Medicaid payments as authorized by the individual practitioner fell outside of that scope. As discussed in Section II.A., the intent of the statutory provision was to prohibit factoring arrangements. The purpose was not to preclude a Medicaid program that is functioning as the practitioner's primary source of revenue from fulfilling the basic employer-like responsibilities that are associated with that role, a scenario that was not contemplated by section 1902(a)(32) of the Act and was outside of the intended scope of the statutory prohibition. The statute refers to assignments of claims and the exceptions describe permissible assignments of claims. The payment arrangements authorized under this rule do not involve an assignment of a claim to a third party, and are neither covered by the statute nor are they sufficiently similar to the enumerated exceptions as to be considered one as well.

Comment: A few of the commenters who disagreed with the 2021 proposed rule cited various court decisions to support the assertion that the authorization by the provider to make third party payment deductions is necessarily a form of assignment and therefore covered by the anti-assignment language of the Act.

Response: It is true that some case law exists indicating some payment deduction scenarios may constitute legal assignment. However, the case law is varied and suggests that the wording and intent of contracts is pertinent to the question of whether the ''assignment'' has transferred a right, the form of assignment relevant here.[19] We have found numerous decisions that make clear that, in many circumstances, a person may consent to have an amount deducted from their pay without conferring a right through an assignment.[20] Furthermore, the statute specifically makes impermissible the assignment of claims (and through such assignment, the right to collect on those claims). Even if the deduction of benefit payments could, in certain circumstances, be labeled an ''assignment'' under some case law definitions, such an assignment would not confer the right to the claim and therefore is outside the statute's scope. Our interpretation does not create a new type of assignment or exception, but instead creates an avenue for the same type of payment arrangements enjoyed by other practitioners, but for those without a formal employment relationship. When re-examining the statute and the problems Congress sought to address when expanding the language of its direct payment provision, it is clear that the focus was on instances where providers assigned claims or created workarounds to do so. Assigning the right to collect on a claim is not the same as granting an authorization to deduct for benefits, and the statute was not intended to preclude State agencies from providing their non-employee providers benefits of their employment-like relationships. Therefore, it is reasonable to conclude that in this context, assignment refers to the assignment of a claim for a whole Medicaid payment.

Comment: Several commenters opposed to the rule pointed out the distinction CMS drew between an assignment of a full payment claim and a partial payment deduction. They indicated the distinction was irrelevant, and a couple of commenters indicated that such a distinction could give rise to scenarios in which Medicaid providers would see their payments reduced by any amount regardless of surrounding circumstances so long as it was a portion of the payment.

Response: As previously discussed, we concluded that the intent of the statute is to address scenarios of claim assignment that had given rise to fraud, particularly through factoring, and therefore the distinction between partial payment deductions and assignment of the right to the full payment is relevant. However, we clarify that the true test is not whether the payment to the third party is partial or full, but instead whether the arrangement is the transfer of the rights to a claim versus the redirection of monies due to the practitioner to directly cover costs that would otherwise be paid by the practitioner, with the practitioner's consent. We also note that this rule very narrowly applies only to individual practitioners for whom the Medicaid program is the primary source of revenue and have provided consent for such deductions. In developing this rule, we sought to both describe and address a specific arrangement that we are confident was not intended to be curtailed by the language of the Act. We reiterate that this rule would simply ensure flexibility for States to pay for such costs directly on behalf of practitioners and ensure access to benefits, such as health insurance, skills training, and other benefits customary for employees.

C. Consent Requirement

Comment: Several commenters opposed to the 2021 proposed rule did not agree that the consent requirement included in the rule, which the prior similar regulation did not make explicit, would be sufficient to overcome the perceived risks of allowing for deductions for benefits directly from a provider's payment. The risks cited by

[19] *See* Restatement (Second) of Contracts section 324 (1981) (''It is essential to an assignment of a right that the obligee manifest an intention to transfer the right to another person without further action or manifestation of intention by the obligee.'').

[20] *See, for example, California* v. *Azar,* 501 F. Supp. 3d 830, 840 n.8 (N.D. Cal. 2020) (the argument ''that authorizing deductions for union dues is an 'assignment' (or something very close to an assignment) because of the way union dues are described in other contexts—is barely worth mentioning. Unlike the types of assignments involved in factoring and the statute's exceptions, unions cannot step into the shoes of the worker and pursue independent claims against the State for Medicaid reimbursement based on the worker's decision to authorize deductions for union dues. The fact that union dues are sometimes referred to as 'assignments' in a few judicial opinions and Federal statutes in distinct contexts does not mean that they are 'assignments' within the meaning of the anti-reassignment provision and in the context of assigning the right to submit a claim for reimbursement of health services.''); *see also, for example, United Broth. of Carpenters and Joiners of Am.* v. *Ohio Carpenters Health and Welfare Fund,* 926 F.2d 550, 553, 557 (6th Cir. 1991) (finding that a form that had '''authorized and directed [their employers] to pay and remit to [a union]' dues deducted from the payroll'' when ''properly construed, is the employee's consent to the employer's role as agent for the union in the collection of dues,'' but ''is not a true common law assignment, since it creates no rights in any assignee.''); *Dialysis Newco, Inc.* v. *Cmty. Health Sys. Group Plan,* 938 F.3d 246, 253–255 (5th Cir. 2019) (explaining that ''a direct-payment authorization and a prohibition against the assignment of benefits are distinct concepts''); *Brown* v. *Blue Cross Blue Shield of Tenn., Inc.,* No. No. 1:14–CV–00223, 2015 WL 3622338, at *3–*7 (E.D. Tenn. June 9, 2015) (collecting cases and noting that ''[t]here is no consensus among the Federal courts regarding whether language providing for direct payment of benefits constitutes an assignment for purposes of ERISA,'' but explaining that ''[t]he cases holding that forms providing for direct payment do not constitute an assignment have the better end of the argument.'')

commenters centered mainly around examples of unions that had engaged in fraudulent or questionable practices, such as high-pressure enrollment meetings, when obtaining or using dues. One commenter cited a concern that an individual practitioner might not know what he or she is consenting to, for example if English was not the practitioner's first language. One commenter requested that the voluntary consent requirement include a requirement that the consent be communicated directly to the State agency.

Response: We make every effort to ensure we do not create avenues for fraud, and to protect against instances where those might occur. In the time between our 2014 final rule, which permitted these types of payment deductions as an exception to the Act, and the 2021 proposed rule, there have been two noteworthy cases regarding payment deductions, specifically in the context of union dues. The First Amendment principles regarding consent for the deduction of union dues outlined by the Supreme Court in *Harris* v. *Quinn,* 573 U.S. 616 (2014), and *Janus* v. *Am. Fed'n of State, Cnty., & Mun. Emps., Council 31,* 138 S. Ct. 2448 (2018), are binding on States regardless of any rules we may issue, and we are mindful of the fact that these rules must be consistent with those decisions. Furthermore, for clarity, and because this rule applies to deductions for a variety of benefits, not simply union dues, we believed it was important to include an explicit voluntary consent requirement in the regulatory text (and not limited to the context of union dues) to ensure that Medicaid payments are handled in accordance with the wishes of the provider to which the Medicaid payments are owed, both for public policy reasons and to address any possible First Amendment concerns which may arise both within and outside of the union dues context. The existence of bad actors governed under other laws and regulated by other agencies should not preclude the creation of our policy intended to benefit providers. Many workplaces allow employees to deduct union dues from their paychecks, and the union practices cited by some commenters do not justify distinguishing this aspect of an employment-like relationship from any other benefits deduction. In addition, while we appreciate the desire to guard against erroneous or involuntary deductions, we determined it is appropriate to defer to States regarding which methods of obtaining and documenting consent are sufficient or suitable, and to rely on States to ensure third parties are not furnishing fraudulent practitioner consent for deductions. States and third parties are expected to adhere to the applicable laws regarding contractual capacity to ensure practitioners with limited English proficiency are providing informed, voluntary consent.

Comment: Many commenters advised CMS against requiring explicit written provider consent for deductions out of concern that codifying a requirement for written consent could unintentionally result in a conflict with State law and could be unduly burdensome on State programs and workers within those programs. One commenter urged CMS not to be too prescriptive about the format of consent to avoid conflicting with existing laws and employment contracts. Another commenter explained that some State laws and policies regarding consent for deductions require a ministerial form while other States include consent as a component to a contractual agreement among other methods used to collect consent: Electronic, online, voice-recorded assent, or traditional penned signatures. Commenters recommended that CMS defer to State Medicaid agencies' determination on how to obtain consent from providers affected by this rule. One commenter supported also deferring to State Medicaid agencies' determinations on how to implement provider payment deductions consistent with State law and regulations for State employee benefit deductions, as indicated in the 2021 proposed rule. A few commenters opposed to the rule overall requested that, should CMS nevertheless proceed with its policy, the consent requirement include a written requirement and also include CMS authorization.

Response: Based on some of the concerns raised by commenters as well as our original concerns that codifying a requirement for written consent could unintentionally result in a conflict with State law, we have decided to not impose a Federal regulatory requirement for explicit written provider consent for deductions or to insist that States submit their proposed consent forms to us for review. While we appreciate the desire of some commenters to have more rigorous safeguards, we are confident the inclusion of a consent requirement, while allowing States flexibility for compliance with that requirement, creates the right balance between addressing problematic situations and respecting the rights of State agencies to administer their State Medicaid plans.

Comment: Two commenters advised CMS against requiring consent only for specific types of deductions, rather than all types of benefits, for which Medicaid payment amounts may be deducted and paid to a third party, in the regulatory text. The commenters indicated this additional requirement is unnecessary and already addressed by State law or employee contracts.

Response: Based on the concerns raised by commenters, as well as our original concerns that rulemaking may not accurately capture all of the employee benefits practitioners believe should require consent, and our interest in ensuring that Medicaid payments are handled in accordance with the wishes of the provider to whom such payments are owed, we have decided not to limit the practitioner consent requirement to only specific types of deductions. Thus, we are finalizing the rule as proposed, to require consent for all deductions for benefits that may be deducted and paid to a third party under § 447.10(i).

D. Impact to Stakeholders

Comment: The commenters opposed to the rule largely disagreed with CMS about the benefits this rule would have for individual practitioners. A couple of commenters cited the lack of availability of varied trainings or benefits for which an individual practitioner may wish to enroll. Some referenced the 2019 final rule which stated that the lack of this flexibility did not preclude a practitioner from being able to participate in such benefits, and instead just changed the process. One commenter noted that the rule does not prescribe any sort of standard for the benefits for which payment deductions may be made. A few commenters also cited a lack of meaningful evidence that providers in fact benefit from such practices.

Response: We reaffirm our belief that this final rule will enhance the ability of the affected practitioners, regardless of their employment arrangements, to perform their functions as health care professionals and thus support beneficiary access to quality home care. While the types and availability of trainings and benefits varies across States, we want to encourage access to benefits for individuals effectively acting as employees, such as health insurance, skills training, and other benefits customary for employees. It is true that this policy applies to a narrow class of providers for one specific procedural step of enrolling in benefits. However, it addresses a situation where individuals with an employment-like relationship with the State agency cannot currently benefit from that

relationship in the same manner an actual employee can. While this policy has evolved over time, the consistent theme remains that there are States that wish to offer individual practitioners this type of flexibility, enough to initiate litigation in the aforementioned *California* v. *Azar* case in response to the rescission of the policy in 2019. Furthermore, some States had already implemented payment deduction arrangements before we issued the 2014 final rule. With the appropriate safeguards in place, despite commenters' assertions of only a minimal benefit, the policy nevertheless responds to a known demand.

Comment: Some commenters expressed concern that this policy would in fact harm individual practitioners. They stated that the benefits paid by the State on behalf of the practitioner would result in a reduced payment to that practitioner, and concluded this could take money away from providing services to the needy. They also cited concerns about Medicaid monies being taken from providers inappropriately.

Response: We want to ensure that providers receive the monies they are owed for the provision of Medicaid services to beneficiaries. That is why we proposed, and are now finalizing, a voluntary consent requirement, as we wanted to ensure that individual practitioners' payments are handled in accordance with their wishes. As such, under this rule, the only deductions that may be made from Medicaid payments due an individual practitioner are those that are specifically authorized by that practitioner to pay for certain benefits on their behalf. Furthermore, permitting State Medicaid agencies to deduct from the practitioner's payment, at the direction of that practitioner, does not impact the services provided to a beneficiary any more than if the practitioner was paying these third-party costs on their own. We note that State Medicaid agencies have the option to develop State plan payment rates that account for costs related to benefits customary for employees. Moreover, we believe that this policy may in fact benefit beneficiaries receiving services from practitioners by improving and stabilizing the workforce.

Comment: Several commenters advised CMS against including a defined list of allowable benefits or excluded benefits within the regulatory text. Commenters indicated that providers have access to a wide variety of benefits, depending on the State the provider works in. Commenters also indicated that benefits continue to expand and regulatory text that codifies the list of benefits could possibly conflict with available benefits and interfere with the efficiency of State Medicaid programs by creating barriers for States and providers. One commenter indicated that a final rule could provide examples of certain purposes and benefits for which payroll deductions may be utilized, but such a list should be illustrative and neither definitive nor limiting.

Response: We share the concerns raised by commenters that such a list may not accurately reflect all employee benefits available to practitioners and would need frequent updates through the rulemaking process to remain relevant. Thus, we have decided not to include a defined list of allowable benefits or excluded benefits within the regulatory text or for illustrative purposes in the final rule, and States that choose to make deductions under this regulation will have flexibility to determine the types of benefits that are eligible for payment via such deductions.

E. Impact to States

Comment: Many commenters indicated that States and local governments have been making third party payments for benefits (that is, health, dental, and vision insurance, training, union dues) on behalf of individual practitioners for decades. Many commenters stated that California first began this process in the 1990s, Washington in 2002, Illinois in 2003, and Oregon in 2011. Many commenters emphasized that the scope and form of third-party payments on behalf of individual practitioners is a matter of State law or employee contracts and advised CMS not to regulate this area in the final rule to avoid conflicting with existing laws and contracts.

Response: We reiterate that this rule would simply reassure States of the flexibility to pay for certain benefits directly on behalf of certain practitioners, as our interpretation of the statute is that these payment arrangements are outside the scope of the statutory prohibition.

Comment: Two commenters raised concerns about a State's administrative burden and additional administrative costs for implementing the 2021 proposed rule. Specifically, one commenter urged CMS to reconsider the existing requirements and administrative burden faced by State Medicaid Agencies because CMS stated in the 2021 proposed rule that the time, effort, and financial resources necessary for States to exercise this optional flexibility would be incurred by the State during the normal course of their activities. Another commenter indicated the 2021 proposed rule may have unintended consequences by not allowing States to claim additional administrative costs to implement this optional rule, such as reducing payment rates to cover new State costs of implementation for the singular subset of direct care workers.

Response: We wish to clarify our intent regarding State program administrative costs incurred by the State when implementing the 2021 proposed rule. To expend Federal, State, and local resources in the most cost-effective manner possible, States may not claim expenditures for the costs of allowable administrative activities that should have been reimbursed as direct medical services, as this would result in duplicative claiming. States that wish to account for the cost of benefits, skills training, and other benefits customary for employees in their expenditures need to include these costs as part of the rate paid for the service to be eligible for Federal financial participation.

States that wish to account for any additional State program administrative costs incurred by the State when implementing the 2021 proposed rule, such as the cost of payment system updates, must claim such administrative costs in accordance with Federal requirements. In accordance with section 1903(a)(7) of the Act and implementing regulations at §§ 430.1 and 431.15, activities must be found necessary by the Secretary for the proper and efficient administration of the plan. Administrative costs must also be reasonable, allowable, and allocable in compliance with 2 CFR part 200 and 45 CFR 75.402 through 75.411. States are also required to maintain a Public Assistance Cost Allocation Plan, as required by § 433.34 and subpart E of 45 CFR part 95.

Comment: One commenter requested CMS revise the rule to provide clarity about a Financial Management Services (FMS) entity's authority to make mandatory deductions from wages that are required by law to be made by an employer, such as deductions for Federal and State taxes, without requiring the provider's consent.

Response: This rule does not impact a State's ability to perform FMS or secure FMS through a vendor arrangement provided under sections 1915(c), 1915(i), 1915(j), 1915(k), and 1115 of the Act. Rather, this rule pertains to payments for State plan services under section 1905(a) of the Act. Section 447.10(i), as finalized, explicitly authorizes States to make payments to third parties to benefit individual practitioners by ensuring

health and welfare benefits, training, and other benefits customary for employees, if the practitioner consents to such payments to third parties on the practitioner's behalf. These payment deductions are distinct from mandatory payments under State and Federal law, which are outside the scope of this rulemaking.

Comment: Two commenters requested CMS issue guidance on offering employee benefits in participant direction programs that do not have a union or other third party that offers benefits. Specifically, the commenters requested Federal guidance about how the cost of employee benefits should be built into an individual budget when a beneficiary opts to self-direct their care under HCBS.

Response: To reiterate, this rule does not impact a State's ability to perform FMS or secure FMS through a vendor arrangement provided under sections 1915(c), 1915(i), 1915(j), 1915(k), and 1115 of the Act. The question of how the cost of employee benefits should be built into an individual budget when a beneficiary opts to self-direct their care under HCBS is outside the scope of this rulemaking.

Comment: One commenter indicated that the 2021 proposed rule will not support the stability of HCBS without significant investment in the entire direct care workforce and necessary protections and oversight to ensure there are no further funding shortfalls.

Response: This rulemaking is narrowly tailored to respond to recent litigation and interest from States in the flexibility to enter into the types of payment arrangements discussed in this rule. Stabilizing HCBS with a significant investment in the entire direct care workforce and providing necessary protections and oversight to ensure there are no further funding shortfalls is outside the scope of this rulemaking. We will evaluate the commenter's concerns and continue to partner with States, consumers and advocates, providers, and other stakeholders to create a sustainable, person-driven long-term support system in which people with disabilities and chronic conditions have choice, control, and access to a full array of quality services that assure optimal outcomes, such as independence, health, and quality of life. We expect that this final rule will contribute some stabilization of HCBS by offering States the opportunity to pay for such costs directly on behalf of practitioners and ensure access to benefits, such as health insurance, skills training, and other benefits customary for employees.

Comment: One commenter requested CMS clarify the oversight process it intends to implement after finalization of the 2021 proposed rule. Specifically, the commenter sought clarification about if and how CMS will request data from States about the individual practitioners affected by this rule and the type and amount of third-party payments made on behalf of individual practitioners, if third party payments will be subject to Federal audit, and what documentation about these third-party payments that States need to maintain. The commenter also questioned if CMS consulted with the Internal Revenue Service regarding how deductions should be reported on an individual practitioner's income or earnings form. Lastly, the commenter questioned CMS about States' ability to incorporate costs related to health and welfare benefits, training, and other benefits customary for employees or other costs which are not otherwise eligible for Federal financial participation.

Response: We expect States to comply with applicable Federal requirements. States are expected to maintain supporting documentation for Medicaid expenditures reported on the quarterly Form CMS–64 to claim Federal financial participation. In instances where the State is making payments to a third party on behalf of an individual practitioner, States are expected to maintain relevant documentation of these transactions, including documentation demonstrating the deductions are voluntary. We may conduct quarterly reviews of Medicaid expenditures claimed on the Form CMS–64 and associated State documentation to ensure State compliance with this final rule. While the Form CMS–64 itself would not reflect changes as a result of this rule, we may request documentation from a State to support its Form CMS–64 claims, including evidence that the consent requirement is met and the individual practitioner funds are being handled appropriately. Additionally, we may initiate additional oversight activities to ensure State compliance with the requirements in this final rule.

Requirements regarding how a practitioner should report deductions on income and earnings forms relating to Federal and State tax requirements are outside the scope of this rulemaking. We would like to reiterate that should a State wish to recognize such costs, they would need to be included as part of the rate paid for the service to be eligible for Federal financial participation. No Federal financial participation would be available for such amounts apart from the Federal match available for a rate paid by the State for the medical assistance service.

Comment: One commenter disagreed that this rule will be budget neutral or have a minimal economic impact that is unlikely to have an annual effect on the economy in excess of the $100 million threshold of Executive Order 12866. The commenter went on to cite various figures regarding the collection of union dues in some States that have exercised the ability to make third party payment deductions, and stated that the benefits to individual practitioners we cited in the 2021 proposed rule contradict the budget neutral assessment.

Response: The commenter's assessments assume that the 2019 rule remains in effect, the 2014 rule is not in effect, or both. With this premise, the commenter seems to suggest that the baseline for determining the impact of this rulemaking should not reflect the 2014 final rule (that is, the existence of the authority previously codified at § 447.10(g)(4)). This reasoning is incorrect. In our current circumstance, the court's vacatur of the 2019 rule, which the commenter did not acknowledge, means that the 2014 rule is now back in effect by operation of law, with no new round of rulemaking necessary to bring about this result. It is a well settled principle that ''[t]he effect of invalidating an agency rule is to reinstate the rule previously in force.'' [21] Therefore, relative to this analytic baseline, the present rule, which closely mirrors the prior regulatory language under the 2014 final rule, but under a more appropriate statutory analysis, creates very little difference from the scenario where § 447.10(g)(4) is in effect. The unique feature of the present rule is the consent requirement, which as discussed previously, is already a requirement for the deduction of union dues under the First Amendment. As such, our proposed rule reflected our assessment that the effect, when compared against the present regulatory and legal landscape, is budget neutral.

However, we acknowledge that the appeal related to *California* v. *Azar* is still outstanding, and as such, our present circumstance is not guaranteed. Therefore, we have now included data in the Regulatory Impact Analysis section examining the impact of this

[21] *Paulsen* v. *Daniels,* 413 F.3d 999, 1008 (9th Cir. 2005) (citing *Action on Smoking & Health* v. *Civil Aeronautics Bd.,* 713 F.2d 795, 797 (D.C. Cir. 1983) (per curiam)). As the district court noted in *California* v. *Azar,* ''vacating the agency's action simply preserves a status quo that has existed since at least the early 1990[ ]s while the agency takes the time it needs to give proper consideration to the matter.'' 501 F. Supp. 3d at 843.

policy against a potential alternate scenario where the 2019 final rule is once again in effect.

F. Union Dues

Comment: Nearly all the commenters who were opposed to the rule raised the fact that union dues are included among the benefits for which payments may be deducted. Many commenters pointed to and expressed concern about the potential for ''dues skimming,'' wherein a State automatically deducts union dues from payments, a concern which was raised in the 2019 final rule. They pointed to the cases of *Harris* v. *Quinn* and *Janus* v. *AFSCME* as examples of the impermissibility and First Amendment implications of the practice. In addition, some commenters provided examples of questionable or improper actions taken by unions in various States. Commenters indicated finalizing this rule would roll back protections and permit States to divert Medicaid money to unions and political campaigns. Some commenters identified coercive practices that they claim unions use despite consent requirements, such as ''captive audience'' pitches and a limited ability to disenroll.

Response: We proposed and are finalizing this policy with its consent requirement to align with relevant case law surrounding union dues and consent, and to address related concerns cited in the 2019 final rule. Even though this protection is already founded in the cited case law, we believed it was important to include it as a regulatory requirement as well to provide an additional layer of protection for providers specifically. We also note that regardless of whether a State is able to make third party payment deductions, a number of the commenters' concerns could still exist. For example, ''captive audience'' union pitches and limited disenrollment periods are outside the scope of this rulemaking, and HHS is not the agency that would address how unions use their dues once received. Facilitating a transfer between consenting providers and third parties does not affect, either positively or negatively, the practices of unions, and therefore those concerns do not warrant a change in this policy. This rule allows States to make deductions to pay for benefits such as health insurance, skills training, and other benefits customary for employees from an individual practitioner's payment, with their consent. We reiterate that we want to ensure providers receive the monies they are owed for the provision of Medicaid services to beneficiaries by finalizing a voluntary consent requirement. None of the concerns cited demonstrated a sufficient reason or evidence as to why the practitioners impacted by this rule should have more limited access to union dues deductions than those in formal employment relationships.

Comment: One opposed commenter made several suggestions for how to address union dues should CMS choose to proceed with finalizing this policy. The suggestion included an opt-in requirement, multifactor authorization, additional notice regarding the individual's rights, an expiration of authorization for deductions, and open disenrollment.

Response: The suggestions are outside the scope of this rulemaking or outside the authority of what HHS can regulate. To the extent we can address the concerns raised by commenters, our regulatory consent requirement appropriately balances the case law around the First Amendment and union dues, the concerns about bad actors, and the ability of States to exercise flexibility in their State Medicaid programs. In section VI.D., we detail the alternatives we considered, but did not adopt based on the feedback of commenters and our assessment of the most effective approach.

IV. Provisions of the Final Regulation

After consideration of the public comments, we are finalizing as proposed our additional language in § 447.10(a) and the new paragraph at § 447.10(i).

V. Collection of Information Requirements

Our August 3, 2021 (86 FR 41803) proposed rule solicited public comment on, among other things, the rule's ''collection of information'' assumptions. For the purpose of this section of the preamble, collection of information is defined under 5 CFR 1320.3(c) of OMB's implementing regulations. We received one comment addressing this section, urging CMS to reconsider the exempt classification should CMS find the amount of necessary State effort to be understated. We stated in the 2021 proposed rule that the time, effort, and financial resources necessary for States to exercise this optional flexibility are exempt from the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) as they would be incurred by the State during the normal course of their activities, and therefore should be deemed as a usual and customary business practice under 5 CFR 1320.3(b)(2). That assessment remains unchanged. This rule codifies a policy option that exists regardless of this rule, both through our interpretation that this policy is beyond the scope of the statute, and due to the *California* v. *Azar* decision vacating the 2019 final rule. The consent requirement is new to the present rule, but as we are not establishing a specific method to obtain consent, and because consent is already required for union dues deductions under the First Amendment, our determination is that the consent requirement will likely be met through usual and customary business practices, and does not produce a measurable impact.

We also believe that the proposed and finalized requirements have no impact on our currently approved State plan amendment (SPA) requirements and burden estimates. While CMS–64 (OMB control number: 0938–1265) is mentioned elsewhere in this final rule, this rule has no impact on the form's currently approved requirements and burden estimates. Any effort to request documentation from a State to support its CMS–64 claims, including evidence that the consent requirement is met and the individual practitioner funds are being handled appropriately, would be on a case-by-case basis using non-standardized questions that are exempt from the PRA under 5 CFR 1320.3(h). Consequently, this rule does not have any collection of information implications that are subject to the PRA.

VI. Regulatory Impact Analysis

A. Statement of Need

In *California* v. *Azar,* the district court vacated the 2019 final rule and remanded to HHS for further proceedings. Although this remand left broad discretion for next steps, we chose to examine the relevant statute anew, and determined that the prohibition in section 1902(a)(32) of the Act is better read to be limited in its applicability to Medicaid payments to a third party under an assignment, power of attorney, or other similar arrangement. Although the court vacated the 2019 final rule, our current statutory interpretation requires this rulemaking to reclassify the policy previously codified as an exception at § 447.10(g)(4) as instead describing arrangements that are beyond the scope of prohibition in section 1902(a)(32) of the Act. Furthermore, while we now believe these arrangements are beyond the scope of the statute, we nevertheless consider it important to document and ensure clarity and flexibility for certain individual practitioners. Finally, this rule provides us an opportunity to reinforce the important caveat that such

deductions may only be made with the consent of the individual practitioner.

B. Overall Impact

We have examined the impacts of this final rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

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). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) create a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). In the 2021 proposed rule, we estimated that this final rule would be budget neutral, but could have broader economic impact that is unlikely to have an annual effect on the economy more than the $100 million threshold of Executive Order 12866. We maintain that position for the final rule, under the current regulatory landscape at the time of finalization. However, we acknowledge that an appeal of the district court decision that gave rise to this rulemaking is currently pending. As such, it may be appropriate to provide an analysis for each of the possible baseline scenarios: One where § 447.10(g)(4) is in effect, and one where the 2019 final rule is in effect.[22] We will examine each baseline analysis in turn.

Presently, as a result of the district court decision, the 2019 final rule is nullified and the 2014 final rule implementing § 447.10(g)(4) represents current policy. When the district court vacated the 2019 final rule and remanded the case to HHS for further proceedings, we had broad discretion as to how to address the remand. Because the vacatur reestablished the policy from the 2014 rule, we could have simply published a final rule in the **Federal Register** waiving notice of proposed rulemaking and public comment and informing the public that § 447.10(g)(4) was in effect due to the district court's decision, and instructing the Office of the Federal Register to republish § 447.10(g)(4), had we determined that was the best approach. Our other potential options, which were not mutually exclusive, included the option to appeal the court's decision, to issue sub-regulatory guidance, or engage in rulemaking to either reinstate the 2019 final rule relying on a legal basis different from that rejected by the court, or to implement the same or similar policy as in the previously codified § 447.10(g)(4) pursuant to a different legal analysis. As stated by the district court, ''vacating the agency's action simply preserves a status quo that has existed since at least the early 1990's while the agency takes the time it needs to give proper consideration to the matter.'' [23] We initially appealed, then chose to review the statute anew, eventually determining that the payments to third parties addressed in this rulemaking fall outside the scope of the statute.

For the economic analysis in the 2021 proposed rule, we believed that this rule offered State Medicaid programs additional operational flexibilities to ensure a strong provider workforce, which resulted in a proposed rule that was preliminarily designated as not economically significant.

With regard to the impact on State operations, we believe State budgets will not likely be significantly affected because the operational flexibilities in this final rule only facilitate the transfer of funds between participating entities, rather than the addition or subtraction of new funds. As noted by multiple commenters, some States had implemented this flexibility decades before the 2014 final rule which is currently the status quo. To the extent that those States may have continued or resumed exercising such flexibility following the district court's decision, those States will experience no change to their operations under this current rule. States that have not already implemented this policy option are not required to implement it under the current rule and their operations will remain unchanged, unless the State takes specific actions to implement this policy option. Therefore, using the established baseline assumption of the 2019 final rule not occurring and defaulting to the 2014 final rule, we anticipate the minimal impact on State budget and operations.

We believe the current rule may have an annual effect on the economy in excess of the $100 million threshold of Executive Order 12866. While the effect may be similar in magnitude to the impact analysis in the 2019 final rule, we believe the effect will be opposite in sign where States are allowed to deduct payments from a provider's payment with their consent under certain circumstances described in the 2021 proposed rule, thereby shifting portions of Medicaid payments from home care workers to third parties. Since the 2014 and 2019 final rules, we are not aware of any SPAs submitted by State Medicaid agencies that intended to modify provider payments rates in response to these previous regulatory changes. In addition, we do not track the payment amounts that State Medicaid agencies pay to third parties as affected by this regulatory provision, although we could obtain such information through review of a State's Medicaid expenditures claimed on the Form CMS–64. As such, the Department invited public comments to help refine this analysis in the 2018 proposed rule, but no substantive analysis of the economic impact of this rule was provided as noted in the 2019 final rule. In the current rulemaking, we again sought comments on this estimate, and particularly on types and amounts deducted from individual providers for payment to third parties, broken down by benefit that may be included under § 447.10(i). We did not receive comments with compelling data specific to the economic impact of this policy, and we did not receive comprehensive data about the types and amounts of deductions broken down by benefit.

[22] *See https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf.* (Circular A–4 (2003) at 15 (''When more than one baseline is reasonable and the choice of baseline will significantly affect estimated benefits and costs, you should consider measuring benefits and costs against alternative baselines.).

[23] *California* v. *Azar,* 501 F. Supp. 3d at 843 (N.D. Cal. 2020).

Alternatively, due to the outstanding appeal of the district court decision, it may be appropriate to consider a scenario in which the 2019 final rule is still in effect, as the district court decision may not be the final outcome of *California* v. *Azar.* If the 2019 final rule were in effect, then this current rulemaking would mark a significant policy shift, with a measurable impact. We have added a discussion of this alternate baseline in our regulatory impact analysis comment response, and included estimates in Table 1 of section VI.E. of this final rule.

Based on our estimates, OMB's OIRA has determined that this rulemaking is ''economically significant'' under Executive Order 12866 and ''major'' under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act).

Comment: One commenter disagreed with our assessment in the proposed rule that a regulatory impact analysis was unnecessary. That commenter pointed to our language in the 2021 proposed rule that included positive benefits associated with stabilizing the home care workforce. The commenter also noted the fact the deductions are already occurring should have no bearing on the estimated economic impact of this rule. The commenter cited figures from a report that solely focused on quantifying the amount of third-party payments made to unions to demonstrate the economic significance.

Response: As stated in section III.E. of this final rule, the effect of the vacatur in *California* v. *Azar* is that the 2014 final rule is our current policy, and the commenter failed to acknowledge the effect of the court decision. However, we acknowledge litigation is still pending, and furthermore there is value in understanding the effect of this policy under a possible alternate trajectory where the 2019 final rule is in effect. We lack direct information with which to quantify those impacts, as the Department does not track the amount of Medicaid payments that are being assigned to third parties. However, we can surmise from the *California* v. *Azar* case that at least six States [24] are currently utilizing this policy. We also believe it is reasonable to conclude some additional States have already or in the future may adopt these practices to provide individual practitioners administrative convenience, but as we do not have a means to assess that amount, we have not included them in this exercise. As States are the Medicaid program operators, enroll providers in their programs, and determine economic and efficient payment rates for providers, we believe States are better situated to quantify the amount of Medicaid payments that may be transferred to third parties under the policy discussed in this rule.

We utilized example data provided in comments to the 2021 proposed rule to extrapolate an approximate estimate for health insurance transfers within the six plaintiff States. We estimate that individual practitioners may be offered a $25 monthly premium for health insurance [25] and there may be approximately 270,000 individual practitioners affected by this rule within those six States.[26] We then estimated 88 percent,[27] or 237,600 of eligible individual practitioners will enroll in an offered health insurance plan; therefore, we expect transfers of $71,280,000 annually from the 6 States who already adopted this policy option to one or more third party health insurance plans on behalf of individual practitioners. This estimate assumes all six States have the same number of providers and offer health insurance plans with the same monthly premium. We also acknowledge that a large portion of home care workers obtain their health insurance through publicly funded programs, such as Medicaid,[28] and may or may not have a health insurance premium, depending on the State's program, which adds an additional caveat to this estimate. While we have not similarly quantified the amount of other authorized deductions, such as for skills training or other benefits, we estimate that the amount of payments made to third parties on behalf of individual providers for the variety of benefits addressed in this rulemaking could potentially be in excess of $100 million. We have included some financial impact estimates from the policy generally in Table 1 in section VI.E. of this regulatory impact analysis.

The potential direct financial impact on the individual practitioners is similarly difficult to quantify due to the absence of specific information about the types and amount of payments being reassigned. The 2019 final rule acknowledged potential, but minor negative financial impacts on practitioners related to mailing payments, and we can conclude this policy, where available, avoids those potential costs.

C. Anticipated Effects

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $8.0 million to $41.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies that this final rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2022, that threshold is approximately $165 million. This rule will have no consequential effect on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed

[24] Named plaintiff States included California, Connecticut, Oregon, Massachusetts, Washington, and Illinois.

[25] Heath insurance premium amount was sourced from Public Comment CMS–2021–0130–0013 located at *https://www.regulations.gov/comment/CMS-2021-0130-0013.*

[26] The number of individual practitioners in a single State who has already adopted this policy option was sourced from Public Comment CMS–2021–0130–0013 located at *https://www.regulations.gov/comment/CMS-2021-0130-0015.* This number was used to extrapolate an estimate for the six States who has already adopted this policy option.

[27] *https://www.bls.gov/news.release/pdf/ebs2.pdf.*

[28] *https://www.nelp.org/publication/surveying-the-home-care-workforce/#_ednref2*; *see also, for example, https://www.kff.org/medicaid/press-release/combined-federal-and-state-spending-on-medicaid-home-and-community-based-services-hcbs-totaled-116-billion-in-fy-2020-serving-millions-of-elderly-adults-and-people-with-disabilities/*; *https://www.kff.org/medicaid/issue-brief/state-policy-choices-about-medicaid-home-and-community-based-services-amid-the-pandemic/.*

rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

D. Alternatives Considered

We considered incorporating additional regulatory text under § 447.10(i) requiring explicit written consent from a practitioner before State Medicaid agencies may make a payment on behalf of the practitioner to a third party that provides benefits to the workforce such as health insurance, skills training, and other benefits customary for employees. We also considered identifying specific employee benefits for which payments may be deducted and paid to a third party in the regulatory text under § 447.10(i), such as Federal income taxes, Federal Insurance Contributions Act taxes, State and local taxes, retirement benefits (for example, 401k, profit-sharing), health insurance, dental insurance, vision insurance, long-term care insurance, disability insurance, life insurance, gym memberships, health savings accounts, job-related expenses (for example, union dues with affirmative consent, uniforms, tools, meals, and mileage), and charitable contributions. Rather than listing the universe of benefits for which payments may be deducted and paid by State Medicaid agencies to third parties with consent of the provider, we also considered whether to exclude certain benefit deductions from the scope of this final rule. Finally, we considered requiring practitioner consent only for specific types of deductions, rather than all types of benefits, for which Medicaid payment amounts may be deducted and paid to a third party in the regulatory text under § 447.10(i). Based on additional analysis and commenter feedback, we are not amending any proposals to reflect these variations.

We also considered but did not propose or finalize requiring explicit written provider consent for deductions out of concern that codifying a requirement for written consent could unintentionally result in a conflict with State law. We defer to State Medicaid agencies to ensure consent is obtained and for further implementation of provider payment deductions consistent with State law and regulation for State employee benefit deductions. We requested public comments on whether to include a CMS requirement for written provider consent or to remain silent on the form such consent must take and to defer to existing State law and regulation.

Specifically, we sought comments on what constitutes appropriate consent (that is, letter, email, form), descriptions of State law that require consent, and how we could minimize burden on State Medicaid agencies and prevent conflict with State laws and regulations if specific consent requirements were finalized within the regulatory text. Thus, we provided in the 2021 proposed rule that a provider must voluntarily consent to payments to third parties on the provider's behalf, but decided to defer to each State to determine the best means of confirming the provider's consent in each case.

We also considered but did not propose or finalize codifying a defined list of allowable benefits or excluded benefits within the regulatory text based on concerns that such a list may not accurately reflect all employee benefits available to practitioners and would need frequent updates through the rulemaking process to remain relevant. We discussed in the 2021 proposed rule that the available benefits may vary between States and we would, again, defer to specific State laws and regulations as the basis for implementing the provisions of the 2021 proposed rule. We solicited public comments on whether to codify a defined list of benefits that may be deducted from a provider's payment and, on behalf of the provider, be made to third parties.

We also solicited public comments on whether there are additional types of benefits that State Medicaid agencies make to third parties on behalf of a provider receiving benefits that were not contemplated in the examples described in this section. In particular, we sought comments on whether the described list of benefits is generally permissible and consistent with deductions or payments made by States on behalf of State employees, as well as examples of potential impermissible arrangements we may exclude from the final rule. Finally, we requested that commenters further explain why the benefits they provide as examples within their comments are permissible or impermissible as we proposed at § 447.10(i).

We considered but did not propose or finalize a consent requirement only for specific types of deductions, rather than all types of benefits, for which Medicaid payment amounts may be deducted and paid to a third party in the regulatory text based on the concern that we may not accurately capture all of the employee benefits practitioners believe should require consent. Additionally, identifying certain types of employee benefits for which payments may be deducted and paid to a third party in the regulatory text would also need frequent updates through the rulemaking process to remain relevant. We solicited public comments on whether to codify that consent is only required for deductions for certain types of employee benefits, which benefits, and why those benefits should require consent from the practitioner. We also solicited public comments on whether requiring consent for certain types of employee benefits is advantageous or disadvantageous for the State and practitioner rather than requiring consent for all types of employee benefits.

E. Accounting Statement

As discussed previously, the outstanding appeal related to *California* v. *Azar* means it may be appropriate to examine the impact of the policy described in this final rule against two, alternate baselines. The first baseline considers this final rule to reclassify a current policy using a new statutory interpretation, due to the vacatur of the 2019 final rule. In this case, we would not be required to prepare an accounting statement as would otherwise be required by OMB Circular A–4 under Executive Order 12866 (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf*).

However, the second baseline considers an alternative scenario where the 2019 final rule, or its relative impact, is in effect. Therefore, we prepared an analysis of the impact of the policy described in this final rule, to the extent we can estimate based on contributions sourced from public commenters on the 2021 proposed rule and reasonable estimates of policy adoption, in the absence of actual data. Those impacts are discussed in a comment response in section VI.B. of this final rule. In Table 1, we have prepared an accounting statement showing the classification of transfers associated with the provisions in this proposed rule. The accounting statement is based on estimates provided in this regulatory impact analysis and omits categories of impacts for which partial quantification has not been possible.

TABLE 1—ACCOUNTING STATEMENT

Transfers					
Category	Low estimate	High estimate	Units		
			Year dollars	Discount rate (%)	Period covered
Annualized monetized $ millions/year	0	$71.3	2021	3	2022
	0	71.3	2021	7	2022
From whom to whom?	From States to third parties on behalf of individual practitioners.				

F. Conclusion

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on March 16, 2022.

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for Part 447 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1396r–8.

■ 2. Amend § 447.10 by revising paragraph (a) and adding paragraph (i) to read as follows:

§ 447.10 Prohibition against reassignment of provider claims.

(a) *Basis and purpose.* This section implements section 1902(a)(32) of the Act which prohibits State payments for Medicaid services to anyone other than a provider or beneficiary, under an assignment, power of attorney, or similar arrangement, except in specified circumstances.

* * * * *

(i) The payment prohibition in section 1902(a)(32) of the Act and paragraph (d) of this section does not apply to payments to a third party on behalf of an individual practitioner for benefits such as health insurance, skills training, and other benefits customary for employees, in the case of a class of practitioners for which the Medicaid program is the primary source of revenue, if the practitioner voluntarily consents to such payments to third parties on the practitioner's behalf.

Dated: May 5, 2022.

Andrea Palm,

Deputy Secretary, Department of Health and Human Services.

[FR Doc. 2022–10225 Filed 5–12–22; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 220510–0113]

RIN 0648–BK78

Fisheries Off West Coast States; West Coast Salmon Fisheries; 2022 Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: Through this final rule, NMFS establishes fishery management measures for the 2022 ocean salmon fisheries off Washington, Oregon, and California, and the 2023 salmon seasons opening earlier than May 16, 2023, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The fishery management measures vary by fishery and by area and establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the U.S. Exclusive Economic Zone (EEZ) (3–200 nautical miles (nmi)) (5.6–370.4 kilometers (km)) off Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian, non-Indian commercial, and recreational fisheries. The measures are also intended to allow a portion of the salmon runs to escape the ocean fisheries in order to provide for spawning escapement, comply with applicable law, and to provide fishing opportunity for inside fisheries (fisheries occurring in state waters).

DATES: This final rule is effective from 0001 hours Pacific Daylight Time, May 16, 2022, until the effective date of the 2023 management measures, as published in the **Federal Register**.

ADDRESSES: The documents cited in this document are available on the Pacific Fishery Management Council's (Council's) website (*www.pcouncil.org*).

FOR FURTHER INFORMATION CONTACT: Shannon Penna at 562–676–2148.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries in the EEZ off the coasts of Washington, Oregon, and California are managed under a framework fishery management plan (FMP). Regulations at 50 CFR part 660, subpart H, provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notification in the **Federal Register**. Regulations at 50 CFR 660.408 govern the establishment of annual management measures.

The management measures for the 2022 and early 2023 ocean salmon fisheries that are implemented in this final rule were recommended by the Council at its April 6 to 13, 2022, meeting.

Process Used To Establish 2022 Management Measures

The Council announced its annual preseason management process for the 2022 ocean salmon fisheries on the Council's website at *www.pcouncil.org* (December 3, 2021), and in the **Federal Register** on December 9, 2021 (86 FR 70114). NMFS published an additional notice of opportunity to submit public comments on the 2022 ocean salmon

fisheries in the **Federal Register** on January 31, 2022 (87 FR 4869). These notices announced the availability of Council documents, the dates and locations of Council meetings and public hearings comprising the Council's complete schedule of events for determining the annual proposed and final modifications to ocean salmon fishery management measures, and instructions on how to comment on the development of the 2022 ocean salmon fisheries. The agendas for the March and April Council meetings were published in the **Federal Register** (87 FR 9324, February 18, 2022, and 87 FR 15944, March 21, 2022, respectively), and posted on the Council's website prior to the meetings.

In accordance with the FMP, the Council's Salmon Technical Team (STT) and economist prepared four reports for the Council, its advisors, and the public. All four reports were made available on the Council's website upon their completion. The first of the reports, ''Review of 2021 Ocean Salmon Fisheries,'' was prepared in February when the first increment of scientific information necessary for crafting management measures for the 2022 and early 2023 ocean salmon fisheries became available. The first report summarizes biological and socio-economic data from the 2021 ocean salmon fisheries and assesses the performance of the fisheries with respect to the Council's 2021 management objectives as well as provides historical information for comparison. The second report, ''Preseason Report I Stock Abundance Analysis and Environmental Assessment Part 1 for 2022 Ocean Salmon Fishery Regulations'' (PRE I), provides the 2022 salmon stock abundance projections and analyzes how the stocks and Council management goals would be affected if the 2021 management measures (the No-Action Alternative under the National Environmental Policy Act (NEPA)) were continued for the 2022/2023 fishing season. The completion of PRE I is the initial step in developing and evaluating the full suite of preseason alternatives.

Following completion of the first two reports, the Council met via webinar and in-person from March 8 to 14, 2022, to develop 2022 management alternatives for proposal to the public and consideration under NEPA. The Council proposed three alternatives for commercial and recreational fisheries management, and three alternatives for treaty Indian fisheries management for analysis and public comment. These alternatives consisted of various combinations of management measures designed to ensure that stocks of coho and Chinook salmon meet conservation goals, and to provide for ocean harvests of more abundant stocks. After the March Council meeting, the Council's STT and economist prepared a third report, ''Preseason Report II Proposed Alternatives and Environmental Assessment Part 2 for 2022 Ocean Salmon Fishery Regulations'' (PRE II), which analyzes the effects of the proposed 2022 management alternatives.

The Council sponsored public hearings via webinar to receive testimony on the proposed alternatives on March 22, 2022, for Washington and California, and on March 23, 2022, for Oregon. The states of Washington, Oregon, and California sponsored meetings in various forums that also collected public testimony, which was then presented to the Council by each state's Council representative. The Council also received public testimony at both the March and April meetings and received written comments at the Council office and electronic submissions via the Council's electronic portal and via *www.regulations.gov*.

The Council met from April 7 to 13, 2022, via webinar and in-person, to adopt its final 2022 ocean salmon management recommendations; which it did on April 12, 2022. Following the April Council meeting, the Council's STT and economist prepared a fourth report, ''Preseason Report III Analysis of Council-Adopted Management Measures for 2022 Ocean Salmon Fisheries'' (PRE III), which analyzes the environmental and socioeconomic effects of the Council's final recommendations (the Council's Proposed Action under NEPA). The Council transmitted the recommended management measures to NMFS on April 28, 2022, and published them on its website (*www.pcouncil.org*).

Under the FMP, the ocean salmon management cycle begins May 16 and continues through May 15 of the following year. This final rule is effective on May 16, 2022, consistent with the FMP. Fisheries that begin prior to May 16, 2022, are governed by the final rule implementing the salmon fishery management measures for the 2021 ocean salmon season (86 FR 26425, May 14, 2021; 86 FR 28293, May 26, 2021). The majority of fisheries recommended by the Council for 2022 begin May 16, 2022, and are authorized under this rule. Salmon fisheries scheduled to begin before May 16, 2022, which were authorized under the 2021 rule, are:

- Commercial ocean salmon fisheries from the U.S./Canada border to the Oregon/California border,
- Commercial ocean salmon fisheries from Pigeon Point, CA, to the U.S./Mexico border,
- Recreational ocean salmon fisheries from Cape Falcon, OR, to Humbug Mountain, OR,
- Recreational ocean salmon fisheries from the Oregon/California border to the U.S./Mexico border, and
- Treaty Indian troll ocean salmon fisheries north of Cape Falcon.

For purposes of analyzing the impacts of these fisheries on individual stocks relative to the applicable objectives in the FMP, Council analysts assumed fisheries between March 15 to May 15, 2022, would be conducted under the 2021 management measures, consistent with the effective date of the 2021 salmon management measures rule and subsequent inseason actions under 50 CFR 660.409. Several fisheries scheduled to open between March 15, 2022, and May 15, 2022, were modified through inseason action to shorten or delay the fisheries in response to updated salmon stock forecast information for 2022.

National Environmental Policy Act (NEPA)

The environmental assessment (EA) for this action comprises the Council's documents described above (PRE I, PRE II, and PRE III), providing an analysis of environmental and socioeconomic effects under NEPA. The EA and its related Finding of No Significant Impact are posted on the NMFS West Coast Region website (*www.fisheries.noaa.gov/region/west-coast*).

Resource Status

Stocks of Concern

The FMP requires that the fisheries be managed to meet escapement-based Annual Catch Limits (ACLs), Endangered Species Act (ESA) consultation requirements, obligations of the Pacific Salmon Treaty (PST) between the United States and Canada, and other conservation objectives detailed in the FMP. In addition, under the MSA, all regulations must be consistent with other applicable laws. Because the ocean salmon fisheries are mixed-stock fisheries, this requires ''weak stock'' management to avoid exceeding limits for the stocks with the most constraining limits. Abundance forecasts for individual salmon stocks can vary significantly from one year to the next; therefore, the stocks that constrain the fishery in one year may

differ from those that constrain the fishery in the next. For 2022, several stocks will constrain fisheries; these are described below.

Fisheries south of Cape Falcon are limited in 2022 primarily by conservation concerns for Klamath River fall-run Chinook salmon (KRFC) and the ESA-listed California Coastal (CC) Chinook salmon evolutionarily significant unit (ESU). NMFS determined in 2018 that the KRFC stock was overfished, as defined under the MSA and the FMP, and it is being managed under a rebuilding plan (85 FR 75920, November 27, 2020). In addition to KRFC, three coho salmon stocks (Queets River natural coho salmon, Strait of Juan de Fuca natural coho salmon and Snohomish River natural coho salmon) were determined in 2018 to be overfished and are being managed under rebuilding plans (86 FR 9301, February 12, 2021). Meeting conservation objectives for these three coho salmon stocks will not constrain fisheries in 2022.

Fisheries north of Cape Falcon are limited by ESA conservation requirements for the Lower Columbia River (LCR) Chinook salmon ESU—primarily the natural tule component of the LCR Chinook salmon ESU. The limitations imposed in order to protect these stocks are described below. The alternatives and the Council's adopted management measures for 2022 were designed to avoid exceeding these limitations.

KRFC (non-ESA-listed): Abundance for this non-ESA-listed stock in the last decade has been historically low, and the stock is currently overfished based on spawning escapement in 2015, 2016, and 2017. The FMP defines ''overfished'' status in terms of a three-year geometric mean escapement level and whether it is below the minimum stock size threshold (MSST). The forecast abundance for KRFC in 2022 is 200,117. Fisheries in 2022 will be constrained in Oregon and California to meet the requirements of the KRFC harvest control rule in the FMP and the rebuilding plan, to meet a 25 percent *de minimis* exploitation rate, which results in a natural-area spawning escapement projection of 38,180, which is greater than the MSST (30,525 spawners), but below the maximum sustainable yield spawner escapement (S_{MSY}) (40,700 spawners). A natural-area escapement of 38,180 adults would represent the 25th lowest value over the past 44 years of data. Ocean salmon fisheries south of Cape Falcon, particularly in the Klamath Management Zone (KMZ) from Humbug Mountain, OR, to Horse Mountain, CA, will be constrained to meet this goal.

California Coastal (CC) Chinook salmon—ESA-listed Threatened: The CC Chinook salmon ESU has been listed as threatened under the ESA since 1999. To meet requirements of the 2005 biological opinion on Council fisheries for CC Chinook salmon, salmon fisheries off Northern California and Southern Oregon will be severely constrained in 2022 to limit fishery impacts on age-4 KRFC, which serves as a surrogate for these fisheries' impact on CC Chinook salmon. The ESU has been managed for a consultation standard not to exceed a 16 percent age-4 ocean harvest rate on KRFC Chinook salmon. On March 28, 2022, NMFS reinitiated consultation on the effects of the implementation of the FMP on CC Chinook salmon because the post-season assessment of the 2021 ocean fisheries indicated that the take limit for CC Chinook salmon had been exceeded. The NMFS guidance for CC Chinook salmon was to manage 2022 ocean salmon fisheries more conservatively so as not to exceed the 16 percent age-4 ocean harvest rate on KRFC salmon given the pattern of performance in recent years. NMFS expects to complete the reinitiated consultation in time to inform the 2023 management measures for the fisheries.

Pending completion of the reinitiated consultation, NMFS assessed the potential effects of the 2022 fisheries on CC Chinook salmon and reported on that assessment at the March Council meeting. The assessment included consideration of all information currently available relating to the impacts of Council fisheries on the CC Chinook salmon ESU. NMFS considered the most recent revisions to the Klamath Ocean Harvest Model (KOHM), the information presented in Pre-I analyzing the effects of the model revisions, analyses of contact rate patterns provided by California Department of Fish and Wildlife (CDFW) staff, environmental conditions that may contribute to high contact rates on CC Chinook salmon, and discussions with the Salmon Advisory Subpanel and Oregon and California state managers.

Unusually high contact rates relative to effort in the fishery appear to be one of the primary drivers in the higher age-4 KRFC rates in recent years. The revisions to the KOHM use contact rates in the most recent years (2015–2019). Contact rates in those years are the highest in the data series for most areas and are higher in most areas and months when compared to the contact rates used in 2021 modelling. The analysis of the KOHM revisions as summarized in Appendix D of the Pre-I report indicates that the revisions made in 2022 substantially reduce the likelihood of exceeding the age-4 KRFC ocean salmon limit when compared to the data used in the 2021 KOHM revision. However, the retrospective analysis indicates that the updated model would still have under-predicted the KRFC age-4 ocean exploitation rate limit in 3 of the 4 years in the analysis by an average of 18 percent, and substantially so in 2021. Adjusting for the 18 percent under-prediction results in an age-4 KRFC harvest rate target of 9 to 11.5 percent.

Environmental indicators have also been an important driver in the pattern of contact rates in recent years. Ocean conditions have likely led to the high survival and concentration of anchovies and other preferred prey off Fort Bragg and San Francisco management areas in recent years. Salmon have followed the food, concentrating in those areas as well. Low flows and high temperatures in the Sacramento and Klamath Rivers may have led to thermal blockages impeding migration into the rivers and low freshwater survival of spawners. The Integrated Ecosystem Assessment presented at the March Council meeting indicates the conditions observed in 2021 are likely to continue in 2022. Discussions with the Council's Salmon Advisory Subpanel (SAS) and CDFW staff along with the documentation describing proposed fishing regimes under consideration by the Council indicate that ocean salmon seasons in 2022 will be much more constrained in 2022 when compared with 2021 for the areas and months with greatest impacts to KRFC Chinook. The collective information indicated the risk of an over-prediction of the age-4 KRFC ocean harvest rate was reduced compared to an assessment of prior performance. However, the uncertainty in the information indicated a cautious approach was warranted, and NMFS' guidance was to manage 2022 ocean fisheries using a target age-4 KRFC ocean exploitation rate of 10 percent.

The adopted management measures result in a projected KRFC age-4 ocean harvest rate of 10 percent, which is consistent with the 2022 NMFS guidance to limit the forecast KRFC age-4 ocean harvest rate to a maximum of 10 percent. Based on that assessment, NMFS has made a determination that, consistent with sections 7(a)(2) and 7(d) of the ESA, this action will not jeopardize any listed species, would not adversely modify designated critical habitat, and will not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or

implementation of any reasonable and prudent alternative measures (NMFS 2019).

Southern Oregon/Northern California Coastal Coho salmon (SONCC coho): The SONCC coho salmon ESU consists of all naturally produced populations of coho salmon from coastal streams between Cape Blanco, OR, and Punta Gorda, CA, and limited artificial propagation programs (currently: Cole Rivers Hatchery in Oregon, and Trinity and Iron Gate Hatcheries in California). Under the FMP, ESA consultation standards are used to manage ESA-listed stocks, including SONCC coho salmon. In January 2022, the Council adopted a new harvest control rules for SONCC coho salmon for recommendation to NMFS, informed by the risk assessment produced by the Ad-hoc SONCC Coho Salmon Technical Workgroup. In January of 2022, the Council adopted new harvest control rules limiting the total fishery (marine and freshwater) exploitation rate to 15 percent, for all populations within the SONCC ESU, except the Trinity River coho salmon population, which is limited to 16 percent. Salmon fisheries in 2022 will be managed consistent with these harvest control rules. NMFS' West Coast Region signed a new biological opinion on harvest impacts to SONCC coho salmon under the new control rule on April 28, 2022 (WCRO–2021–03260).

LCR Chinook salmon (ESA-listed threatened): The LCR Chinook salmon ESU comprises a spring component, a ''far-north'' migrating bright component, and a tule component. The bright and tule components both have fall run timing. There are twenty-one separate populations within the tule component of this ESU. Unlike the spring or bright populations of the ESU, LCR tule populations are caught in large numbers in Council fisheries, as well as fisheries to the north and in the Columbia River. Therefore, this component of the ESU is the one most likely to constrain Council fisheries in the area north of Cape Falcon. Under the provisions of NMFS' 2012 biological opinion on the impact of Council-area salmon fisheries on LCR Chinook salmon, Council fisheries must be managed subject to an abundance-based management (ABM) framework, after accounting for anticipated impacts in northern fisheries and freshwater fisheries that are outside the action area. Applying the ABM framework to the 2022 preseason abundance forecast, the total LCR tule exploitation rate for all salmon fisheries is limited to a maximum of 38 percent. Fisheries will be constrained north of Cape Falcon in 2022 such that, when combined with all other salmon fisheries in the ocean and in the Columbia River below Bonneville Dam, the ESA requirement is met.

Other Resource Issues

Southern Resident Killer Whale (SRKW) (ESA-listed endangered): The SRKW distinct population segment (DPS) was listed under the ESA as endangered in 2005 (70 FR 69903, November 18, 2005). At its 2019 meeting, the Council formed an *ad hoc* workgroup (SRKW Workgroup), including salmon and SRKW experts, to develop a long-term approach that included proposed conservation measures and management tools that would limit PFMC fishery impacts to prey availability for SRKW relative to implementing the FMP.

The SRKW workgroup developed a risk assessment report which suggests that Chinook salmon abundance north of Cape Falcon is consistently more important to SRKW than abundance in areas south of Cape Falcon. The report noted that the SRKW DPS is observed north of Cape Falcon in all seasons and likely has some direct overlap with the salmon fisheries every year, whereas there is likely limited overlap with the salmon fisheries in some years south of Cape Falcon. Furthermore, the contribution of Chinook salmon south of Cape Falcon to SRKW diet may also be largely confined to the winter/spring season, after maturing fall-run Chinook salmon adults that escaped the current year's fishery leave the ocean. The report also provided evidence that, after executing Council-area salmon fisheries, the percent of prey remaining and available to SRKW has increased coastwide over the last several decades. The SRKW Workgroup's risk assessment report provides the most current information on SRKW and their predator-prey interaction with Pacific salmon.

Based largely on the SRKW Workgroup's risk assessment report, the Council developed an approach to set a Chinook salmon annual abundance management threshold below which the Council and NMFS would implement specific measures to limit ocean salmon fishery impacts on Chinook salmon in order to increase salmon prey availability for SRKW. These measures include time and area closures, a quota limitation for the North of Falcon area, and temporal shifts in fishing. At its November 2020 meeting, the Council adopted this approach as an amendment to the FMP for recommendation to NMFS (Amendment 21 to the FMP). NMFS completed an ESA consultation on authorization of the ocean salmon fishery in the west coast EEZ through approval of the FMP and promulgation of regulations implementing the plan, including approval and implementation of Amendment 21 in 2021 (86 FR 51017, September 14, 2021) that concluded that the action was not likely to jeopardize the continued existence of the SRKW DPS or destroy or adversely modify its designated or proposed critical habitat. The Council and NMFS considered the Chinook salmon abundance relative to the provisions of Amendment 21 when developing 2022 annual management measures. Because the pre-season estimate of the abundance of Chinook salmon in 2022 exceeds the threshold in the FMP, the Council did not recommend implementation of the additional management measures included in the FMP. The 2022 management measures are consistent with the proposed action analyzed in the 2021 biological opinion.

Hoko summer/fall Chinook salmon (Hoko Chinook salmon): The Hoko Chinook salmon stock is managed in Council-area and in northern fisheries, subject to the provisions of the Council's salmon FMP and the PST. Under the FMP, Hoko Chinook salmon are managed for spawning escapement of 850 naturally spawning adults. The forecast of Hoko Chinook salmon in 2022 is for an escapement of 940 adult Chinook salmon in the absence of fishing. With the northern fisheries that are expected to occur within the limit identified in the PST, the spawning escapement is projected to be at a level below the escapement goal. Escapement in the last 5 years has averaged 1,726 (with a range of 1,188–2,179), consistently higher than the escapement goal. Under the provisions of the PST, Hoko Chinook salmon are managed to an exploitation rate limit of 10 percent in southern U.S. fisheries. The projected exploitation rate for 2022 is 2.1 percent, of which 1.9 percent is occurring in Council area fisheries, well below the 10 percent PST limit. This represents a level of fishery impact in Council area fisheries that is below the levels defined as *de minimis* for other Chinook salmon stocks in the FMP. The state of Washington and the treaty tribes support the proposed fishery management measures that are anticipated to lead to a projected escapement of 735 adult spawners. The FMP specifies that ''Annual natural spawning escapement targets may vary from FMP conservation objectives if agreed to by Washington Department of Fish and Wildlife (WDFW) and treaty tribes under the provisions of *Hoh* v. *Baldrige* and subsequent U.S. District Court orders.'' Salmon fishery impacts on Hoko Chinook salmon are therefore

consistent with limits required by the PST and provisions of the FMP.

Annual Catch Limits and Status Determination Criteria

Annual Catch Limits (ACLs) are required for all stocks or stock complexes in the fishery that are not managed under an international agreement, listed under the ESA, or designated as hatchery stocks. For salmon, these reference points are defined in terms of spawner escapement. ACLs are set for two Chinook salmon stocks, SRFC and KRFC, and one coho salmon stock, Willapa Bay natural coho salmon. The Chinook salmon stocks are indicator stocks for the Central Valley Fall Chinook salmon complex, and the Southern Oregon/Northern California Chinook salmon complex, respectively. The Far North Migrating Coastal Chinook salmon complex (FNMC) includes a group of Chinook salmon stocks that are caught primarily in fisheries north of Cape Falcon and other fisheries that occur north of the U.S./Canada border. No ACL is set for FNMC stocks because they are managed subject to provisions of the PST between the United States (U.S.) and Canada (the MSA provides an international exception from ACL requirements that applies to stocks or stock complexes subject to management under an international agreement, which is defined as ''any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the U.S. is a party'' (50 CFR 600.310(h)(1)(ii)). The Columbia Upper River Bright Fall and Summer Chinook stocks are also managed under the provisions of the PST. Other Chinook salmon stocks caught in fisheries north of Cape Falcon are ESA-listed or hatchery produced, and are managed consistent with ESA consultations or hatchery goals. Willapa Bay natural coho salmon is the only coho salmon stock for which an ACL is set, as the other coho salmon stocks in the FMP are either ESA-listed, hatchery produced, or managed under the PST.

ACLs for salmon stocks are escapement-based, which means they establish a number of adults that must escape the fisheries to return to the spawning grounds. ACLs are set based on the annual potential spawner abundance forecast and a fishing rate reduced to account for scientific uncertainty. For SRFC in 2022, the overfishing limit (OFL) is S_{OFL} = 396,458 (potential spawner abundance forecast) multiplied by $1-F_{MSY}$ $(1-0.78)$ or 87,221 returning spawners (F_{MSY} is the fishing mortality rate that would result in maximum sustainable yield—MSY). S_{ABC} (the spawner escapement that is associated with the acceptable biological catch) is 396,458 multiplied by $1-F_{ABC}$ $(1-0.70)$ (F_{MSY} reduced for scientific uncertainty = 0.70) or 118,937. The S_{ACL} is set equal to $S_{ABC,}$ *i.e.,* 118,937 spawners. SRFC has a conservation objective of 122,000–180,000 spawning escapement. In recent years, the stock has not met the low end of this objective; therefore, the Council targeted a spawning escapement of 180,000 for SRFC, the upper end of the conservation objective for this stock, in developing the 2022 ocean salmon fisheries. The adopted management measures provide for a projected SRFC spawning escapement of 198,694. For KRFC in 2022, S_{OFL} is 50,906 (potential spawner abundance forecast) multiplied by $1-F_{MSY}$ $(1-0.71)$, or 14,763 returning spawners. S_{ABC} is 50,906 multiplied by $1-F_{ABC}$ $(1-0.68)$ (F_{MSY} reduced for scientific uncertainty = 0.68) or 16,290 returning spawners. S_{ACL} is set equal to S_{ABC}, *i.e.,* 16,290 spawners. When KRFC potential spawner abundance is projected to be less than 54,267 natural-area adults, fisheries are managed under the *de minimis* portion of the control rule, which allows for some fishing opportunity but results in the expected escapement falling below 40,700 natural-area adult spawners (S_{MSY}). The adopted management measures provide for a projected KRFC spawning escapement of 38,180. For Willapa Bay natural coho salmon in 2022, S_{OFL} = 51,464 (potential spawner abundance forecast) multiplied by $1-F_{MSY}$ $(1-0.74)$ or 13,381 returning spawners. S_{ABC} is 51,464 multiplied by $1-F_{ABC}$ $(1-0.70)$ (F_{MSY} reduced for scientific uncertainty = 0.70) or 15,439. S_{ACL} is set equal to S_{ABC}, *i.e.,* 15,439 spawners. The adopted management measures provide for a projected Willapa Bay natural coho salmon ocean escapement of 24,418. In summary, for 2022, the projected abundance of the three stocks with ACLs (SRFC, KRFC, and Willapa Bay natural coho salmon), in combination with the constraints for ESA-listed and non-ESA-listed stocks, is expected to result in escapements greater than required to meet the ACLs for all three stocks with defined ACLs.

Public Comments

The Council invited written comments on developing 2022 salmon management measures in their notice announcing public meetings and hearings (86 FR 70114, December 9, 2021). At its March meeting, the Council developed three alternatives for 2022 commercial and recreational salmon management measures having a range of quotas, season structure, and impacts, from the least restrictive in Alternative I to the most restrictive in Alternative III, as well as three alternatives for 2022 North of Cape Falcon treaty Indian troll salmon management measures. These alternatives are described in detail in PRE II. Subsequently, comments were taken at three public hearings held in March, staffed by representatives of the Council and NMFS. The Council received 320 written comments on 2022 ocean salmon fisheries via their electronic portal. The three public hearings were attended by a total of 145 people; 38 people provided oral comments. Comments came from individual fishers, fishing associations, fish buyers, processors, the general public, and conservation organizations. Written and oral comments addressed the 2022 management alternatives described in PRE II and generally expressed preferences for a specific alternative or for particular season structures. All comments were made available via the Council's online briefing book for the April 2022 Council meeting and were considered by the Council, which includes a representative from NMFS, in developing the recommended management measures transmitted to NMFS on April 21, 2022. In addition to comments collected at the public hearings and those submitted directly to the Council, several people provided oral comments at the April 2022 Council meeting. NMFS also invited comments to be submitted directly to the Council or to NMFS, via the Federal Rulemaking Portal (*www.regulations.gov*) in a notice (87 FR 4869, January 31, 2022); NMFS received 20,509 comments via the Federal Rulemaking Portal.

Comments on alternatives for commercial salmon fisheries. Many written comments were from commercial salmon fisheries located on the coast of California. Of those written comments, the majority supported Alternative I followed by Alternative II. Those testifying on north of Cape Falcon commercial salmon fisheries at the Washington hearing supported the total allowable catch for Chinook salmon in Alternative I and specifically the 65,000 Chinook salmon and 210,000 coho salmon total allowable catches. Those testifying on south of Cape Falcon commercial salmon fisheries at the Oregon hearing supported Alternative I. Those testifying on south of Cape Falcon commercial salmon fisheries at the California hearing largely supported Alternative I and splitting the July and August dates into 5-day openers. The

Council adopted commercial fishing measures north and south of Cape Falcon that are within the range of the alternatives considered.

Comments on alternatives for recreational fisheries. Many written comments did not identify the fishery being commented on, either by geography or sector. Those that did submit written comments specifically on recreational fisheries supported Alternative I almost unanimously. Most spoke to maximizing fishing opportunity, which would be consistent with Alternative I. Many spoke to the economic benefit to businesses and communities from recreational fisheries. In-person testimony on recreational fisheries at the three public hearings was similar to the written comments—support for maximizing fishing opportunity. The Council adopted recreational fishing measures north and south of Cape Falcon that are within the range of alternatives considered.

Comments from federally recognized tribes, including treaty tribe representatives. At its March and April meetings, the Council heard testimony from members of several federally recognized tribes including tribes with treaty rights for salmon harvest; additional tribal comments were submitted in writing. Tribes expressed concerns over the uncertainty of forecasts for some stocks in 2022 and the ramifications of the proposed ocean fisheries and some specific management measures to inland tribal fisheries. Some concerns were directed towards Columbia River stocks such as the Lower River Hatchery tules (LRH; hatchery Columbia River tule fall Chinook salmon below Bonneville Dam) and lower Columbia River coho salmon. Tribes also expressed concerns over the underutilization of hatcheries as a salmon recovery tool while minimizing any potential risks to natural origin fish.

Comments on SRKW. NMFS and the Council received a combined 20,677 comments regarding SRKW. The majority of these comments were not relevant to the development of the 2022 annual management measures for ocean salmon fisheries; rather these comments reiterated comments NMFS previously addressed in the final EA for FMP Amendment 21 (*https://www.fisheries.noaa.gov//action/amendment-21-pacific-coast-salmon-fishery-management-plan*) and in the notice of agency decision (86 FR 51017, September 14, 2021). The minority of these comments that were directed at the 2022 annual management measures requested restrictions beyond those included in the Council's Alternative III for 2022 ocean salmon management measures (the most restrictive alternative developed for the 2022 ocean salmon management measures), requesting further restriction of catch limits, limiting size of quotas, limiting season lengths, and closing additional areas to fishing.

The Council, including the NMFS representative, took all of these comments into consideration. The Council's final recommendation generally includes aspects of all three alternatives, while taking into account the best available scientific information and ensuring that fisheries are consistent with impact limits and accountability measures for ESA–listed species, ACLs, PST obligations, MSA requirements, and tribal fishing rights. The Council and NMFS also considered comments on the NEPA analysis in preparing the final EA.

2022 Specifications and Management Measures

The Council's recommended ocean harvest levels and management measures for the 2022 fisheries are designed to apportion the burden of protecting the weak stocks identified and discussed in PRE I equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS finds the Council's recommendations to be responsive to the goals of the FMP, the requirements of the resource, and the socioeconomic factors affecting resource users. The recommendations are consistent with the requirements of the MSA, U.S. obligations to Indian tribes with federally recognized fishing rights, and U.S. international obligations regarding Pacific salmon. The Council's recommended management measures are consistent with the proposed actions analyzed in NMFS' ESA consultations for those ESA-listed species that may be affected by Council fisheries, and are otherwise consistent with ESA obligations. Accordingly, NMFS, through this final rule, approves and implements the Council's recommendations.

North of Cape Falcon, 2022 management measures for non-Indian commercial troll and recreational fisheries have slightly decreased quotas for Chinook salmon compared to 2021 due to the lower abundance of LCR natural tule Chinook, lower Columbia River hatchery Chinook, and Spring Creek Hatchery Chinook salmon; coho salmon quotas are substantially higher than in 2021, due to much higher abundance forecasts for Columbia River and coastal Washington coho salmon stocks, but was constrained by low forecasts for Thompson and Puget Sound natural coho salmon. Overall, north of Cape Falcon non-Indian commercial and recreational total allowable catch in 2022 is 54,000 Chinook salmon and 200,000 coho salmon marked with a healed adipose fin clip. The commercial troll fishery, north of Cape Falcon, will have a May–June Chinook salmon only fishery with a quota of 18,000 Chinook salmon, and a July–September fishery with a quota of 9,000 Chinook salmon or 32,000 marked coho salmon. The recreational fishery, north of Cape Falcon, will have a July–September fishery with a total allowable catch of 27,000 Chinook salmon and 168,000 marked coho salmon, with subarea quotas.

Quotas for the 2022 treaty-Indian commercial troll fishery North of Cape Falcon are 40,000 Chinook salmon and 52,000 coho salmon in ocean management areas and Washington State Statistical Area 4B combined. These quotas provide the same amount of Chinook salmon and substantially more coho salmon than in 2021. The treaty-Indian commercial fisheries include a May–June fishery with a quota of 20,000 Chinook salmon, and a July–September fishery, with quotas of 20,000 Chinook salmon and 52,000 coho salmon.

South of Cape Falcon, commercial troll and recreational fishery management measures are designed to meet conservation and management goals for KRFC spawning escapement and to not exceed the ESA-take limits for CC Chinook salmon and LCR tule Chinook salmon.

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons that begin before mid-May of the same year. Therefore, this action also establishes the 2023 fishing season that opens earlier than May 16. The Council recommended, and NMFS concurs, that the commercial and recreational seasons will open in 2023 as indicated under the ''Season Description'' headings (in ''Section 1. Commercial Management Measures for 2022 Ocean Salmon Fisheries'' and ''Section 2. Recreational Management Measures for 2022 Ocean Salmon Fisheries'') of this final rule. At the March and/or April 2023 meeting, NMFS may take inseason action, if recommended by the Council, to adjust the commercial and recreational seasons prior to the effective date of the 2023 management measures which are expected to be effective in mid-May 2023. In 2023, the Treaty Indian ocean troll season will open May 1, consistent with all preseason regulations in place

for Treaty Indian Troll fisheries during May 16–June 30, 2022. All catch in May 2023 applies against the 2023 Treaty Indian Troll fisheries quota. This opening could be modified following Council review at its March and/or April 2023 meetings.

Sections 1, 2, and 3 below set out the final specifications and management measures for the ocean salmon fishery for 2022 and, as specified, for 2023. Section 1 governs commercial fisheries; Section 2 governs recreational fisheries; and Section 3 governs Treaty Indian Fisheries. Also, Section 4 below provides requirements for halibut retention; Section 5 provides geographical landmarks; and Section 6 specifies notice procedures for inseason modifications. These measures were recommended by the Council and approved by NMFS. Those elements of the measures set forth below that refer to fisheries implemented prior to May 16, 2022 were promulgated in our 2021 rule (86 FR 26425, May 14, 2021; 86 FR 28293, May 26, 2021) and modified by inseason action at the March and April 2022 Council meetings (87 FR 24882, April 27, 2022), and are included for information only and to provide continuity for the public and for states adopting conforming regulations each May that refer to the Federal rule for the same year.

Section 1. Commercial Management Measures for 2022 Ocean Salmon Fisheries

Parts A, B, and C of this section contain restrictions that must be followed for lawful participation in the fishery. Part A identifies each fishing area and provides the geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies requirements, definitions, restrictions, and exceptions.

Fisheries may need to be adjusted through inseason action to meet NMFS ESA consultation standards, FMP requirements, other management objectives, or upon receipt of new allocation recommendations from the California Fish and Game Commission.

A. Season Description

North of Cape Falcon, OR

—U.S./Canada border to Cape Falcon

May 1–15, 2022;

May 16 through the earlier of June 29, or 18,000 Chinook salmon.

No more than 6,040 of which may be caught in the area between the U.S./Canada border and the Queets River, and no more than 4,840 of which may be caught in the area between Leadbetter Point and Cape Falcon (see C.8). Open seven days per week (see C.1). In the area between the U.S./Canada border and the Queets River the landing and possession limit is 80 Chinook salmon per vessel per landing week (Thursday–Wednesday) (see C.1, C.6). In the area between Leadbetter Point and Cape Falcon the landing and possession limit is 80 Chinook salmon per vessel per landing week (Thursday–Wednesday) (see C.1, C.6). All salmon, except coho salmon (see C.4, C. 7). Chinook salmon minimum size limit of 27 inches total length (see B). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). When it is estimated that approximately 50 percent of the overall Chinook salmon quota or any Chinook subarea guideline has been landed, inseason action may be considered to ensure the quota and subarea guidelines are not exceeded.

In 2023, the season will open May 1 consistent with all preseason regulations in place in this area and subareas during May 16–June 29, 2022, including subarea salmon guidelines and quotas and weekly vessel limits except as described below for vessels fishing or in possession of salmon north of Leadbetter Point. This opening could be modified following Council review at its March and/or April 2023 meetings.

July 1 through the earlier of September 30, or 9,000 Chinook salmon or 32,000 coho salmon (see C.8).

Open seven days per week. All salmon. Chinook salmon minimum size limit of 27 inches total length. Coho salmon minimum size limit of 16 inches total length (see B, C.1). All coho salmon must be marked with a healed adipose fin clip (see C.8.d). No chum salmon retention north of Cape Alava, Washington beginning August 1 (see C.4, C.7). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Landing and possession limit of 150 marked coho salmon per vessel per landing week (Thursday–Wednesday) (see C.1). When it is estimated that approximately 50 percent of the overall Chinook salmon quota or any Chinook salmon subarea guideline has been landed, inseason action may be considered to ensure the quota and subarea guidelines are not exceeded.

For all commercial troll fisheries north of Cape Falcon: Mandatory closed areas include: Salmon Troll Yelloweye Rockfish Conservation Area (YRCA), Cape Flattery, and Columbia Control Zones, and beginning August 8, Grays Harbor Control Zone (see C.5). Vessels must land and deliver their salmon within 24 hours of any closure of this fishery. Vessels may not land fish east of the Sekiu River or east of the Megler-Astoria Bridge. Vessels fishing or in possession of salmon north of Leadbetter Point must land and deliver all species of fish in a Washington port and must possess a Washington troll and/or salmon delivery license. For delivery to Washington ports south of Leadbetter Point, vessels must notify the WDFW at 360–249–1215 prior to crossing the Leadbetter Point line with area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and destination with approximate time of delivery. During any single trip, only one side of the Leadbetter Point line may be fished (see C.11). Vessels fishing or in possession of salmon while fishing south of Leadbetter Point must land and deliver all species of fish within the area and south of Leadbetter Point, except that Oregon permitted vessels may also land all species of fish in Garibaldi, OR. All Chinook salmon caught north of Cape Falcon and being delivered by boat to Garibaldi, OR must meet the minimum legal total length of 28 inches for Chinook salmon for south of Cape Falcon seasons unless the season in waters off Garibaldi, OR have been closed for Chinook salmon retention for more than 48 hours (see C.1).

Under state law, vessels must report their catch on a state fish receiving ticket. Oregon State regulations require all fishers landing salmon into Oregon from any fishery between Leadbetter Point, WA and Cape Falcon, OR to notify the Oregon Department of Fish and Wildlife (ODFW) within one hour of delivery or prior to transport away from the port of landing by either calling 541–857–2546 or sending notification via email to *nfalcon.trollreport@odfw.oregon.gov*. Notification shall include vessel name and number, number of salmon by species, port of landing and location of delivery, and estimated time of delivery. Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (see C.8).

Vessels in possession of salmon north of the Queets River may not cross the Queets River line without first notifying WDFW at 360–249–1215 with area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and destination. Vessels in possession of salmon south of Queets River may not cross the Queets River line without first notifying WDFW at 360–249–1215 with area fished, total Chinook salmon, coho salmon, and halibut catch aboard, and

destination (see C.11). Inseason actions may modify harvest guidelines in later fisheries to achieve or prevent exceeding the overall allowable troll harvest impacts (C.8).

South of Cape Falcon, OR

—Cape Falcon to Heceta Bank Line

March 15–May 15, 2022;
May 21–31;
June 1–12, 18–30;
July 5–9, 17–21, 25–31;
August 4–11;
September 1–4, 11–14;
October 1–31 (see C.9.a).

Open seven days per week. All salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 28 inches total length (see B, C.1). All vessels fishing in the area must land their salmon in the state of Oregon. See gear restrictions and definitions (see C.2, C.3). Beginning September 1, no more than 100 Chinook salmon allowed per vessel per landing week (Thursday–Wednesday).

• Mark-selective coho salmon fishery is open July 5–9, 17–21, 25–31, and August 4–11, or until a Cape Falcon to Humbug Mountain quota of 10,000 marked coho salmon is met. If the coho salmon quota for the combined area from Cape Falcon to Humbug Mountain of 10,000 marked coho salmon is met, then the season continues for all salmon except coho salmon on the remaining open days.

All salmon. All retained coho salmon must be marked with a healed adipose fin clip (see C.4, C.7). Coho salmon minimum size limit of 16 inches total length, and Chinook salmon minimum size limit of 28 inches total length (see B, C.1). All vessels fishing in the area must land their salmon in the State of Oregon. See gear restrictions and definitions (see C.2, C.3). Salmon trollers may take and retain or possess on board a fishing vessel no more than 30 coho salmon per vessel per open period. All coho salmon retained, possessed on a vessel, and landed must not exceed a 1:1 ratio with Chinook salmon that are retained and landed at the same time.

In 2023, the season will open March 15 for all salmon except coho salmon. Chinook salmon minimum size limit of 28 inches total length. Gear restrictions same as in 2022. This opening could be modified following Council review at its March 2023 meeting.

—Heceta Bank Line to Humbug Mountain

May 1–15, 2022;
May 21–31;
August 4–11;
September 1–4, 11–14;
October 1–31 (see C.9.a).

Open seven days per week. All salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 28 inches total length (see B, C.1). All vessels fishing in the area must land their salmon in the State of Oregon. See gear restrictions and definitions (see C.2, C.3). Beginning September 1, no more than 100 Chinook salmon allowed per vessel per landing week (Thursday–Wednesday).

• Mark-selective coho salmon fishery open August 4–11; or Cape Falcon to Humbug Mountain quota of 10,000 marked coho salmon. If the coho salmon quota for the combined area from Cape Falcon to Humbug Mountain of 10,000 marked coho salmon is met, then the season continues for all salmon except coho salmon on the remaining open days.

All salmon. All retained coho salmon must be marked with a healed adipose fin clip (see C.4, C.7). Coho salmon minimum size limit of 16 inches total length, and Chinook salmon minimum size limit of 28 inches total length (see B, C.1). All vessels fishing in the area must land their salmon in the State of Oregon. See gear restrictions and definitions (see C.2, C.3). Salmon trollers may take and retain or possess on board a fishing vessel no more than 30 coho salmon per vessel per open period. All coho salmon retained, possessed on a vessel, and landed must not exceed a 1:1 ratio with Chinook salmon that are retained and landed at the same time.

In 2023, the season will open March 15 for all salmon except coho salmon. Chinook salmon minimum size limit of 28 inches total length. Gear restrictions same as in 2022. This opening could be modified following Council review at its March 2023 meeting.

—Humbug Mountain to Oregon/California border (Oregon KMZ)

March 15–April 30;
June 1–30, or the earlier of 800 Chinook salmon quota;
July 1–31, or the earlier of 400 Chinook salmon quota;
August 1–28, or the earlier of 250 Chinook salmon quota (see C.9.a).

Open seven days per week (Thursday–Wednesday). All salmon, except coho (see C.4, C.7). Chinook salmon minimum size limit of 28 inches total length (see B, C.1). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Prior to June 1, all salmon caught in this area must be landed and delivered in the State of Oregon. June 1-August 28 weekly landing and possession limit of 50 Chinook salmon per vessel per week (Thursday-Wednesday). Any remaining portion of Chinook salmon quotas may be transferred inseason on an impact neutral basis to the next open quota period (see C.8.b). All vessels fishing in this area during June, July, and August must land and deliver all salmon within the area or into Port Orford within 24 hours of any closure of this fishery and prior to fishing outside of this area. For all quota managed seasons, Oregon state regulations require fishers to notify ODFW within one hour of landing and prior to transport away from the port of landing by calling 541–857–2538 or sending notification via email to *kmzor.trollreport@odfw.oregon.gov*, with vessel name and number, number of salmon by species, location of delivery, and estimated time of delivery.

In 2023, the season will open March 15 for all salmon except coho salmon. Chinook salmon minimum size limit of 28 inches total length. Gear restrictions are the same as in 2022. This opening could be modified following Council review at its March 2023 meeting.

—Oregon/California border to Humboldt South Jetty (California KMZ)

Closed in 2022.

In 2023, the season will open May 1 through the earlier of May 31, or a 3,000 Chinook salmon quota. Chinook salmon minimum size limit of 27 inches total length (see B, C.1). Landing and possession limit of 20 Chinook salmon per vessel per day (see C.8.f). Open five days per week (Friday–Tuesday). All salmon, except coho salmon (see C.4, C.7). Any remaining portion of Chinook salmon quotas may be transferred inseason on an impact neutral basis to the next open quota period (see C.8.b). All fish caught in this area must be landed within the area, within 24 hours of any closure of the fishery (see C.6), and prior to fishing outside the area (see C.10). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Klamath Control Zone closed (see C.5.e). See California State regulations for an additional closure adjacent to the Smith River. This opening could be modified following Council review at its March or April 2023 meetings.

—Humboldt South Jetty to Latitude 40°10′ N

Closed in 2022.

For all commercial fisheries south of Cape Falcon: When the fishery is closed between the Oregon/California border and Humbug Mountain, and closed south or the Oregon/California border, vessels with fish on board caught in the open area off California may seek temporary mooring in Brookings,

Oregon prior to landing in California only if such vessels first notify the Chetco River Coast Guard Station via VHF channel 22A between the hours of 0500 and 2200 and provide the vessel name, number of fish on board, and estimated time of arrival (see C.6).

—Latitude 40°10′ N to Point Arena (Fort Bragg)

July 8–12, 21–25;
August 3–12 (see C.9.b).

Open seven days per week. All salmon, except coho salmon (see C.4, C.7). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). Chinook salmon minimum size limit of 27 inches total length (see B, C.1). All salmon must be landed in California and north of Point Arena (see C.6, C.11).

In 2023, the season will open April 16 for all salmon except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches total length (see B, C.1). Gear restrictions are the same as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March 2023 meeting.

—Point Arena to Pigeon Point (San Francisco)

July 8–12, 21–25;
August 3–12;
September 1–30 (see C.9.b).

Open seven days per week. All salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches total length through August, then 26 inches thereafter (see B, C.1). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). All salmon must be landed in California (see C.6). During September, all salmon must be landed south of Point Arena (see C.6, C.11).

In 2023, the season will open May 1 for all salmon except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches total length (see B, C.1). Gear restrictions are the same as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March or April 2023 meeting.

—Point Reyes to Point San Pedro (Fall Area Target Zone)

October 3–7, 10–14.

Open five days per week (Monday-Friday). All salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 26 inches total length (see B, C.1). All salmon caught in this area must be landed between Point Arena and Pigeon Point (see C.6, C.11). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3).

—Pigeon Point to U.S./Mexico border (Monterey)

May 1–5, 2022, 10–15, 2022,
May 20–24;
June 1–12;
July 8–12, 21–25;
August 3–12 (see C.9.b).

Open seven days per week. All salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches total length (see B, C.1). See compliance requirements (see C.1) and gear restrictions and definitions (see C.2, C.3). All salmon must be landed in California (see C.6). All salmon caught in this area in the month of May must be landed within 24 hours of any closure of the fishery (see C.6). During the month of May and June, all salmon caught in the area must be landed south of Point Arena (see C.11).

In 2023, the season will open May 1 for all salmon, except coho salmon (see C.4, C.7). Chinook salmon minimum size limit of 27 inches total length (see B, C.1). Gear restrictions same as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March or April 2023 meeting.

For all commercial troll fisheries in California: California State regulations require all salmon made available to a CDFW representative for sampling immediately at port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFW, shall immediately relinquish the head of the salmon to the State (California Fish and Game Code § 8226).

B. Minimum Size (Inches) (See C.1)

TABLE 1—MINIMUM SIZE LIMITS FOR SALMON IN THE 2022 COMMERCIAL OCEAN SALMON FISHERIES

Area (when open)	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon, OR	27.0	20.5	16	12	None.
Cape Falcon to Humbug Mountain	28.0	21.5	16	12	None.
Humbug Mountain to OR/CA border	28.0	21.5			None.
OR/CA border to Humboldt South Jetty					
Latitude 40°10′0″ N to Point Arena	27.0	20.5			27.
Point Arena to Pigeon Point (through August)	27.0	20.5			27.
Point Arena to Pigeon Point (September–October)	26.0	19.5			26.
Pigeon Point to U.S./Mexico border	27.0	20.5			27.

Metric equivalents: 28.0 in = 71.1 cm, 27.0 in = 68.5 cm, 26 in = 66 cm, 21.5 in = 54.6 cm, 20.5 in = 52.1 cm, 19.5 in = 49.5 cm, 16.0 in = 40.6 cm, and 12.0 in = 30.5 cm.

C. Requirements, Definitions, Restrictions, or Exceptions

C.1. Compliance With Minimum Size or Other Special Restrictions

All salmon on board a vessel must meet the minimum size landing/possession limit, or other special requirements for the area being fished and the area in which they are landed if the area is open or has been closed less than 48 hours for that species of salmon. Salmon may be landed in an area that has been closed for a species of salmon more than 48 hours only if they meet the minimum size, landing/possession limit, or other special requirements for the area in which they were caught. Salmon may not be filleted prior to landing.

Any person who is required to report a salmon landing by applicable state law must include on the state landing receipt for that landing both the number and weight of salmon landed by species. States may require fish landing/receiving tickets be kept on board the vessel for 90 days or more after landing to account for all previous salmon landings.

C.2. Gear Restrictions

a. Salmon may be taken only by hook and line using single point, single shank, barbless hooks.

b. Cape Falcon, OR, to the Oregon/California border: No more than 4 spreads are allowed per line.

c. Oregon/California border to U.S./Mexico border: No more than 6 lines are allowed per vessel, and barbless circle

hooks are required when fishing with bait by any means other than trolling.

C.3. Gear Definitions

Trolling: Fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

Troll fishing gear: One or more lines that drag hooks behind a moving fishing vessel engaged in trolling. In that portion of the fishery management area off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Spread: A single leader connected to an individual lure and/or bait.

Circle hook: A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Vessel Operation in Closed Areas With Salmon on Board

a. Except as provided under C.4.b below, it is unlawful for a vessel to have troll or recreational gear in the water while in any area closed to fishing for a certain species of salmon, while possessing that species of salmon; however, fishing for species other than salmon is not prohibited if the area is open for such species, and no salmon are in possession.

b. When Genetic Stock Identification (GSI) samples will be collected in an area closed to commercial salmon fishing, the scientific research permit holder shall notify NOAA Office of Law Enforcement, U.S. Coast Guard (USCG), CDFW, WDFW, ODFW, and Oregon State Police at least 24 hours prior to sampling and provide the following information: The vessel name, date, location and time collection activities will be done. Any vessel collecting GSI samples in a closed area shall not possess any salmon other than those from which GSI samples are being collected. Salmon caught for collection of GSI samples must be immediately released in good condition after collection of samples.

C.5. Control Zone Definitions

a. *Cape Flattery Control Zone*—The area from Cape Flattery (48°23′00″ N lat.) to the northern boundary of the U.S. EEZ; and the area from Cape Flattery south to Cape Alava (48°10′00″ N lat.) and east of 125°05′00″ W long.

b. *Mandatory Yelloweye Rockfish Conservation Area*—The area in Washington Marine Catch Area 3 from 48°00.00′ N lat.; 125°14.00′ W long. to 48°02.00′ N lat.; 125°14.00′ W long. to 48°02.00′ N lat.; 125°16.50′ W long. to 48°00.00′ N lat.; 125°16.50′ W long. and connecting back to 48°00.00′ N lat.; 125°14.00′ W long.

c. *Grays Harbor Control Zone*—The area defined by a line drawn from the Westport Lighthouse (46°53′18″ N lat., 124°07′01″ W long.) to Buoy #2 (46°52′42″ N lat., 124°12′42″ W long.) to Buoy #3 (46°55′00″ N lat., 124°14′48″ W long.) to the Grays Harbor north jetty (46°55′36″ N lat., 124°10′51″ W long.).

d. *Columbia Control Zone*—An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N lat., 124°06′50″ W long.) and the green lighted Buoy #7 (46°15′09' N lat., 124°06′16″ W long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N lat.,124°03′07″ W long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N lat., 124°05′20″ W long.), and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N lat., 124°04′05″ W long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

e. *Klamath Control Zone*—The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N lat. (approximately 6 nautical miles north of the Klamath River mouth); on the west by 124°23′00″ W long. (approximately 12 nautical miles off shore); and on the south by 41°26′48″ N lat. (approximately 6 nautical miles south of the Klamath River mouth).

f. Waypoints for the 40 fathom regulatory line from Cape Falcon to Humbug Mountain (50 CFR 660.71 (o) (12)–(70)), when in place.

C.6. Notification When Unsafe Conditions Prevent Compliance With Regulations

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the USCG and receive acknowledgment of such notification prior to leaving the area. This notification shall include the name of the vessel, port where delivery will be made, approximate number of salmon (by species) on board, the estimated time of arrival, and the specific reason the vessel is not able to meet special management area landing restrictions.

In addition to contacting the USCG, vessels fishing south of the Oregon/California border must notify CDFW within one hour of leaving the management area by calling 800–889–8346 and providing the same information as reported to the USCG. All salmon must be offloaded within 24 hours of reaching port.

C.7. Incidental Halibut Harvest

License applications for incidental harvest for halibut during commercial salmon fishing must be obtained from the International Pacific Halibut Commission (IPHC).

a. During the 2022 salmon troll season, incidental harvest is authorized only during April, May, and June, and after June 30 if quota remains and if announced on the NMFS hotline (phone: 800–662–9825 or 206–526–6667). WDFW, ODFW, and CDFW will monitor landings. If the landings are projected to exceed the IPHC's preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery.

b. Through May 15, 2022, consistent with regulations adopted in April 2021, license holders may land no more than one Pacific halibut per each two Chinook salmon, except one Pacific halibut may be landed without meeting the ratio requirement, and no more than 35 halibut may be landed per trip.

c. Beginning May 16, 2022, through the end of the 2022 salmon troll fishery, and beginning April 1, 2023, until modified through inseason action or superseded by the 2023 management measures, license holders may land or possess no more than one Pacific halibut per two Chinook salmon, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 35 halibut may be possessed or landed per trip. Pacific halibut retained must be no less than 32 inches in total length (with head on).

d. Incidental Pacific halibut catch regulations in the commercial salmon troll fishery adopted for 2022, prior to any 2022 inseason action, will be in effect when incidental Pacific halibut retention opens on April 1, 2023, unless otherwise modified by inseason action at the March 2023 Council meeting.

e. ''C-shaped'' yelloweye rockfish conservation area is an area to be voluntarily avoided for salmon trolling. NMFS and the Council request salmon trollers voluntarily avoid this area in order to protect yelloweye rockfish. The area is defined in the Pacific Council Halibut Catch Sharing Plan in the North

Coast subarea (Washington marine area 3), with the following coordinates in the order listed:

48°18′ N lat.; 125°18′ W long.;
48°18′ N lat.; 124°59′W long.;
48°11′ N lat.; 124°59′ W long.;
48°11′ N lat.; 125°11′ W long.;
48°04′ N lat.; 125°11′ W long.;
48°04′ N lat.; 124°59′ W long.;
48°00′ N lat.; 124°59′ W long.;
48°00′ N lat.; 125°18′ W long.

And connecting back to 48°18′ N lat.; 125°18′ W long.

C.8. Inseason Management

In addition to standard inseason actions or modifications already noted under the Season Description heading above, the following inseason guidance applies:

a. Chinook salmon remaining from the May through June non-Indian commercial troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline if the transfer would not result in exceeding preseason impact expectations on any stocks.

b. Chinook salmon remaining from May, June, and/or July non-Indian commercial troll quotas in the Oregon or California KMZ may be transferred to the Chinook salmon quota for the next open period if the transfer would not result in exceeding preseason impact expectations on any stocks.

c. NMFS may transfer salmon between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the areas' representatives on the SAS, and if the transfer would not result in exceeding preseason impact expectations on any stocks.

d. The Council will consider inseason recommendations for special regulations for any experimental fisheries annually in March; proposals must meet Council protocol and be received in November the year prior.

e. If retention of unmarked coho salmon (adipose fin intact) is permitted by inseason action, the allowable coho salmon quota will be adjusted to ensure preseason projected impacts on all stocks is not exceeded.

f. Landing limits may be modified inseason to sustain season length and keep harvest within overall quotas.

C.9. State Waters Fisheries

Consistent with Council management objectives:

a. The state of Oregon may establish additional late-season fisheries in state waters.

b. The state of California may establish limited fisheries in selected state waters.

c. Check state regulations for details.

C.10. For the purpose of California Fish and Game Code, Section 8232.5, the definition of the KMZ for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Latitude 40°10′ N.

C.11. Latitudes for geographical reference of major landmarks along the West Coast, including those used for inseason modifications to salmon management areas (see C.8.g.), are listed in Section 5 of this final rule.

Section 2. Recreational Management Measures for 2022 Ocean Salmon Fisheries

Parts A, B, and C of this section contain restrictions that must be followed for lawful participation in the fishery. Part A identifies each fishing area and provides the geographic boundaries from north to south, the open seasons for the area, the salmon species allowed to be caught during the seasons, and any other special restrictions effective in the area. Part B specifies minimum size limits. Part C specifies special requirements, definitions, restrictions, and exceptions.

Fisheries may need to be adjusted through inseason action to meet NMFS ESA consultation standards, FMP requirements, other management objectives, or upon receipt of new allocation recommendations from the California Fish and Game Commission.

A. Season Description

North of Cape Falcon, OR

—U.S./Canada border to Cape Alava (Neah Bay Subarea)

June 18 through earlier of September 30, or 17,470 marked coho salmon subarea quota, with a subarea guideline of 6,110 Chinook salmon (see C.5).

Open seven days per week. All salmon, except chum salmon beginning August 1; two salmon per day. All coho salmon must be marked with a healed adipose fin clip (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B). See gear restrictions and definition (see C.2, C.3)

Beginning August 1, Chinook salmon non-retention east of the Bonilla-Tatoosh line (see C.4.a) during Council managed ocean fishery.

Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational total allowable catch (TAC) for north of Cape Falcon (see C.5).

—Cape Alava to Queets River (La Push Subarea)

June 18 through earlier of September 30, or 4,370 marked coho subarea quota, with a subarea guideline of 995 Chinook salmon (see C.5).

Open seven days per week. All salmon, except chum salmon beginning August 1; two salmon per day. All coho salmon must be marked with a healed adipose fin clip (see C.1). See gear restrictions and definitions (see C.2, C.3). Chinook salmon minimum size limit of 24 inches total length (see B).

Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational TACs for north of Cape Falcon (see C.5).

October 5 through earlier of October 8, or 125 Chinook salmon quota (see C.5) in the area north of 47°50′00″ N lat. and south of 48°00′00″ N lat.

Open seven days per week. Chinook salmon only, two Chinook salmon per day. See gear restrictions and definitions (see C.2, C.3). Chinook salmon minimum size limit of 24 inches total length (see B, C.1).

—Queets River to Leadbetter Point (Westport Subarea)

July 2 through earlier of September 30, or 62,160 marked coho salmon subarea quota, with a subarea guideline of 12,070 Chinook salmon (see C.5).

Open seven days per week. All salmon; two salmon per day, no more than one of which may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip (see C.1). See gear restrictions and definitions (see C.2, C.3). Chinook salmon minimum size limit of 22 inches total length (see B).

Grays Harbor Control Zone closed beginning August 8 (see C.4.b). Inseason management may be used to sustain season length and keep harvest within the overall Chinook and coho salmon recreational TACs for north of Cape Falcon (see C.5).

—Leadbetter Point to Cape Falcon (Columbia River Subarea)

June 25 through earlier of September 30, or 84,000 marked coho salmon subarea quota, with a subarea guideline of 7,700 Chinook salmon (see C.5).

Open seven days per week. All salmon; two salmon per day, no more than one of which may be a Chinook salmon. All coho salmon must be marked with a healed adipose fin clip (see C.1). See gear restrictions and definitions (see C.2, C.3). Chinook salmon minimum size limit of 22 inches total length (see B).

Columbia Control Zone closed (see C.4.c). Inseason management may be used to sustain season length and keep harvest within the overall Chinook salmon and coho salmon recreational TACs for north of Cape Falcon (see C.5).

South of Cape Falcon, OR

—Cape Falcon to Humbug Mountain

March 15–May 15, 2022;
May 16–October 31 (see C.6).

Open seven days per week. All salmon except coho salmon, except as provided below during the all-salmon mark-selective coho salmon fishery and the non-mark-selective coho fishery (see C.5), two fish per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

In 2023, the season will open March 15 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B); and the same gear restrictions as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March 2023 meeting.

—Cape Falcon to Oregon/California Border

All-salmon mark-selective coho salmon fishery: June 18 through the earlier of August 21, or 100,000 marked coho salmon quota (see C.6).

Open seven days per week. Cape Falcon to Humbug Mountain: All salmon two salmon per day. Humbug Mountain to Oregon/California Border: June 18–24, all salmon except Chinook salmon, two salmon per day; and June 25–August 21 or coho salmon quota, all salmon, two salmon per day. All retained coho salmon must be marked with a healed adipose fin clip. See minimum size limits (see B). See gear restrictions and definitions (see C.2, C.3).

Any remainder of the mark-selective coho salmon quota may be transferred inseason on an impact neutral basis to the non-selective coho quota from Cape Falcon to Humbug Mountain (see C.5).

—Cape Falcon to Humbug Mountain

Non-mark-selective coho salmon fishery: September 3 through the earlier of September 30, or 17,000 non-mark-selective coho salmon quota (see C.6). Open days may be modified inseason.

Open seven days per week. All salmon, two salmon per day (see C.1). See minimum size limits (see B). See gear restrictions and definitions (see C.2, C.3).

—Humbug Mountain to Oregon/California Border (Oregon KMZ)

June 25–August 21 (see C.6).

Open seven days per week. All salmon, except coho salmon, except as listed above for the mark-selective coho salmon fishery.

From Cape Falcon to the Oregon/California border (June 18-August 21). Two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

For all Recreational Fisheries from Cape Falcon to Humbug Mountain: Fishing in the Stonewall Bank yelloweye rockfish conservation area restricted to trolling only on days the all depth recreational halibut fishery is open (call the halibut fishing hotline 1–800–662–9825 for specific dates) (see C.3.b, C.4.d).

—Oregon/California Border to Latitude 40°10′ N (California KMZ)

May 1–15, 2022;
May 16–31;
August 1–September 5 (see C.6).

Open seven days per week. All salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

Klamath Control Zone closed in August (see C.4.e). See California State regulations for additional closures adjacent to the Smith, Eel, and Klamath Rivers.

In 2023, season opens May 1 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches total length (see B); and the same gear restrictions as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March or April 2023 meeting.

—Latitude 40°10′ N to Point Arena (Fort Bragg)

May 1–15, 2022;
May 16–July 4;
July 22–September 5 (see C.6).

Open seven days per week. All salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

In 2023, season opens April 1 for all salmon except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches total length (see B); and the same gear restrictions as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March 2023 meeting.

—Point Arena to Pigeon Point (San Francisco)

April 2–May 15, 2022 (see C.6).

Open seven days per week. All salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

May 16–31;
June 23–October 31 (see C.6).

Open seven days per week. All salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 20 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

In 2023, season opens April 1 for all salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B); and the same gear restrictions as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March 2023 meeting.

—Pigeon Point to U.S./Mexico Border (Monterey)

April 2–May 15, 2022 (C.6).

Open seven days per week. All salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B). See gear restrictions and definitions (see C.2, C.3).

May 16–October 2 (see C.6).

Open seven days per week. All salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit 20 inches total length. See gear restrictions and definitions (see C.2, C.3).

In 2023, season opens April 1 for all salmon, except coho salmon, two salmon per day (see C.1). Chinook salmon minimum size limit of 24 inches total length (see B); and the same gear restrictions as in 2022 (see C.2, C.3). This opening could be modified following Council review at its March 2023 meeting.

California State regulations require all salmon be made available to a CDFW representative for sampling immediately at port of landing. Any person in possession of a salmon with a missing adipose fin, upon request by an authorized agent or employee of the CDFW, shall immediately relinquish the head of the salmon to the state (California Code of Regulations Title 14 Section 1.73).

B. Minimum Size (Total Length in Inches) (See C.1)

TABLE 2—MINIMUM SIZE LIMITS FOR SALMON IN THE 2022 RECREATIONAL SALMON FISHERIES

Area (when open)	Chinook	Coho	Pink
North of Cape Falcon (Westport and Columbia River)	22.0	16.0	None.
North of Cape Falcon (Neah Bay and La Push)	24.0	16.0	None.
Cape Falcon to Humbug Mountain	24.0	16.0	None.
Humbug Mountain to Oregon/California border	24.0	16.0	None.
Oregon/California border to Point Arena	20.0	.....	20.0.
Point Arena to Pigeon Point through May 15	24.0	.....	24.0.
Point Arena to Pigeon Point beginning May 16	20.0	.....	20.0.
Pigeon Point to U.S./Mexico border through May 15	24.0	.....	24.0.
Pigeon Point to U.S./Mexico border beginning May 16	20.0	.....	20.0.

Metric equivalents: 24.0 in = 61.0 cm, 22.0 in = 55.9 cm, 20.0 in = 50.8 cm, and 16.0 in = 40.6 cm.

C. Requirements, Definitions, Restrictions, or Exceptions

C.1. Compliance With Minimum Size and Other Special Restrictions

All salmon on board a vessel must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Salmon may be landed in an area that is closed only if they meet the minimum size or other special requirements for the area in which they were caught. Salmon may not be filleted prior to landing.

Ocean Boat Limits: Off the coast of Washington, Oregon, and California, each fisher aboard a vessel may continue to use angling gear until the combined daily limits of Chinook and coho salmon for all licensed and juvenile anglers aboard have been attained (additional state restrictions may apply).

C.2. Gear Restrictions

Salmon may be taken only by hook and line using barbless hooks. All persons fishing for salmon, and all persons fishing from a boat with salmon on board must meet the gear restrictions listed below for specific areas or seasons.

a. U.S./Canada Border to Point Conception, California: No more than one rod may be used per angler; and no more than two single point, single shank, barbless hooks are required for all fishing gear.

b. Latitude 40°10′ N to Point Conception, California: Single point, single shank, barbless circle hooks (see gear definitions below) are required when fishing with bait by any means other than trolling, and no more than two such hooks shall be used. When angling with two hooks, the distance between the hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). Circle hooks are not required when artificial lures are used without bait.

C.3. Gear Definitions

a. *Recreational fishing gear defined:* Off Oregon and Washington, angling tackle consists of a single line that must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off California, the line must be attached to a rod and reel held by hand or closely attended; weights directly attached to a line may not exceed four pounds (1.8 kg). While fishing off California north of Point Conception, no person fishing for salmon, and no person fishing from a boat with salmon on board, may use more than one rod and line. Fishing includes any activity which can reasonably be expected to result in the catching, taking, or harvesting of fish.

b. *Trolling defined:* Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

c. *Circle hook defined:* A hook with a generally circular shape and a point which turns inward, pointing directly to the shank at a 90° angle.

C.4. Control Zone Definitions

a. The Bonilla-Tatoosh Line: A line running from the western end of Cape Flattery to Tatoosh Island Lighthouse (48°23′30″ N lat., 124°44′12″ W long.) to the buoy adjacent to Duntze Rock (48°24′37″ N lat., 124°44′37″ W long.), then in a straight line to Bonilla Point (48°35′39″ N lat., 124°42′58″ W long.) on Vancouver Island, British Columbia.

b. Grays Harbor Control Zone—The area defined by a line drawn from the Westport Lighthouse (46°53′18″ N lat., 124°07′01″ W long.) to Buoy #2 (46°52′42″ N lat., 124°12′42″ W long.) to Buoy #3 (46°55′00″ N lat., 124°14′48″ W long.) to the Grays Harbor north jetty (46°55′36″ N lat., 124°10′51″ W long.).

c. Columbia Control Zone: An area at the Columbia River mouth, bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13′35″ N lat., 124°06′50″ W long.) and the green lighted Buoy #7 (46°15′09″ N lat., 124°06′16″ W long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14′00″ N lat., 124°03′07″ W long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°15′48″ N lat., 124°05′20″ W long. and then along the north jetty to the point of intersection with the Buoy #10 line; and on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14′03″ N lat., 124°04′05″ W long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

d. Stonewall Bank YRCA: The area defined by the following coordinates in the order listed:

44°37.46′ N lat.; 124°24.92′ W long.
44°37.46′ N lat.; 124°23.63′ W long.
44°28.71′ N lat.; 124°21.80′ W long.
44°28.71′ N lat.; 124°24.10′ W long.
44°31.42′ N lat.; 124°25.47′ W long.

And connecting back to 44°37.46′ N lat.; 124°24.92′ W long.

e. Klamath Control Zone: The ocean area at the Klamath River mouth bounded on the north by 41°38′48″ N lat. (approximately 6 nautical miles north of the Klamath River mouth); on the west by 124°23′00″ W long. (approximately 12 nautical miles offshore); and, on the south by 41°26′48″ N lat. (approximately 6 nautical miles south of the Klamath River mouth).

C.5. Inseason Management

Regulatory modifications may become necessary inseason to meet preseason management objectives such as quotas, harvest guidelines, and season duration.

In addition to standard inseason actions or modifications already noted under the Season Description heading above, the following inseason guidance applies:

a. Actions could include modifications to bag limits, or days open to fishing, and extensions or reductions in areas open to fishing.

b. Coho salmon may be transferred inseason among recreational subareas north of Cape Falcon to help meet the recreational season duration objectives (for each subarea) after conferring with representatives of the affected ports and the Council's SAS recreational representatives north of Cape Falcon, and if the transfer would not result in exceeding preseason impact expectations on any stocks.

c. Chinook salmon and coho salmon may be transferred between the recreational and commercial fisheries north of Cape Falcon if there is agreement among the representatives of the SAS, and if the transfer would not result in exceeding preseason impact expectations on any stocks.

d. Fishery managers may consider inseason action modifying regulations restricting retention of unmarked (adipose fin intact) coho salmon. To remain consistent with preseason expectations, any inseason action shall consider, if significant, the difference between observed and preseason forecasted (adipose-clipped) mark rates. Such a consideration may also include a change in bag limit of two salmon, no more than one of which may be a coho.

e. Marked coho salmon remaining from the Cape Falcon to Oregon/California Border: recreational mark-selective coho salmon quota may be transferred inseason to the Cape Falcon to Humbug Mountain non-mark-selective recreational fishery if the transfer would not result in exceeding preseason impact expectations on any stocks.

C.6. Additional Seasons in State Territorial Waters

Consistent with Council management objectives, the states of Washington, Oregon, and California may establish limited seasons in state waters. Check state regulations for details.

Section 3. Treaty Indian Management Measures for 2022 Ocean Salmon Fisheries

Parts A, B, and C of this section contain requirements that must be followed for lawful participation in the fishery.

In 2023, the season will open May 1, consistent with all preseason regulations in place for Treaty Indian Troll fisheries during May 16-June 30, 2022. All catch in May 2023 applies against the 2023 Treaty Indian Troll fisheries quota. This opening could be modified following Council review at its March and/or April 2023 meetings.

A. Season Descriptions

May 1 through the earlier of June 30 or when the quota of 20,000 Chinook salmon is reached.

All salmon may be retained except coho salmon. If the Chinook salmon quota is exceeded, the excess will be deducted from the later all-salmon season (see C.5). See size limit (see B) and other restrictions (see C).

July 1 through the earlier of September 15, or when the quota of 20,000 Chinook salmon or the quota of 52,000 coho salmon is reached.

All salmon. See size limit (see B) and other restrictions (see C).

B. Minimum Size (Inches)

TABLE 3—MINIMUM SIZE LIMITS FOR SALMON IN THE 2022 TREATY INDIAN OCEAN SALMON FISHERIES

Area (when open)	Chinook		Coho		Pink
	Total	Head-off	Total	Head-off	
North of Cape Falcon	24.0	18.0	16.0	12.0	None.

Metric equivalents: 24.0 in = 61.0 cm, 18.0 in = 45.7 cm, 16.0 in = 40.6 cm, 12.0 in = 30.5 cm.

C. Requirements, Definitions, Restrictions, or Exceptions

C.1. Tribe and Area Boundaries

All boundaries may be changed to include such other areas as may hereafter be authorized by a Federal court for that tribe's treaty fishery.

S'KLALLAM—Washington State Statistical Area 4B (defined to include those waters of Puget Sound easterly of a line projected from the Bonilla Point light on Vancouver Island to the Tatoosh Island light, thence to the most westerly point on Cape Flattery and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River [WAC 220–301–030]).

MAKAH—Washington State Statistical Area 4B and that portion of the Fishery Management Area (FMA) north of 48°02′15″ N lat. (Norwegian Memorial) and east of 125°44′00″ W long.

QUILEUTE—A polygon commencing at Cape Alava, located at latitude 48°10′00″ north, longitude 124°43′56.9″ west; then proceeding west approximately forty nautical miles at that latitude to a northwestern point located at latitude 48°10′00″ north, longitude 125°44′00″ west; then proceeding in a southeasterly direction mirroring the coastline at a distance no farther than forty nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at latitude 47°31′42″ north, longitude 125°20′26″ west; then proceeding east along that line of latitude to the Pacific coast shoreline at latitude 47°31′42″ north, longitude 124°21′9.0″ west.

HOH—That portion of the FMA between 47°54′18″ N lat. (Quillayute River) and 47°21′00″ N lat. (Quinault River) and east of 125°44′00″ W long.

QUINAULT—A polygon commencing at the Pacific coast shoreline near Destruction Island, located at latitude 47°40′06″ north, longitude 124°23′51.362″ west; then proceeding west approximately thirty nautical miles at that latitude to a northwestern point located at latitude 47°40′06″ north, longitude 125°08′30″ west; then proceeding in a southeasterly direction mirroring the coastline no farther than thirty nautical miles from the mainland Pacific coast shoreline at any line of latitude, to a southwestern point at latitude 46°53′18″ north, longitude 124°53′53″ west; then proceeding east along that line of latitude to the Pacific coast shoreline at latitude 46°53′18″ north, longitude 124°7′36.6″ west.

C.2. Gear Restrictions

a. Single point, single shank, barbless hooks are required in all fisheries.

b. No more than eight fixed lines per boat.

c. No more than four hand held lines per person in the Makah area fishery (Washington State Statistical Area 4B and that portion of the FMA north of 48°02′15″ N lat. (Norwegian Memorial) and east of 125°44′00″ W long.).

C.3. Quotas

a. The quotas include troll catches by the S'Klallam and Makah Tribes in Washington State Statistical Area 4B from May 1 through September 15.

b. The Quileute Tribe may continue a ceremonial and subsistence fishery during the time frame of October 1 through October 15 in the same manner as in 2004–2015. Fish taken during this fishery are to be counted against treaty troll quotas established for the 2022 season (estimated harvest during the October ceremonial and subsistence fishery: 20 Chinook salmon; 40 coho salmon).

C.4. Area Closures

a. The area within a six nautical mile radius of the mouths of the Queets River (47°31′42″ N lat.) and the Hoh River (47°45′12″ N lat.) will be closed to commercial fishing.

b. A closure within two nautical miles of the mouth of the Quinault River (47°21′00″ N lat.) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C.5. Inseason Management

In addition to standard inseason actions or modifications already noted under the ''Season Description'' heading above, the following inseason guidance applies:

a. Chinook remaining from the May through June treaty-Indian ocean troll harvest guideline north of Cape Falcon may be transferred to the July through September harvest guideline on a fishery impact equivalent basis.

Section 4. Halibut Retention

Under the authority of the Northern Pacific Halibut Act, NMFS promulgated regulations governing the Pacific halibut fishery, which appear at 50 CFR part 300, subpart E. On March 7, 2022, NMFS published a final rule announcing the IPHC's regulations, including season dates, management measures, TAC for each IPHC management area including the U.S. West Coast (Area 2A), and Catch Sharing Plan for the U.S. waters off of Alaska (87 FR 12604, March 7, 2022). The Area 2A Catch Sharing Plan, in combination with the IPHC regulations, provides that vessels participating in the salmon troll fishery in Area 2A, which have obtained the appropriate IPHC license, may retain halibut caught incidentally during authorized periods in conformance with provisions published with the annual salmon management measures. A salmon troller may participate in the halibut incidental catch fishery during the salmon troll season or in the directed commercial fishery targeting halibut, but not both.

The following measures have been approved by the IPHC and implemented by NMFS. During authorized periods, the operator of a vessel that has been issued an incidental halibut harvest license may retain Pacific halibut caught incidentally in Area 2A while trolling for salmon. Halibut retained must be no less than 32 inches (81.28 cm) in total length, measured from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail, and must be landed with the head on.

License applications for incidental harvest must be obtained from the IPHC (phone: 206–634–1838 or *secretariat@iphc.int*). Applicants must apply prior to mid-March 2023 for 2023 permits (exact date to be set by the IPHC in early 2023). Incidental harvest is authorized only during April, May, and June of the 2022 troll seasons and after June 30 in 2022 if the quota remains and if announced on the NMFS hotline (phone: 800–662–9825 or 206–526–6667). WDFW, ODFW, and CDFW will monitor landings. If the landings are projected to exceed the 44,599 pound preseason allocation or the total Area 2A non-Indian commercial halibut allocation, NMFS will take inseason action to prohibit retention of halibut in the non-Indian salmon troll fishery.

From May 16, 2022, until the end of the 2022 salmon troll season, and beginning April 1, 2023, until modified through inseason action or superseded by the 2023 management measures, license holders may land or possess no more than one Pacific halibut per each two Chinook salmon, except one Pacific halibut may be possessed or landed without meeting the ratio requirement, and no more than 35 halibut may be possessed or landed per trip. Pacific halibut retained must be no less than 32 inches in total length (with head on). IPHC license holders must comply with all applicable IPHC regulations.

Incidental Pacific halibut catch regulations in the commercial salmon troll fishery adopted for 2022, prior to any 2022 inseason action, will be in effect when incidental Pacific halibut retention opens on April 1, 2023, unless otherwise modified by inseason action at the March 2023 Council meeting.

NMFS and the Council request that salmon trollers voluntarily avoid a ''C-shaped'' YRCA (also known as the Salmon Troll YRCA) in order to protect yelloweye rockfish. Coordinates for the Salmon Troll YRCA are defined at 50 CFR 660.70(a) in the North Coast subarea (Washington marine area 3). See Section 1.C.7 in this document for the coordinates.

Section 5. Geographical Landmarks

Wherever the words ''nautical miles off shore'' are used in this document, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this document are at the following locations:

U.S./Canada border: 49°00′00″ N lat.
Cape Flattery, WA: 48°23′00″ N lat.
Cape Alava, WA: 48°10′00″ N lat.
Queets River, WA: 47°31′42″ N lat.
Leadbetter Point, WA: 46°38′10″ N lat.
Cape Falcon, OR: 45°46′00″ N lat.
South end Heceta Bank Line, OR: 43°58′00″ N lat.
Humbug Mountain, OR: 42°40′30″ N lat.
Oregon-California border: 42°00′00″ N lat.
Humboldt South Jetty, CA: 40°45′53″ N lat.
40°10′ line (near Cape Mendocino, CA): 40°10′00″ N lat.
Horse Mountain, CA: 40°05′00″ N lat.
Point Arena, CA: 38°57′30″ N lat.
Point Reyes, CA: 37°59′44″ N lat.
Point San Pedro, CA: 37°35′40″ N lat.
Pigeon Point, CA: 37°11′00″ N lat.
Point Sur, CA: 36°18′00″ N lat.
Point Conception, CA: 34°27′00″ N lat.
U.S./Mexico border: 34°27′00″ N lat.

Section 6. Inseason Notice Procedures

Notice of inseason management actions will be provided by a telephone hotline administered by the West Coast Region, NMFS, 800–662–9825 or 206–526–6667, and by USCG Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be published in the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or USCG broadcasts for current information for the area in which they are fishing.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the MSA. In a previous action taken pursuant to section 304(b), the Council designed the FMP to authorize NMFS to take this action pursuant to MSA section 305(d). See 50 CFR 660.408. These regulations are being promulgated under the authority of 16 U.S.C. 1855(d) and 16 U.S.C. 773(c).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(b)(B), to waive the requirement for prior notice and opportunity for public comment, as such procedures would be impracticable and contrary to the public interest. The annual salmon management cycle begins May 16 and continues through May 15 of the following year. May 16 was chosen because it provides the minimally necessary time required to complete the necessary environmental and economic analyses and regulatory documentation following the April Council meeting in time for the Secretary of Commerce to approve and implement the Council's annual recommendation. In addition, these harvests constitute a relatively small portion of the annual catch, allowing for the majority of the season to be governed by the new management measures rule. Analysis by the Council's Salmon Technical Team determined that the pre-May 16 salmon harvests would constitute a relatively small portion of the annual catch. The time frame of the preseason process for determining the annual modifications to ocean salmon fishery management measures depends on when the pertinent biological data are available. Salmon stocks are managed to meet annual spawning escapement goals or specific exploitation rates. Achieving either of these objectives requires designing management measures that are appropriate for the ocean abundance predicted for that year. These pre-season abundance forecasts, which are derived from previous years' observed spawning escapement, vary substantially from year to year and are not available until January or February because spawning escapement continues through the fall. The preseason planning and public review process associated with developing Council recommendations is initiated in February as soon as the forecast information becomes available. The public planning process requires coordination of management actions of four states, numerous Indian tribes, and the Federal Government, all of which have management authority over the stocks. This complex process includes the affected user groups, as well as the general public. The process is compressed into a two-month period culminating with the April Council meeting at which the Council adopts a recommendation that is forwarded to NMFS for review, approval, and implementation of fishing regulations effective on May 16. Providing the opportunity for prior notice and public comments on the Council's recommended measures through a proposed and final rulemaking process would require 30 to 60 days in addition to the two-month period required for the development of the regulations. Delaying implementation of annual fishing regulations, which are based on the current stock abundance projections, for an additional 60 days would require that fishing regulations for May and June be set in the previous year, without the benefit of information regarding current stock abundance. For the 2022 fishing regulations, the current stock abundance was not available to the Council until February. In addition, information related to northern fisheries and stock status in Alaska and Canada which is important to assess the amount of available salmon in southern U.S. ocean fisheries is not available until mid-to late March. Because a substantial amount of fishing normally occurs during late May and June, managing the fishery with measures developed using the prior year's data could have significant adverse effects on the managed stocks, including ESA-listed stocks. Although salmon fisheries that open prior to May 16 are managed under measures developed the previous year, as modified by the Council at its March and April meetings, relatively little harvest occurs during that period (*e.g.,* on average, 10 percent of commercial and recreational harvest occurred prior to May 1 during the years 2011 through 2018). Allowing the much more substantial harvest levels normally associated with the late-May and June salmon seasons to be promulgated under the prior year's regulations would impair NMFS' ability to protect weak and ESA-listed salmon stocks, and to provide harvest opportunities where appropriate. The choice of May 16 as the beginning of the regulatory season balances the need to gather and analyze the data needed to meet the management objectives of the salmon FMP and the need to manage the fishery using the best available scientific information.

If the 2022 measures are not in place on May 16, salmon fisheries will not open as scheduled. This would result in lost fishing opportunities, negative economic impacts, and confusion for the public as the state fisheries adopt concurrent regulations that conform to the Federal management measures.

In addition, these measures were developed with significant public input. Public comment was received and considered by the Council and NMFS throughout the process of developing these management measures. As described above, the Council took comments at its March and April meetings and heard summaries of comments received at public meetings held between the March and April meetings for each of the coastal states. NMFS also invited comments in a notice published prior to the March Council meeting, and considered comments received by the Council through its representative on the Council.

Based upon the above-described need to have these measures effective on May 16, and the fact that there is limited time available to implement these new measures after the final Council meeting in April, and before the commencement of the 2022 ocean salmon fishing year on May 16, NMFS has concluded it would be impracticable and contrary to the public interest to provide an opportunity for prior notice and public comment under 5 U.S.C. 553(b)(B).

The Assistant Administrator for Fisheries also finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness of this final rule. As previously discussed, data were not available until February, and management measures were not finalized until mid-April. These measures are essential to conserve threatened and endangered ocean salmon stocks as well as potentially overfished stocks, and to provide for the harvest of more abundant stocks. Delaying the date of effectiveness of these measures by 30 days could compromise the ability of some stocks to attain their conservation objectives, preclude harvest opportunity, and negatively impact anticipated international, state, and tribal salmon fisheries, thereby undermining the purposes of this agency action and the requirements of the MSA.

To enhance the fishing industry's notification of these new measures, and to minimize the burden on the regulated community required to comply with the new regulations, NMFS is announcing the new measures over the telephone hotline used for inseason management actions and is posting the regulations on its West Coast Region website (*www.fisheries.noaa.gov/region/west-coast*). NMFS is also advising the states of Washington, Oregon, and California of the new management measures. These states announce the seasons for applicable state and federal fisheries through their own public notification systems.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by

5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This action contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office of Management and Budget (OMB) under control number 0648–0433. The current information collection approval expires on February 29, 2024. The public reporting burden for providing notifications if landing area restrictions cannot be met is estimated to average 15 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

This final rule was developed after meaningful consultation with the tribal representative on the Council who has agreed with the provisions that apply to tribal vessels.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: May 10, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–10430 Filed 5–13–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 94
Monday, May 16, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0145; FRL–9844–01–R4]

Air Plan Approval; Alabama; NO_X SIP Call

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM), in a letter dated October 18, 2021. The revision includes corrections to deficiencies to Alabama's regulation titled ''NO_X Budget Program Monitoring and Reporting'' (AL NO_X SIP Call Monitoring Rule), which EPA previously conditionally approved into the SIP. Specifically, the AL NO_X SIP Call Monitoring Rule establishes monitoring and reporting requirements for units subject to the nitrogen oxides (NO_X) SIP Call, including alternative monitoring options for certain sources of NO_X. EPA is also proposing to convert the conditional approval to a full approval. In addition, EPA is proposing to approve other minor changes into the SIP.

DATES: Comments must be received on or before June 15, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2022–0145 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Steven Scofield, 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. The telephone number is (404) 562–9034. Mr. Scofield can also be reached via electronic mail at *scofield.steve@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I), also called the good neighbor provision, states are required to address the interstate transport of air pollution. Specifically, the good neighbor provision requires that each state's implementation plan contain adequate provisions to prohibit air pollutant emissions from within the state that will significantly contribute to nonattainment of the national ambient air quality standards (NAAQS), or that will interfere with maintenance of the NAAQS, in any other state.

In October 1998 (63 FR 57356), EPA finalized the ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (NO_X SIP Call). The NO_X SIP Call required eastern states, including Alabama, to submit SIPs that prohibit excessive emissions of ozone season NO_X by implementing statewide emissions budgets.[1] The NO_X SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_X emissions, one of the precursors of ozone.[2] EPA developed the NO_X Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NO_X SIP Call. This trading program allowed the following sources to participate in a regional cap and trade program: Generally, electricity generating units (EGUs) with capacity greater than 25 megawatts (MW); and large industrial non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO_X SIP Call also identified potential reductions from cement kilns and stationary internal combustion engines.

To comply with the NO_X SIP Call requirements, in 2001, ADEM submitted a revision to add new rule sections to the SIP-approved version of Alabama Administrative Code Chapter 335–3–1, General Provisions, and Chapter 335–3–8, Control of Nitrogen Oxides Emissions. EPA approved the revision as compliant with Phase I of the NO_X SIP Call in 2001. *See* 66 FR 36919 (July 16, 2001). The approved revision required EGUs and large non-EGUs in the State to participate in the NO_X Budget Trading Program beginning in 2004. In 2005, Alabama submitted, and EPA approved, a SIP revision to address additional emissions reductions required for the NO_X SIP Call under Phase II. *See* 70 FR 76694 (December 28, 2005).

In 2005, EPA published the Clean Air Interstate Rule (CAIR), which required several eastern states, including Alabama, to submit SIPs that prohibited emissions consistent with revised ozone season NO_X budgets (as well as annual budgets for NO_X and sulfur dioxide). *See* 70 FR 25162 (May 12, 2005); *see also* 71 FR 25328 (April 28, 2006). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions with respect to ozone and $PM_{2.5}$. CAIR established several trading programs that EPA implemented through federal implementation plans (FIPs) for EGUs

[1] *See* 63 FR 57356 (October 27, 1998).

[2] As originally promulgated, the NO_X SIP Call also addressed good neighbor obligations under the 1997 8-hour ozone NAAQS, but EPA subsequently stayed and later rescinded the rule's provisions with respect to that standard. *See* 65 FR 56245 (September 18, 2000); 84 FR 8422 (March 8, 2019).

greater than 25 MW in each affected state, but not large non-EGUs; states could submit SIPs to replace the FIPs that achieved the required emission reductions from EGUs and/or other types of sources.[3] When the CAIR trading program for ozone season NO_X was implemented beginning in 2009, EPA discontinued administration of the NO_X Budget Trading Program; however, the requirements of the NO_X SIP Call continued to apply.

On October 1, 2007 (72 FR 55659), EPA approved revisions to Alabama's SIP that incorporated requirements for CAIR. Consistent with CAIR's requirements, EPA approved a SIP revision in which Alabama regulations: (1) Sunset its NO_X Budget Trading Program requirements, and (2) incorporated CAIR annual and ozone season NO_X state trading programs. *See* 72 FR 55659. Participation of EGUs in the CAIR ozone season NO_X trading program addressed the State's obligation under the NO_X SIP Call for those units, and Alabama also chose to require non-EGUs subject to the NO_X SIP Call to participate in the same CAIR trading program. In this manner, Alabama's CAIR rules incorporated into the SIP addressed the State's obligations under the NO_X SIP Call with respect to both EGUs and non-EGUs.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *See North Carolina* v. *EPA,* 531 F.3d 896, *modified on rehearing,* 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued to be implemented with the NO_X annual and ozone season trading programs beginning in 2009 and the SO_2 annual trading program beginning in 2010.

Following the D.C. Circuit's remand of CAIR, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and address good neighbor obligations for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS. *See* 76 FR 48208 (August 8, 2011). Through FIPs, CSAPR required EGUs in eastern states, including Alabama, to meet annual and ozone season NO_X emission budgets and annual SO_2 emission budgets implemented through new trading programs. Implementation of CSAPR began on January 1, 2015.[4] CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. Participation by a state's EGUs in the CSAPR trading program for ozone season NO_X generally addressed the state's obligation under the NO_X SIP Call for EGUs. CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO_X SIP Call for non-EGUs. EPA also stopped administering CAIR trading programs with respect to emissions occurring after December 31, 2014.[5]

To comply with CSAPR, Alabama adopted SO_2 and NO_X CSAPR trading program rules, including budgets, in ADEM Administrative Code Chapters 335–3–5 and 335–3–8. On August 31, 2016, EPA approved Alabama's CSAPR annual SO_2 and annual NO_X trading program rules into the SIP.[6] *See* 81 FR 59869. Because EPA stopped administering the CAIR trading programs after 2014, the approved CAIR rules in Alabama's SIP have not been implemented for several years. Furthermore, ADEM repealed all CAIR and CAIR-related regulations from Alabama Administrative Code Chapters 335–3–1, 335–3–5, and 335–3–8 on December 9, 2011.[7] Even though the CAIR programs were not being implemented in Alabama, ozone season NO_X emissions have remained well below the NO_X SIP Call budget levels.

After litigation that reached the Supreme Court, the D.C. Circuit generally upheld CSAPR but remanded several state budgets to EPA for reconsideration. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 129–30 (D.C. Cir. 2015). EPA addressed the remanded ozone season NO_X budgets in the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update), which also partially addressed eastern states' good neighbor obligations for the 2008 ozone NAAQS. *See* 81 FR 74504 (October 26, 2016). The air quality modeling for the CSAPR Update demonstrated that Alabama contributes significantly to nonattainment and/or interferes with maintenance of the 2008 ozone NAAQS in other states. The CSAPR Update reestablished an option for most states to meet their ongoing obligations for non-EGUs under the NO_X SIP Call by including the units in the CSAPR Update trading program.

The CSAPR Update trading program replaced the original CSAPR trading program for ozone season NO_X for most covered states. On October 6, 2017, EPA approved Alabama's CSAPR Update ozone season NO_X trading program rules for EGUs into Alabama's SIP.[8] *See* 82 FR 46674.[9] Alabama's EGUs participate in the CSAPR Update trading program, generally also addressing the state's obligations under the NO_X SIP Call for EGUs. However, Alabama elected not to include its large non-EGUs in the CSAPR Update ozone season trading program. Because Alabama's large non-EGUs no longer participate in any CSAPR or CSAPR Update trading program for ozone season NO_X emissions, the NO_X SIP Call regulations at 40 CFR 51.121(r)(2), as well as anti-backsliding provisions at 40 CFR 51.905(f) and 40 CFR 51.1105(e), require these non-EGUs to maintain compliance with NO_X SIP Call requirements in some other way.

Under 40 CFR 51.121(f)(2) of the NO_X SIP Call regulations, where a state's implementation plan contains control measures for EGUs and large non-EGU boilers and combustion turbines, the SIP must contain enforceable limits on the ozone season NO_X mass emissions from these sources. In addition, under 40 CFR 51.121(i)(4) of the NO_X SIP Call regulations as originally promulgated, the SIP also had to require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous

[3] CAIR had separate trading programs for annual sulfur dioxide (SO_2) emissions, seasonal NO_X emissions, and annual NO_X emissions.

[4] *See* 79 FR 71663 (December 3, 2014).

[5] *See* 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

[6] In the 2016 action, EPA did not act on the portion of Alabama's SIP submittal intended to replace Alabama units' obligations to participate in CSAPR's federal trading program for ozone-season NO_X emissions.

[7] Although CAIR-related regulations were repealed from ADEM Administrative Code on December 11, 2011, the repeal of the regulations was not effective until February 20, 2015. EPA removed the repealed regulations from the SIP, effective August 6, 2021. *See* 86 FR 35610 (July 7, 2021).

[8] This action approved CSAPR and CSAPR Update-related provisions of Alabama SIP submissions dated October 26, 2015, and May 19, 2017.

[9] In subsequent litigation, the D.C. Circuit upheld the CSAPR Update in virtually all respects but remanded it because it was partial in nature and did not fully eliminate upwind states' significant contribution to nonattainment or interference with maintenance of the 2008 ozone NAAQS by ''the relevant downwind attainment deadlines'' in the CAA. *Wisconsin* v. *EPA,* 938 F.3d 303, 313–15 (D.C. Cir. 2019). To address the remand, in 2021 EPA issued the Revised CSAPR Update, in which the Agency determined (among other things) that the requirements established for Alabama in the CSAPR Update did in fact constitute a full remedy for the state's good neighbor obligations with respect to the 2008 ozone NAAQS. 86 FR 23054, 23054 (April. 30, 2021).

emission monitoring systems (CEMS). Alabama triggered these requirements by including control measures in its SIP for these types of sources, and the requirements have remained in effect despite the discontinuation of the NO_X Budget Trading Program after the 2008 ozone season.

On March 8, 2019, EPA revised some of the regulations that were originally promulgated in 1998 to implement the NO_X SIP Call.[10] The revision gave states covered by the NO_X SIP Call greater flexibility concerning the form of the NO_X emissions monitoring requirements that the states must include in their SIPs for certain emissions sources. The revision amended 40 CFR 51.121(i)(4) to make part 75 monitoring, recordkeeping, and reporting optional, such that SIPs may establish alternative monitoring requirements for NO_X SIP Call budget units that meet the general requirements of 40 CFR 51.121(f)(1) and (i)(1). Under the updated provision, a state's implementation plan still needs to include some form of emissions monitoring requirements for these types of sources, consistent with the NO_X SIP Call's general enforceability and monitoring requirements at 40 CFR 51.121(f)(1) and (i)(1), respectively, but states are no longer required to satisfy these general NO_X SIP Call requirements specifically through the adoption of 40 CFR part 75 monitoring requirements.

Through a letter to EPA dated February 27, 2020, ADEM provided a SIP revision to incorporate changes to ADEM Administrative Code Chapter 335–3–8 to include Rule 335–3–8–.71, ''NO_X Budget Program,'' and Rule 335–3–8–.72, ''NO_X Budget Program Monitoring and Reporting,'' to maintain state compliance with the federal NO_X SIP Call regulations at 40 CFR 51.121 and 51.122, and to provide alternative monitoring options for certain large non-EGUs. Subsequently, on September 15, 2020, ADEM sent a letter requesting that EPA conditionally approve ADEM Rule 335–3–8–.72 and committing to provide a SIP revision to EPA by July 7, 2022 to address a deficiency related to misplacement of stack testing requirements within ADEM Rule 335–3–8–.72(1).[11] Based on the State's commitment to submit a SIP revision addressing the identified deficiency, EPA conditionally approved the February 27, 2017, submission. *See* 86 FR 35610.[12]

II. Why is EPA proposing this action?

In accordance with its commitment letter, ADEM submitted a SIP revision on October 18, 2021,[13] requesting that EPA approve into the SIP a revision that would correct the deficiency found in Rule 335–3–8–.72 by moving the stack testing requirement from 335–3–8–.72(1)(c) to 335–3–8–.72(1)(d) in order to satisfy the prior conditional approval. EPA is proposing to approve the October 18, 2021, SIP revision, as well as proposing to convert EPA's July 7, 2021, conditional approval to a full approval. In addition, EPA is proposing to approve other minor changes into the SIP which correct references to NO_X mass emissions rather than NO_X concentrations.

III. Analysis of Alabama's Submission

As discussed above, ADEM revised its regulations to include Rule 335–3–8–.71, ''NO_X Budget Program,'' and Rule 335–3–8–.72, ''NO_X Budget Program Monitoring and Reporting,'' which require non-EGUs to maintain compliance with NO_X SIP Call requirements without participation in an interstate trading program. Through a letter to EPA dated February 27, 2020, ADEM provided a SIP revision to incorporate changes to ADEM Administrative Code Chapter 335–3–8 to include Rule 335–3–8–.71, ''NO_X Budget Program,'' and Rule 335–3–8–.72, ''NO_X Budget Program Monitoring and Reporting,'' to maintain state compliance with the federal NO_X SIP Call regulations at 40 CFR 51.121 and 51.122, and to provide alternative monitoring options for certain large non-EGUs. While ADEM Rule 335–3–8–.72 generally addressed the State's ongoing obligations under the NO_X SIP Call, EPA identified one issue impacting monitoring under ADEM's rule. The version of Rule 335–3–72 provided in the SIP revision contained an error regarding the placement of stack testing requirements. These stack testing requirements were meant to be added to 335–3–8–.72(1)(d), which uses emissions factors, but instead, were mistakenly added to 335–3–8–.72(1)(c), which allows sources to fulfill NO_X SIP call monitoring requirements by operating a NO_X CEMS outside of part 75 requirements. On September 15, 2020, [14] ADEM sent a letter requesting that EPA conditionally approve ADEM Rule 335–3–8–.72 and committing to provide a SIP revision to EPA by July 7, 2022 to address the aforementioned deficiency by moving the stack testing requirements from 35–3–8–.72(1)(c) to (d) In that letter, ADEM also committed to EPA that it would make a final submission to EPA within twelve (12) months of the grant of conditional approval of the February 27, 2020, submittal to correct this stack testing issue.

On October 18, 2021, ADEM submitted a SIP revision, requesting that EPA approve into the SIP a revision that would correct the deficiency found in Rule 335–3–8–.72, ''NO_X Budget Program Monitoring and Reporting,'' in order to satisfy the prior conditional approval. *See* 86 FR 35610 (July 7, 2021). In this revision, the stack testing requirement has been moved from Rule 335–3–8–.72(1)(c) to Rule 335–3–8–.72(d). This change ensures that stack testing is performed at least once every five years, which is necessary to verify historical NO_X concentration and flow rate factors used to compute NO_X mass emissions at units utilizing the alterative monitoring option under 335–3–8–.72(1)(d). Additionally, ADEM revised an incorrect reference to calculating the ''NO_X concentration'' to correctly refer to ''NO_X mass emissions'' in two instances in Rule 335–3–8–.72(d). In that rule, ADEM intends for sources to calculate NO_X mass emissions utilizing NO_X concentrations.

EPA is proposing to find that ADEM Rule 335–3–8–.72 meets the State's ongoing obligations under the NO_X SIP Call with respect to monitoring to ensure compliance with required limitations, and that ADEM has addressed the previously identified deficiency. Thus, EPA is also proposing to convert the July 7, 2021, conditional approval of Alabama Rule 335–3–8–.72 to a full approval.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Alabama Administrative Code Rule 335–3–8–.72, ''NO_X Budget Program Monitoring and Reporting,'' which establishes emission monitoring

[10] *See* ''Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_X SIP Call,'' 84 FR 8422 (March 8, 2019).

[11] These stack testing requirements were mistakenly added to 335–3–8–.72(1)(c), which allows sources to fulfill NO_X SIP call monitoring requirements by operating a NO_X CEMS outside of Part 75 requirements, instead of 335–3–8–.72(1)(d), which uses emissions factors.

[12] In the same action, EPA approved removal of the CAIR trading program, removal of the NO_X Budget Trading Program rules, and the State's renumbering of the existing regulation titled ''New Combustion Sources'' from Rule 335–3–8–.14 to Rule 335–3–8–.05.

[13] EPA notes that the October 18, 2021, submittal was received by EPA on October 20, 2021.

[14] *See* ADEM's September 15, 2020, letter from Lance R. LeFleur, Director, to Mary S. Walker, Regional Administrator, US EPA Region 4, available in the docket for this proposed action.

requirements for units subject to the NO_X SIP call, state effective December 13, 2021. 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).

V. Proposed Action

EPA is proposing to approve Alabama's October 18, 2021, submission, which revises Alabama Rule 335–3–8–.72, ''NO_X Budget Program Monitoring and Reporting'' to correct the stack testing requirement by moving it from 335–3–8–.72(1)(c) to 335–3–8–.72(1)(d) and correct language in 335–3–8–.72(d) to refer to NO_X mass emissions. In addition, EPA is proposing to convert the July 7, 2021, conditional approval of Alabama Rule 335–3–8–.72 to a full approval. EPA requests comment on these proposals.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *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 proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 10, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–10424 Filed 5–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2002–0049; FRL–8150–02–OAR]

RIN 2060–AU96

Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After 10/21/74 & On or Before 8/17/83; Standards of Performance for Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Constructed After 8/17/83

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: In this action, the EPA is proposing new and revised standards of performance for electric arc furnaces (EAF) and argon-oxygen decarburization (AOD) vessels in the steel industry. The EPA is proposing that EAF facilities that begin construction, reconstruction or modification after May 16, 2022 would need to comply with a particulate matter (PM) standard in the format of facility-wide PM emitted per amount of steel produced and a melt shop opacity limit of zero. The proposal would limit emissions of PM and opacity from new, modified, or reconstructed EAF and AOD vessels. In addition, we are proposing that all emission limits apply at all times; periodic compliance testing at least once every 5 years; and electronic reporting. In this action, the EPA also is proposing amendments for certain provisions in the current new source performance standards (NSPS) that apply to EAF constructed after October 21, 1974, and on or before August 17, 1983, and EAF and AOD vessels constructed after August 17, 1983, and before May 16, 2022 to clarify and refine the current provisions.

DATES:

Comments. Comments must be received on or before July 15, 2022. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before June 15, 2022.

Public Hearing. If anyone contacts us requesting a public hearing on or before May 23, 2022, we will hold a virtual hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2002–0049, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2002–0049 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2002–0049.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2002–0049, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket

Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on the EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Donna Lee Jones, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5251; fax number: (919) 541–3207; and email address: *Jones.DonnaLee@epa.gov.*

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. Please note that the EPA is deviating from its typical approach for public hearings because the President has declared a national emergency. Due to the current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* If requested, the virtual hearing will be held on June 6, 2022. The hearing will convene at 10:00 a.m. Eastern Time (ET) and will conclude at 4:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/stationary-sources-air-pollution/electric-arc-furnaces-eafs-and-argon-oxygen-decarburization-vessels.*

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-sources-air-pollution/electric-arc-furnaces-eafs-and-argon-oxygen-decarburization-vessels* or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* The last day to pre-register to speak at the hearing will be May 31, 2022. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: *https://www.epa.gov/stationary-sources-air-pollution/electric-arc-furnaces-eafs-and-argon-oxygen-decarburization-vessels.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to *Jones.DonnaLee@epa.gov.* The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-sources-air-pollution/electric-arc-furnaces-eafs-and-argon-oxygen-decarburization-vessels.* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by May 23, 2022. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2002–0049. All documents in the docket are listed in the *Regulations.gov* index. 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. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2002–0049. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you

send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on the EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2002–0049. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

acfm actual cubic feet per minute
acmm actual cubic meters per minute
AOD argon-oxygen decarburization
BLDS bag leak detection systems
BID background information document
BPT benefits per ton
BSER best system of emissions reduction
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulation
DEC direct shell evacuation control
dscf dry standard cubic feet
dscm dry standard cubic meters
EAF electric arc furnace
EAV equivalent annual value
EIA economic impact assessment
EJ environmental justice
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
°F degrees Fahrenheit
g grams
gr grains
II&S integrated iron and steel industry
ISA Integrated Science Assessment for Particulate Matter
kg kilograms
lb pounds
mg milligram
Mg megagram
Mg/yr megagram per year
NAICS North American Industry Classification System
NSPS New Source Performance Standards
O&M operating and maintenance
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
p. page
PM particulate matter
$PM_{2.5}$ particulate matter less than 2.5 micrometers
PRA Paperwork Reduction Act
PV present value
RFA Regulatory Flexibility Act
RIA regulatory impacts analysis
RIN Regulatory Information Number
SMA Steel Manufacturers Association
tpy tons per year
UMRA Unfunded Mandates Reform Act of 1995
U.S. United States
U.S.C. United States Code
VCS Voluntary Consensus Standards

Organization of this document. The information in this preamble is organized as follows:

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I. General Information

A. Does this action apply to me?

The source category that is the subject of this proposal is comprised of the steel manufacturing facilities that operate EAF and AOD vessels regulated under CAA section 111 New Source Performance Standards. The North American Industry Classification System (NAICS) code for the source category is 331110. This NAICS code provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local and tribal government entities would not be affected by this action.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/electric-arc-furnaces-eafs-and-argon-oxygen-decarburization-vessels.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

Redline versions of the regulatory language that incorporate the changes proposed in this action to 40 CFR part 60, subparts AA and AAa are included in a memorandum titled *EAF NSPS Redline Versions of Proposed Rule Changes for 40 CFR part 60, subparts AA and AAa,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2002–0049). In addition, another memorandum will be available in the same docket that will include the proposed rule 40 CFR part 60, subparts AAb, titled *EAF NSPS Proposed Rule 40 CFR part 60, subpart AAb.* Following signature by the EPA Administrator, the EPA also will post copies of these memoranda to *https://www.epa.gov/stationary-sources-air-pollution/electric-arc-furnaces-eafs-and-argon-oxygen-decarburization-vessels.*

II. Background

A. What is the background for action?

An electric arc furnace (EAF) is a metallurgical furnace used to produce carbon and alloy steels. The input material to an EAF is typically almost 100 percent scrap steel. Cylindrical, refractory-lined EAF are equipped with carbon electrodes to be raised or lowered through the furnace roof. With electrodes retracted, the furnace roof can be rotated to permit the charge of scrap steel by overhead crane. Alloying agents and fluxing materials usually are added through doors on the side of the furnace. Electric current is passed between the electrodes and through the scrap, producing an arc and generating enough heat to melt the scrap steel charge. After the melting and refining periods, impurities (in the form of slag [1]) and the refined steel are poured from the furnace. If argon-oxygen decarburization (AOD) vessels are present, they follow the EAF in the production sequence and are used to oxidize carbon, silicon, and impurities, such as sulfur. For these reasons, the AOD vessels reduce alloy additions compared to an EAF alone. Use of AOD vessels also reduce EAF heat times, improve quality control, and increase daily steel production. AOD vessels are primarily used in stainless steel making.

The production of steel in an EAF is a batch process. Cycles, also called heats, range from about 1.5 to 5 hours to produce carbon steel and from 5 to 10 hours to produce alloy steel. Scrap steel is charged to begin a cycle, with alloying agents and slag forming materials added later in the process for refining purposes. Stages of each cycle normally are charging, melting, refining (which also usually includes oxygen blowing), and tapping. All these operations generate particulate matter (PM) emissions.

Air emission control techniques typically involve an air emission capture system and a gas cleaning system. The air emission capture systems used in the EAF industry include direct shell evacuation control (DEC) systems, side draft hoods, combination hoods, canopy hoods, scavenger ducts, and furnace enclosures. The DEC system consists of ductwork attached to a separate opening, or ''fourth hole,'' in the furnace roof (top) that draws emissions from the furnace to a gas cleaner and which works only when the furnace is up-right and the roof is in place. Side draft hoods collect furnace exhaust gases from around the electrode holes and work doors after the gases leave the furnace. Combination hoods incorporate elements from the side draft and direct shell evacuation systems. Canopy hoods and scavenger ducts are used to address charging and tapping emissions. Baghouses are typically used as gas cleaning systems (*i.e.,* emissions control devices).

There are approximately 88 EAF in the United States of America (U.S.), with most (> 95 percent) EAF subject to one of the EAF NSPS that are described below. Thirty-one states have one or more EAF facilities, with most of the EAF facilities east of the Mississippi River. Pennsylvania (15), Ohio (10), Alabama (7), and Indiana (7) have the most EAF facilities per state (approximate number of EAF facilities in each state).

In 1975, the first NSPS for EAF were promulgated (for EAF that commenced construction after October 21, 1974). (40 FR 43850). The 1975 NSPS set PM standards for emissions from EAF control devices (12 mg/dscm [0.0052 gr/dscf]), and set opacity limits for EAF melt shop emissions, which include but are not limited to emissions via roof vents, doors, cracks in walls, etc. (0 percent opacity, with 20 percent and 40 percent opacity allowed during charging and tapping, respectively); control device exhaust (3 percent opacity); and dust handling procedures (10 percent opacity).

In 1984, the NSPS rule, 40 CFR part 60, subpart AA (for EAF constructed after October 21, 1974, and on or before August 17, 1983) was revised and a new subpart was created as 40 CFR part 60, subpart AAa to add AOD vessels as affected units for EAF and AOD vessels that commenced construction after August 17, 1983 (49 FR 43843). These 1984 amendments to 40 CFR part 60, subpart AA raised the melt shop opacity from 0 percent to 6 percent opacity, keeping the exceptions for charging (20 percent opacity) and tapping (40 percent opacity). The EAF rule at 40 CFR part 60, subpart AAa set requirements for melt shop opacity at 6 percent with no exceptions. Both rules, 40 CFR part 60, subparts AA and AAa (and Appendix A to 40 CFR part 60) were revised in the 1984 amendments to include EPA Method 5D for the determination of PM emissions from positive-pressure fabric filters, which are common control devices for EAF and AOD vessels.[2]

On February 14, 1989 (54 FR 6672), 40 CFR part 60, subparts AA and AAa (and Appendix A to 40 CFR part 60)

[1] Slag is the molten metal oxides and other impurities that float to the surface of the molten steel product.

[2] In the 1984 technology review of the 1975 EAF NSPS standards in subpart AA, test data were obtained from four facilities. The EPA at that time considered lowering the PM standard to 7.2 mg/dscm (0.0031 gr/dscf) from 12 mg/dscm (0.0052 gr/dscf), but the lower level was found by the EPA to be not cost-effective ($8,000/ton in 1984).

were revised to consolidate the EPA test methods and delete repetitions of methods already referenced; and on May 17, 1989 (54 FR 21344), minor corrections were made to the February 1989 revisions. On March 2, 1999 (64 FR 10109), as a result of recommendations made by the EPA's Common Sense Initiative, 40 CFR part 60, subparts AA and AAa were revised to add an option to monitor furnace static pressure instead of melt shop opacity; and to monitor baghouse fan amperage instead of baghouse flowrate. On October 17, 2000 (65 FR 61758), amendments were made to 40 CFR part 60, subparts AA and AAa to promulgate Performance Specification (PS) 15 for certifying continuous emission monitoring systems (CEMS) with Fourier transform infrared spectroscopy (FTIR); to reformat various methods as per recommendations by the Environmental Monitoring Management Council; and to make miscellaneous technical and editorial corrections. On February 22, 2005 (70 FR 8530), 40 CFR part 60, subparts AA and AAa were amended as a result of a petition by the American Iron and Steel Institute, Steel Manufacturers Association (SMA), and Specialty Steel Industry of North America to add bag leak detection systems (BLDS) as an alternative monitoring method to the continuous opacity monitoring systems currently cited in the rules.

B. What is the statutory authority for this action?

Section 111 of the Clean Air Act (CAA) requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgement cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. 7411(b)(1)(A). The EPA must then issue performance standards for new (and modified or reconstructed) sources in each source category. 42 U.S.C. 7411(b)(1)(B). These standards are referred to as new source performance standards (NSPS). On October 11, 1974, the EPA Administrator identified and listed EAF that produce steel as such a source category for which NSPS should be developed and which were to be done within 120 days. (39 FR 37419). The EPA has the authority to define the scope of the source categories, determine the pollutants for which standards should be developed, set the emission level of the standards, and distinguish among classes, type, and sizes within categories in establishing the standards. 42 U.S.C. 7411(b). The CAA section 111(b)(1)(B) requires the Administrator to review and revise, if appropriate, the NSPS every 8 years. 42 U.S.C. 7411(b)(l)(B).

The CAA section 111(a)(1) provides that performance standards are to ''reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.'' 42 U.S.C. 7411(a)(1). This definition makes clear that the standard of performance must be based on controls that constitute ''the best system of emission reduction . . . adequately demonstrated,'' which the EPA commonly refers to as ''BSER.'' The EPA reviewed the requirements of 40 CFR part 60, subpart AAa and found that there were improvements in the performance of EAF, AOD, and their control devices since 1984. As explained in this preamble, the EPA has developed proposed performance standards for PM emissions and melt shop opacity that reflect BSER, considering the cost of achieving such emission reductions, and any nonair quality health and environmental impacts and energy requirements.

C. How does the EPA perform the NSPS review?

As noted in the section II.B, CAA section 111 requires the EPA, at least every 8 years to review and, if appropriate revise the standards of performance applicable to new, modified, and reconstructed sources. If the EPA revises the standards of performance, they must reflect the degree of emission limitation achievable through the application of the BSER taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements. CAA section 111(a)(1).

In reviewing an NSPS to determine whether it is ''appropriate'' to revise the standards of performance, the EPA evaluates the statutory factors, including the following information:

- Expected growth for the source category, including how many new facilities, reconstructions, and modifications may trigger NSPS in the future.
- Pollution control measures, including advances in control technologies, process operations, design or efficiency improvements, or other systems of emission reduction, that are ''adequately demonstrated'' in the regulated industry.
- Available information from the implementation and enforcement of current requirements indicates that emission limitations and percent reductions beyond those required by the current standards are achieved in practice.
- Costs (including capital and annual costs) associated with implementation of the available pollution control measures.
- The amount of emission reductions achievable through application of such pollution control measures.
- Any nonair quality health and environmental impact and energy requirements associated with those control measures.

In evaluating whether the cost of a particular system of emission reduction is reasonable, the EPA considers various costs associated with the particular air pollution control measure or a level of control, including capital costs and operating costs, and the emission reductions that the control measure or particular level of control can achieve. The agency considers these costs in the context of the industry's overall capital expenditures and revenues. The agency also considers cost-effectiveness analysis as a useful metric, and a means of evaluating whether a given control achieves emission reduction at a reasonable cost. A cost-effectiveness analysis allows comparisons of relative costs and outcomes (effects) of two or more options. In general, cost-effectiveness is a measure of the outcomes produced by resources spent. In the context of air pollution control options, cost-effectiveness typically refers to the annualized cost of implementing an air pollution control option divided by the amount of pollutant reductions realized annually.

After the EPA evaluates the factors described above, the EPA then compares the various systems of emission reductions and determines which system is ''best.'' The EPA then establishes a standard of performance that reflects the degree of emission limitation achievable through the implementation of the BSER. In doing this analysis, the EPA can determine whether subcategorization is appropriate based on classes, types, and sizes of sources, and may identify a different BSER and establish different performance standards for each subcategory. The result of the analysis and BSER determination leads to standards of performance that apply to facilities that begin construction, reconstruction, or modification after the date of publication of the proposed standards in the **Federal Register**. Because the new source performance

standards reflect the best system of emission reduction under conditions of proper operation and maintenance, in doing its review, the EPA also evaluates and determines the proper testing, monitoring, recordkeeping and reporting requirements needed to ensure compliance with the emission standards.

See section III.A of this preamble for information on the specific data sources that were reviewed as part of this action.

III. What actions are we proposing?

A. Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After May 16, 2022

The proposed standards, as 40 CFR part 60, subpart AAb, would apply to all new, modified, or reconstructed EAF and AOD vessels, and their associated dust-handling systems in the steel industry, which commence construction, reconstruction, or modification after May 16, 2022. The proposed standards would limit total PM emissions from all pollution control devices (*e.g.,* baghouses) installed on EAF and AOD vessels, in terms of total mass of PM emitted at the facility per total mass of steel produced, to 79 milligrams PM per kilogram steel (mg/kg) [0.16 pounds (lb) PM per ton steel produced (lb/ton)]). Visible emissions from EAF and AOD that exit from the melt shop would be limited to an opacity of 0 percent during all phases of operation. Visible emissions from control devices on EAF and AOD would remain at less than 3 percent opacity, as in the current EAF NSPS for 40 CFR part 60, subparts AA and AAa. Opacity of the dust handling system also would remain at less than 10 percent as in the current NSPS at 40 CFR part 60, subparts AA and AAa.

Explanation of the procedures and data used to determine the format and values of the proposed standards as BSER for EAF are discussed below. Also discussed is the review of the standards for opacity for EAF control devices and dust handling systems in the current NSPS rules.

1. New Format for PM Baghouse Limits for 40 CFR Part 60, Subpart AAb

From EAF PM test reports covering the period from 2005 through 2017, the EPA obtained PM emissions and opacity data for 33 facilities, 46 EAF, and 54 baghouses in 154 emission and opacity tests [3] (hereafter referred to as the ''EAF dataset''). The test data showed a substantial improvement in EAF, AOD, and baghouse performance beyond the current NSPS PM standard. Among these 33 facilities (more than one-third of the current industry) and their 54 baghouses, the highest baghouse PM emissions were 44 percent of the current standard (5.3 mg/dscm [2.30E–03 gr/dscf]), the lowest emissions were 0.83 percent of the current standard (0.10 mg/dscm [4.33E–05 gr/dscf]), and the median emissions were 10 percent of the current standard (1.2 mg/dscm [5.11E–04 gr/dscf]). From these test data, as well as the RACT/BACT/LAER Clearinghouse Data repository,[4] the EPA identified 15 EAF facilities, approximately half of the EAF dataset, that reported 0 percent melt shop opacity. The number of opacity tests per facility with 0 percent melt shop opacity ranged from 1 test to 3 tests, with a median of 2 tests.

The current EAF NSPS (40 CFR part 60, subparts AA and AAa) include numerical limits for PM emissions from EAF (and also AOD in 40 CFR part 60, subpart AAa) control devices and apply to each individual control device, typically a baghouse, which is also known as a fabric filter. Some EAF or AOD vessel baghouses control the bulk of PM emissions, which occur during melting and refining, where the emissions are captured by hoods, canopies, or other mechanisms directly from the EAF or AOD vessel exhaust (and are called primary emissions); other baghouses control the fugitive PM emissions that are emitted during charging and tapping, from other melt shop processes such as ladling of alloys, or that escape the primary capture systems. Fugitive emissions also are called secondary emissions. A third type of baghouse controls both primary and secondary emissions. The above-mentioned baghouse types may control PM from one or more EAF/AOD, primary or secondary, in various combinations.

The emissions, and, hence, collected PM, from baghouses that control only secondary emissions can be much lower than the other two types of baghouses, as seen in the EAF dataset where the baghouse with the lowest PM emissions controlled only secondary emissions.[5] Because of the inherent lower baghouse PM input (loading), secondary baghouses can be operated inefficiently without exceeding the current NSPS limit, which is expressed in the units of mass PM per unit of control device exhaust air. In addition, where there is a standard in terms of mass PM per unit of total exhaust air, baghouse dilution air (added to EAF exhaust air) can be increased with the effect of lowering measured baghouse PM emission concentration and disguising the true performance of the baghouse.

The EPA is proposing to set a facility-wide PM limit instead of a limit that applies to each control device (the format of the current standard), because we think this form of standard will result in better control and provide greater assurance of compliance. Most importantly, if EAF emissions can be divided up into separate baghouses, for practical purposes or otherwise, with each device falling under the same NSPS PM limit, there is no accounting for the total PM emissions from the facility. A facility-wide total control device PM emissions limit in units of pounds of PM per ton of steel produced also would alleviate the potential disparity in control device emissions between low-and high-loading control devices, such as that for control devices for primary *vs.* secondary emissions, as well as for well-operated *vs.* inefficiently-operated control devices that both operate below the individual baghouse limit.

To determine BSER for control device PM emissions, the EPA only used data from EAF facilities with 0 percent melt shop opacity. This was because facilities that control their melt shop opacity to 0 percent are collecting more PM (specifically from the melt shop) than facilities that have a nonzero melt shop opacity and, as a result, are sending more PM to their control devices. Consequently, EAF facilities with 0 percent melt shop opacity are expected to have a slightly higher control device PM emission rate on average compared to EAF facilities with greater than 0 percent melt shop opacity, as evidenced by the EAF dataset of 33 EAF facilities. As a corollary, at EAF facilities with 6 percent melt shop opacity, some of the PM generated by the EAF is not captured, avoids the control device, and can exit through the melt shop roof, thus raising the melt shop opacity to above zero. In turn, facilities with 6

[3] For details of the EAF dataset, see the memorandum titled ''Particulate Matter Emissions from Electric Arc Furnace Facilities'' located in the docket for this rule (Docket ID No. EPA–OAR–2002–0049).

[4] See *https://www.epa.gov/catc/ractbactlaer-clearinghouse-rblc-basic-information* for more information. RACT, or reasonably available control technology, is required on existing sources in areas that are not meeting national ambient air quality standards (*i.e.,* nonattainment areas); BACT, or best available control technology, is required on major new or modified sources in clean areas (*i.e.,* attainment areas); and LAER, or lowest achievable emission rate, is required on major new or modified sources in nonattainment areas.

[5] The baghouse with the lowest emissions in the EAF dataset was 0.83 percent of the current standard (0.10 mg/dscm [4.33E–05 gr/dscf]).

percent melt shop opacity collect less PM and, therefore, less PM is sent to control device, which results in (slightly) lower PM emissions in the control device exhaust. Overall, because of the large amount of PM emission differential between 6 percent and 0 percent melt shop opacity, much less PM is emitted to the environment with 0 percent melt shop opacity than with 6 percent opacity, despite the higher level of control device emissions with 0 percent melt shop opacity. This effect is described quantitatively below in section 2.c.

Of the 15 EAF facilities in the EPA dataset with 0 percent melt shop opacity, control device PM emissions data and steel production values needed to develop an emission standard in mass of PM per mass of steel production were available for 13 of the 15 facilities; these data included 51 individual tests from 23 baghouses and 21 EAF. The 13 EAF facilities and their PM emissions were used to demonstrate that 0 percent melt shop opacity is BSER and to develop a facility-wide total PM control device emission standard that is BSER for new, modified, and reconstructed EAF.

2. Analyses To Determine BSER for Melt Shop Opacity and PM Emissions From Control Devices

The PM and opacity test data for 13 EAF facilities with 0 percent melt shop opacity were used as a major input to determine the BSER for melt shop opacity and for total facility-wide PM control device emissions (in units of mass of PM emissions per mass of steel produced). The cost, emissions reduction analyses, and other factors used in the determination of BSER are discussed below and in more detail in the memorandum titled *Cost and Other Analyses to Determine BSER for PM Emissions and Opacity from EAF Facilities,*[6] hereafter referred to as the *Cost Memorandum.*

a. BSER for Melt Shop Opacity

To determine if 0 percent opacity is BSER for the EAF melt shop, an estimate of the PM emissions reductions compared to the baseline level of the current standards (40 CFR part 60, subparts AA and AAa), at 6 percent, was made along with the costs to achieve the additional PM control and opacity reduction from 6 percent to 0 percent. We also considered other factors, such as the findings that the proposed melt shop opacity of 0 percent was being achieved by 19 of the 31 facilities for which the EPA has opacity data (from 2010), and that for the remaining 12 facilities, average opacity in the test data was no higher than 1.2 percent (with a range of 0.1 percent to 1.2 percent). Based on these data, we conclude that an opacity limit of 0 percent is feasible and well demonstrated.

To determine the PM emission reductions, emissions data from the EAF dataset were used along with emission factors and EAF control information in an EPA background information document (BID) about the EAF industry prepared for the 1984 EAF NSPS.[7] For assessing the costs of the reductions, it was assumed that facilities achieving 0 percent melt shop opacity have better fugitive collection than facilities with higher melt shop opacities. Consequently, for the BSER calculations, costs were assessed for adding a partial roof canopy (segmented canopy hood, closed roof over furnace, open roof monitor elsewhere) to collect PM emissions that might otherwise escape through the melt shop roof vents to achieve complete control of melt shop fugitives. The procedures used to determine whether 0 percent opacity using new canopy hooding is BSER are summarized below. Details of the BSER cost procedures can be found in the *Cost Memorandum.*[6]

PM Emission Reductions with 0 percent Opacity: Two approaches were used to develop estimates of PM emission reductions with the addition of a partial roof canopy in order to reduce melt shop opacity from 6 percent to 0 percent. The resulting average PM emission reduction of the two estimates, at 660 megagram per year (Mg/yr) [730 tons per year (tpy)], was used in the final BSER calculation. The methodology for each of the two approaches is described below and in more detail in the *Cost Memorandum.*[6]

The first method to estimate PM reductions to compare PM emissions with 0 percent melt shop opacity to emissions with 6 percent was partially based on data from the EAF BID.[7] The average uncontrolled EAF PM emissions of 15 g/kg [29 lb/ton] from the EAF BID[8] was used along with the average capture efficiency of a ''segmented canopy hood, closed roof over furnace, open roof monitor elsewhere,'' at 90 percent,[9] and the estimated steel production at an average EAF facility, at 490,000 Mg/yr [540,000 tpy][10] to estimate the roof vent PM emission rate of 630 Mg/yr [700 tpy]. This value was assumed to be the melt shop PM fugitive emission rate from the roof vent of a melt shop with 6 percent opacity, the current EAF NSPS opacity standard.

The second method used to estimate PM emission reductions to compare PM emissions with 0 percent melt shop opacity to PM emissions with 6 percent opacity was based on data obtained from the EPA dataset for facilities with 0 or 6 percent melt shop opacity.[3] Opacity and PM emission data were available for 9 EAF facilities, 12 EAF/AOD, 13 baghouses, and 33 tests where 6 percent melt shop opacity was achieved; and 13 facilities, 21 EAF/AOD, 23 baghouses, and 51 individual tests where 0 percent melt shop opacity was achieved.[3] The annual baghouse stack emissions for facilities with 6 percent melt shop opacity was estimated at 11,000 Mg/yr [12 tpy] PM based on an average emission rate of 22 mg/kg [4.4E–02 lb/ton] for nine facilities using an average steel production rate of 490,000 Mg/yr [540,000 tpy] steel, as discussed above.[10] The total PM emissions generated by the EAF are the PM emissions sent to the baghouse plus the uncaptured emissions emanating from the melt shop as opacity, if not controlled to 0 percent opacity. The captured PM emissions routed to the baghouse can be calculated from the average PM emitted from the baghouse (11 Mg/yr [12 tpy]) in the EPA dataset and the assumption of baghouse control efficiency of 99.8 percent, to produce an estimate of 5,500 Mg/yr [6,000 tpy] PM routed to the baghouse at a facility where 6 percent melt shop opacity was achieved.

Further, in the second approach, to calculate total PM emissions generated (uncontrolled) by the EAF, the estimate of 5,500 Mg/yr [6,000 tpy] uncaptured

[6] *Cost Analyses to Determine BSER for PM Emissions and Opacity from EAF Facilities.* D.L. Jones, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, and G.E. Raymond, RTI International, Research Triangle Park, North Carolina. March 1, 2022 (Docket ID No. EPA–OAR–2002–0049.

[7] *Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in Steel Industry—Background Information for Proposed Revisions to Standards—Draft EIS, Preliminary* (EPA–450/3–82–020a). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina. July 1983.

[8] *Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in Steel Industry—Background Information for Proposed Revisions to Standards—Draft EIS,* Preliminary (EPA–450/3–82–020a). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina. 1982. Table 3–7, p. 3–37.

[9] *Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in Steel Industry—Background Information for Proposed Revisions to Standards—Draft EIS, Preliminary* (EPA–450/3–82–010a). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina. Table 4–2, combination 2, p. 4–23.

[10] From the median of industry capacity data for EAF facilities provided to the EPA by SMA in 2018, assuming 70 percent capacity utilization.

PM routed to the baghouse estimated above, is added to an estimate of uncaptured PM emitted from the melt shop where there is 6 percent melt shop opacity. Using the estimate of 90 percent captured PM at a melt shop with 6 percent opacity, the total PM emissions generated by the EAF is calculated as 6,000 Mg/yr [6,700 tpy PM]. The difference between the PM generated and the PM captured, at 600 Mg/yr [670 tpy] is the second estimate of the amount of PM that is controlled when comparing the PM emitted from 6 percent melt shop opacity compared to 0 percent opacity, because all PM is captured at a 0 percent melt shop opacity facility.

As a check on the estimate of 6,700 tpy total uncontrolled PM from the EAF, an emission factor in format of PM emitted per ton steel is calculated from the average steel production used in the calculations. The result, at 13 g/kg [25 lb/ton] PM emitted per ton steel, is in the expected range as that cited above in the first method, between 8.5 and 21 g/kg [17 to 42 lb/ton]) from the EAF BID.[8] This result also confirms that the baghouse efficiency value at 99.8 percent, used in the calculation is appropriate. The average of the results with the two methods, at 660 Mg PM/yr [730 tpy] controlled, is used in the BSER analysis as the additional PM controlled between 0 percent melt shop opacity and 6 percent.

Costs for Installing and Operating a Partition Roof Canopy: Canopy hoods are a common method of controlling fugitive EAF emissions.[11] To estimate the costs for EAF facilities to reduce their PM emissions and melt shop opacity from 6 percent to 0 percent opacity, the costs for addition of a partition roof canopy (above the crane rails) were estimated using the procedure and information from the Ferroalloys NESHAP, where EAF also are used and shop fugitives also are a concern.[12] Detailed cost information from or about EAF facilities was not available to the EPA to directly calculate cost estimates for a canopy at steelmaking EAF facilities; whereas, the ferroalloy cost estimates do include detailed cost input parameters from the ferroalloy industry which we used to estimate such costs at an EAF facility. The EPA seeks comment regarding this cost analysis and seeks detailed information on EAF source category-specific costs to further inform the development of the final rule.

To adapt the ferroalloy cost-estimating procedure to steelmaking EAF, equipment costs and other parameters were scaled by the ratio of the ferroalloys EAF flowrate at 200 degrees Fahrenheit (°F) (9,400 actual cubic meters per minute (acmm) [330,000 actual cubic feet per minute (acfm)] to EAF flowrate at 200°F (18,000 acmm [640,000 acfm]) for a medium-sized steel facility in the EAF data, which corresponded to 15,000 standard cubic meters per minute [530,000 standard cubic feet per minute]. Using the ferroalloy cost estimates with the flowrate of a medium-sized steelmaking EAF produced capital costs for a partial canopy hood of $6,800,000; operating and maintenance costs are $340,000; and total annualized costs are $800,000 in 2020 dollars for a medium-sized EAF. Similar cost analyses were done for a small and large EAF facility using flowrates from the EAF data. Table 1 shows the cost estimates for small, medium, and large EAF baghouses and melt shops to achieve 0 percent melt shop opacity with a partial roof canopy hood above the crane rails compared to model plants meeting the rule requirement of 6 percent opacity.

TABLE 1—MODEL PLANT COSTS AND PARAMETERS FOR ACHIEVING 0 PERCENT MELT SHOP OPACITY COMPARED TO MODEL PLANTS OPERATING AT THE CURRENT RULE REQUIREMENT OF 6 PERCENT OPACITY BY ADDING A PARTIAL ROOF CANOPY HOOD ABOVE THE CRANE RAILS

Cost parameter	Model plant size		
	Small	Medium	Large
Air flow, acmm [acfm]	1,300 [45,000]	18,000 [640,000]	91,000 [3,200,000]
Capital Costs	$480,000	$6,800,000	$34,000,000
Operating and Maintenance Costs	$27,000	$340,000	$1,700,000
Total Annualized Costs	$60,000	$800,000	$4,000,000
PM Removed 6% opacity to 0% opacity, Mg/yr [tpy]	51 [56]	660 [730]	3,600 [4,000]
Cost-effectiveness, $/Mg [$/ton]	$1,200 [$1,100]	$1,200 [$1,100]	$1,100 [$1,000]

Note: Numbers have been rounded and, therefore, may not calculate exactly.

However, new, modified, or reconstructed facilities would need to comply with applicable state requirements, and programs such as New Source Review (NSR), if the NSR applicability criteria are met. Under NSR, certain technology requirements apply depending on the location of the facility (*i.e.,* lowest achievable emission rates (LAER) in nonattainment areas, or best achievable control technology (BACT) in attainment areas). Therefore, the cost estimates shown in Table 1 are considered conservative (*i.e.,* more likely to be overestimates than underestimates). We estimate that the actual cost impacts of the proposed 0 percent opacity limit likely would be lower because we expect any new, modified, or reconstructed facility would be able to meet the proposed opacity and PM limits without any additional control equipment beyond those already required by NSR or applicable state requirements, or by minor process changes to improve capture of exhaust flows or other process parameters, if needed.

Overall Cost Effectiveness to Achieve 0 percent Melt Shop Opacity: Using the annual costs of $800,000 per year (described above), for a partition roof canopy (above the crane rails) for a medium-sized steelmaking EAF and a PM reduction of 660 Mg/yr [730 tpy] for achieving 0 percent melt shop opacity compared to 6 percent opacity (also described above) the cost-effectiveness is $1,210 per Mg [$1,100 per ton] PM

[11] *Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in Steel Industry—Background Information for Proposed Revisions to Standards—Draft EIS, Preliminary* (EPA–450/3–82–010a). U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina. 1982.

[12] *Cost Impacts of Control Options Considered for the Ferroalloys Production NESHAP to Address Fugitive HAP Emissions.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina Docket ID No. EPA–HQ–OAR–2010–0895–0177. August 2014.

removed for a medium-sized EAF and melt shop. The same analyses performed for small and large EAF baghouses and melt shops produced similar cost-effectiveness estimates, at $1,200 per Mg [$1,100 per ton] and $1,100 per Mg [$1,000 per ton] for small and large EAF baghouses, respectively, as shown in Table 1. The values of $1,200 per Mg [$1,100 per ton] and lower are well within the range of what the EPA has considered cost-effective for the control of PM emissions, and, therefore, 0 percent melt shop opacity is considered BSER for EAF.

b. Facility-Wide Total PM Control Device Emission Limit

The PM emissions data in the EAF dataset from the 13 EAF facilities with 0 percent opacity were used to determine BSER for EAF and AOD facilities along with the estimated costs of control. The number of PM test reports used per facility ranged from one (3-run) test to 10 tests, with a median of three tests. The EAF facility total baghouse PM emissions per mass of steel produced from the 13 facilities with 0 percent melt shop opacity ranged from a low of 6.5 mg/kg [0.013 lb/ton] to a high of 79 mg/kg [0.016 lb/ton] with a median of 26 mg/kg [0.052 lb/ton].

The control costs for a range of baghouse performance levels were estimated based on baghouse air-to-cloth (A/C) ratio, which is expressed in units of volume of air flow per unit bag area (*i.e.,* cloth), or meters [feet] per unit of time. The A/C ratio is generally accepted as the most important design parameter between baghouses of different performance levels, where a low A/C ratio is considered to be the best level of control (less air and more baghouse filter cloth) and a high A/C ratio is a low or poor level control (high air volume and low baghouse filter area).[13] Because no A/C ratio data were available in the EAF PM test reports, values for A/C from CAA section 114 responses submitted by the integrated iron and steel (II&S) industry for the risk and technology review for 40 CFR part 63, subpart FFFFF (85 FR 42074)[14] ratio were used in the EAF BSER PM cost analysis. The baghouses used for emissions from furnaces in the II&S industry are expected to be similar in operation as the baghouses used at EAF/AOD for the purposes of this analysis. The A/C ratio in the II&S data ranged from a low of 24 m/s [1.3 ft/min] to a high of 130 m/s [7.2 ft/min].

In order to explore what level of PM emissions per mass of steel produced derived from the dataset would be BSER, five evenly-spaced points in the ranked PM mass rate data in the EAF data and five evenly-spaced points in the ranked A/C ratios were matched to represent five model facilities of various levels of baghouse-controlled PM emissions, with the lowest (best) PM mass emission rate matched to the lowest (best) A/C ratio and labeled Model Plant A, and the highest in both variables labelled Model Plant E. The intermediary facilities were matched similarly so that there were five distinct operating levels to produce five model plants.

In addition, a ''baseline'' model plant was developed using a PM mass emission rate (in mass PM per mass steel) that was estimated as equivalent to the current NSPS standard (in mass per unit flowrate) using the EAF dataset, where data in both mass emissions per mass of steel produced and in mass per unit flowrate were available. The PM mass emission rate for the baseline model plant was estimated using the ratio of the mass per unit flowrate of the highest emitting facility in the dataset (Model Plant E) at 9.2 mg/dscm [0.0040 gr/dscf] to the NSPS standard (12 mg/kg [0.0052 gr/dscf]) for a ratio of 0.77 (9.2/12 mg/kg [0.0040/0.0052 gr/dscf]), and back calculating an equivalent mass value using the 0.77 ratio and the PM mass rate of Model Plant E in units of mass PM per mass of steel produced (79 mg/kg [0.16 lb/ton]/0.77). The resulting value of 100 mg/kg [0.20 lb/ton] was used as an estimate of the PM mass emission rate per mass of steel produced for the NSPS baseline model plant. An A/C ratio of 8.0 was used for the baseline model plant, as the highest A/C ratio that realistically could be expected.[13]

Table 2 shows the PM mass emission rates and A/C ratios for the five model plants and the baseline model plant. Details of the analysis are described in the *Cost Memorandum.*[6]

TABLE 2—MODEL PLANT PARAMETERS

Model plants	PM emission rate (PM per steel produced)		A/C ratio	
	mg/kg	lb/ton	m/min	ft/min
A	6.5	0.013	0.40	1.3
B	17	0.034	0.88	2.9
C	40	0.08	1.2	4.0
D	50	0.10	1.5	4.9
E	79	0.16	2.2	7.2
Baseline	100	0.20	2.4	8.0

Note: The baseline model facility emissions are based on an estimate in units of mg/kg (lb/ton) of the current limit, which is in units of mg/dscm (gr/dscf).

Steel production for each model facility size was taken from industry capacity data[15] and corresponded to 45,000, 700,000, and 3,100,000 Mg/yr [50,000, 780,000, and 3,500,000 tpy][16] for small, medium or ''average,'' and large facilities, respectively, where medium was determined from the median of industry data, and small and large were the smallest and largest facilities. Estimates of baghouse flowrate were taken from the EAF data, at 1,300, 18,000, and 91,000 acmm [45,000, 640,000, and 3,200,000 acfm][16] for small, medium, and large facility-level baghouses, respectively. At these operating levels and the emission rate per mass of steel produced developed

[13] *EPA Air Pollution Control Cost Manual, Sixth Edition,* EPA/42/B–02–001. U. S. Environmental Protection Agency, Research Triangle Park, NC. January 2002. Section 6, Particulate Matter Controls, Chapter 1, Baghouses and Filters. Available at: *https://www3.epa.gov/ttn/catc/dir1/c_allchs.pdf.*

[14] *Summary of Questionnaire (Enclosure 1) Responses to EPA Information Collection Requests from Integrated Iron & Steel Facilities.* U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina. (Docket ID Item No. EPA–HQ–OAR–2002–0083–0614).

[15] From the industry capacity data for EAF facilities provided to the EPA by SMA in 2018.

[16] Numbers have been rounded and may not exactly match calculations.

from the PM emissions in the EAF data, as described above, the PM emissions for the Model Plants A through E range from 0.27 to 3.5 Mg/yr, 4.6 to 55 Mg/yr, and 20 to 250 Mg/yr [0.30 to 3.9 tpy, 5.1 to 61 tpy, and 23 to 270 tpy], for small, medium, and large facilities, respectively. For the baseline model plant, PM emissions were estimated to be 4.6, 72, and 320 Mg/yr [5.1, 72, and 350 tpy] for small, medium, and large facilities, respectively.

Costs of control were estimated using the EPA cost-estimating procedures [13] based on model baghouses with flows and production levels for baghouses at small, medium, and large facilities, as described above. Differences in capital costs for the model plants mainly reflect the cost of bags needed for each A/C ratio. The operating and maintenance (O&M) costs reflect periodic replacement of bags, along with other typical baghouse O&M costs. Annual costs include the annualized capital costs combined with the annual operating and maintenance costs.

Capital, annual O&M, and annualized costs were estimated for new baghouses at new facilities corresponding to the five model plants and the baseline model plant for small, medium or ''average,'' and large model facilities following the procedures in the EPA Cost Manual [13] to meet each level of model plant PM emissions and A/C ratios, and for all three facility sizes. In this analysis, Model Plant A has the lowest emissions, the lowest A/C ratio, and the highest costs for a new baghouse at a new facility; and Model Plant E, has the highest emissions, highest A/C ratio, and lowest costs, for a new baghouse at a new facility; all model plants emit less PM emissions than a (new) baseline model plant, have lower A/C ratios, and have higher costs for a new baghouse at a new facility. The BSER PM level is determined by comparing the (new) baseline model plant costs and emissions to each model plant, starting with the model plant with the highest estimated emissions and lowest costs (Model Plant E), and ending with the model plant with the lowest emissions and highest costs (Model Plant A), and repeating the analysis for each of the three facility sizes, small, medium, and large.

Estimated capital costs [6] for new baghouses for Model Plants A through E ranged from $710,000 to $1,900,000 for a small facility; $4,300,000 to $21,000,000 for a medium facility; and $20,000,000 to $100,000,000 for a large facility. Operating and maintenance costs for the five model plants ranged from $190,000 to $260,000 for a small facility; $1,300,000 to $2,200,000 for a medium facility; and $5,500,000 to $10,000,000 for a large facility. Annual costs for the five model plants ranged from $238,000 to $380,000 for a small facility; $1,600,000 to $3,600,000 for a medium facility; and $6,800,000 to $17,000,000 for a large facility.

Capital costs for the baseline facility were estimated to be $680,000 for a small facility, $3,900,000 for a medium facility, and $18,000,000 for a large facility. Operating and maintenance costs for the baseline facility were estimated to be $190,000 for a small facility, $1,300,000 for a medium facility, and $5,400,000 for a large facility. Annual costs for the baseline facility were estimated to be $236,000 for a small facility, $1,500,000 for a medium facility, and $6,600,000 for a large facility.[6]

The results of the cost analyses in Table 3 for a medium-sized model facility show the estimated costs, PM emissions reduced, and cost-effectiveness for Model Plants A through E and the baseline model plant for a medium-size facility. The cost analyses in Table 3 indicate that the highest emitting model plant (E) in the cost analysis, at 79 mg/kg [1.6E–01 lb/ton], is within the range of what the EPA has considered to be a cost-effective level of control for PM emissions relative to the baseline model plant, at approximately $2,000 per Mg PM removed [$1,800 per ton PM removed] for a medium-sized facility. This level reflects an estimated 22 percent reduction in emissions from the baseline model plant (100 mg/kg [0.20 lb/ton]). The cost impacts of the next level of emission control in the cost analysis for medium-sized facilities, for Model D (50 mg/kg (0.10 lb/ton)), is $6,100/Mg PM removed [$5,500/ton PM removed], which is at the higher end of the range that is considered cost-effective. Table 4 shows the estimated cost-effectiveness of increased PM control over the baseline for Model Plant E for all three facility sizes (small, medium, and large), which have approximately the same cost-effectiveness values as medium-sized facilities, at approximately $2,200 $/Mg [$2,000 per ton PM removed] for both small and large model facilities.

TABLE 3—EMISSIONS, COSTS AND COST-EFFECTIVENESS FOR A MEDIUM-SIZE MODEL EAF FACILITY [1 2]

		Cost for new baghouse at new facility					Cost-effectiveness			
Model plant [3 4]	EAF facility PM emission rate	Capital	Annual O&M	Annual costs	Annual cost difference from baseline (*Delta* Cost)	Additional PM controlled from baseline (*Delta* PM)	*Delta* Cost/*Delta* PM from baseline		Incremental cost-effectiveness to next model plant	
	Mg/yr [tpy]	$	$/yr	$/yr	$/yr	Mg/yr [tpy]	$/Mg	$/ton	$/Mg	$/ton
A	4.6 [5.1]	$21,000,000	$2,200,000	$3,600,000	$2,100,000	67 [74]	$31,000	$28,000	$194,000	$176,000
B	12 [13]	10,000,000	1,600,000	2,200,000	700,000	60 [66]	12,000	11,000	20,000	18,000
C	28 [31]	7,300,000	1,400,000	1,900,000	370,000	43 [48]	8,500	7,700	21,000	19,000
D	35 [39]	6,100,000	1,300,000	1,700,000	220,000	36 [40]	6,100	5,500	9,400	8,500
E [4]	55 [61]	4,300,000	1,270,000	1,600,000	32,000	16 [18]	2,000	1,800	NA	
Baseline [5]	72 [79]	3,900,000	1,260,000	1,500,000	NA	NA	NA	NA		

[1] A medium-size facility is estimated to produce 700,000 Mg/yr [775,000 tpy] steel at capacity.

[2] Numbers may not calculate exactly due to rounding.

[3] The standards for the model plants are as follows: A = 6.5 mg/kg (0.013 lb/ton); B = 17 mg/kg (0.034 lb/ton); C = 40 mg/kg (0.08 lb/ton); D = 50 mg/kg (0.10 lb/ton); E = 79 mg/kg (0.16 lb/ton). See Table 2. Model Facility E represents the standard being proposed.

[4] See Table 2 for additional model plant parameters.

[5] The baseline model facility emissions are based on an estimate in units of mg/kg (lb/ton) of the current limit, which is in units of mg/dscm (gr/dscf).

TABLE 4—COSTS FOR NEW BAGHOUSES AT NEW FACILITIES FOR MODEL PLANT E (BSER) COMPARED TO BASELINE AT SMALL, MEDIUM, AND LARGE MODEL FACILITIES

Model facility [1]	EAF facility PM emission rate	Cost for new baghouse [2]				Additional PM controlled from baseline level	Cost-effectiveness [2]	Incremental cost-effectiveness to next model plant (D) [1 2]
		Capital	Annual O&M	Annual costs	Annual costs Delta from baseline			
	Mg/yr [tpy]	$	$/yr	$/yr	$/yr	Mg/yr [tpy]	Delta $/Mg [$/ton]	$/Mg [$/ton]
Small Facility [3]								
Model E	3.6 [3.9]	$710,000	$190,000	$238,000	$2,290	1.1 [1.2]	$2,200 [$2,000]	$10,000 [$9,300]
Baseline	4.6 [5.1]	680,000	190,000	236,000				
Medium Facility [3]								
Model E	55 [61]	4,300,000	1,270,000	1,550,000	32,400	16 [18]	2,000 [1,800]	9,400 [8,500]
Baseline	72 [79]	3,900,000	1,260,000	1,520,000				
Large Facility [3]								
Model E	246 [271]	20,000,000	5,500,000	6,730,000	162,000	73 [80]	2,200 [2,000]	11,000 [9,600]
Baseline	318 [351]	18,000,000	5,400,000	6,570,000				

[1] The baseline model facility emissions are based on emissions in units of mg/kg (lb/ton) of the current limit, which is in units of mg/dscm (gr/dscf). Model Facility E represents the standard being proposed (79 mg/kg [0.16 lb/ton]). Model D is the next higher level of control (50 mg/kg [0.10 lb/ton]). See Table 2.
[2] Cost numbers may not calculate exactly due to rounding.
[3] Production levels are 45,000, 700,000, and 3,100,000 Mg/yr [45,000, 775,000, 3,450,000 tpy] at small, medium, and large model facilities, respectively.

Tables 3 and 4 also show that the incremental cost-effectiveness of the model plants compared to the next level of emissions control. In Table 4, the incremental cost difference between Model E compared to Model Plant D, the next level of emission control, is shown for all three sizes of model plants. For a medium-sized model plant, the incremental cost-effectiveness comparing Model Plant E to Model Plant D is at the higher end of the range that is considered cost-effective, at $9,400/Mg [$8,500/ton]. The incremental cost-effectiveness is even greater for small and large facilities, at greater than or equal to $10,000/Mg ($9,300/ton), also shown in Table 4. Because the control costs for the BSER analysis were derived from A/C ratios taken from integrated iron and steel baghouses, there is some uncertainty regarding the A/C ratios and costs for EAF facilities. For this reason, in the BSER determination, we have selected Model Plant E to ensure the BSER control level is feasible for new, modified, or reconstructed EAF facilities. Detailed cost information for Model Plants A through E for all three sizes of facilities are shown in the *Cost Memorandum*.[6]

c. Overall Reduction in EAF Emissions With Facility-Wide PM Limit at 79 mg/kg (0.16 lb/ton) and 0 Percent Melt Shop Opacity Standard

The baghouses at EAF facilities with 0 percent melt shop opacity under the proposed standard (79 mg/kg (0.16 lb/ton)), would emit an estimated 39 Mg/yr [43 tpy] PM emissions for an average facility producing 492,100 Mg/yr (542,500 tpy steel).[10] By contrast, the estimated PM emissions from a baghouse where there is 6 percent melt shop opacity are 11 Mg/yr (12 tpy) for an average facility.[10] [See the example provided in section III.A.2.a (BSER for Melt Shop Opacity)] Because the PM prevented from exiting the roof vent is instead collected and sent to the baghouses, this results in an additional 28 Mg/yr (31 tpy) PM emissions (39 Mg/yr minus 11 Mg/yr [43 tpy minus 12 tpy]) emitted from the baghouse at a 0 percent melt shop opacity (average-sized) facility as compared to a melt shop at 6 percent opacity. The total PM emissions prevented from being emitted with 0 percent melt shop opacity compared to 6 percent opacity are 663 Mg/yr (731 tpy). However, baghouses have high efficiencies of 98 percent and higher; therefore, the additional baghouse PM emissions of 28 Mg/yr [31 tpy] are much lower than the PM that would have otherwise been emitted out the roof vents. Therefore, despite the additional baghouse emissions, the net amount of PM prevented from being emitted at the average facility is 635 Mg/yr (700 tpy), or 663 Mg/yr minus 28 Mg/yr (731 tpy minus 31 tpy), presenting a clear case of effective overall emissions prevention.

The NSPS general provisions (CAA section 60.11(c)) currently excludes opacity requirements during periods of startup, shutdown and malfunction. We are proposing that opacity limits in 40 CFR part 60, subpart AAb would apply at all times along with all other emissions limits and standards because there are no technical limitations known to prevent new, reconstructed, or modified facilities from meeting all standards at all times.

3. Requirement for Compliance Testing Every Five Years

We are proposing that sources complying with 40 CFR part 60, subpart AAb would be required to perform compliance testing every 5 years after the initial testing performed upon startup, as required under 40 CFR part 60.8. This requirement already is required in many of the permits for existing EAF in the EAF dataset and in the industry, and is a standard requirement for testing for other sources of PM emissions for many other industrial sectors.[17]

4. Review of EAF NSPS Standards for Opacity From EAF Control Devices and Dust Handling Systems

The current NSPS standards for EAF in 40 CFR part 60, subparts AA and AAa, require less than 3 percent opacity from control device (baghouse) exhaust and less than 10 percent for dust handling procedures. In the EAF dataset discussed above, no facilities reported lower levels of opacity for these sources nor were lower levels required in any permits for these or any other EAF

[17] 40 CFR part 63 (National Emission Standards for Hazardous Air Pollutants) subparts: FFFFF (Integrated Iron and Steel Manufacturing); DDDD (Plywood and Composite Wood Products Manufacture); LLLLL (Asphalt Processing and Asphalt Roofing Manufacturing); RRRRR (Taconite Iron Ore Processing); UUU (Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units).

facilities. In addition, in determinations reported in the RACT/BACT/LAER Clearinghouse,[4] only the current levels in the rule for baghouse exhaust (9 facilities) and dust handling systems (3 facilities) were considered BACT. Therefore, the conclusion of this review is that the opacity standards for control device exhaust and dust handling systems should remain the same.

5. Proposal of 40 CFR Part 60, Subpart AAb Without Startup, Shutdown, Malfunction Exemptions

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit (the court) vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously. Consistent with *Sierra Club* v. *EPA,* we are proposing standards in this rule that apply at all times. The NSPS general provisions in 40 CFR 60.11 (c) currently exclude opacity requirements during periods of startup, shutdown, and malfunction and the provision in 40 CFR 60.8(c) contains an exemption from nonopacity standards. We are proposing in 40 CFR part 60, subpart AAb a specific requirement at 60.272b (c) that overrides the general provisions for SSM. As provided in 60.11(f), we are proposing that all standards in 40 CFR part 60, subpart AAb apply at all times, including both opacity and nonopacity limits.

The EPA has attempted to ensure that the general provisions we are proposing to override are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so.

In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, is not proposing alternate standards for those periods because we believe both the PM and opacity standards can be met at all times. With regard to malfunctions, these events are described in the following paragraph.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 60.2). The EPA interprets CAA section 111 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA consider malfunctions when determining what standards of performance reflect the degree of emission limitation achievable through ''the application of the best system of emission reduction'' that the EPA determines is adequately demonstrated. While the EPA accounts for variability in setting emissions standards. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting section 111 standards of performance. The EPA's approach to malfunctions in the analogous circumstances (setting ''achievable'' standards under section 112) has been upheld as reasonable by the D.C Circuit in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (D.C. Cir. 2016).

B. Amendments to Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and on or Before August 17, 1983, and Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983, and on or Before May 16, 2022

Amendments to 40 CFR part 60, subparts AA and AAa are being proposed to clarify and refine the rule requirements by adding, removing, or revising ambiguous or outdated definitions, compliance, measurement, monitoring, and reporting requirements; specifically, 40 CFR part 60, sections 60.271 and 60.271a ''Definitions'', 60.272 and 60.272a ''Standard for particulate matter'', 60.273 and 60.273a ''Emission monitoring'', 60.274a ''Monitoring of operations'', 60.275a ''Test methods and procedures'', and 60.276a ''Recordkeeping and reporting requirements''.

We are proposing minor revisions to 40 CFR part 63, subparts AA and AAa (and also include in proposed subpart AAb) in the above-mentioned sections to clarify the rule and enhance compliance and enforcement. One change being considered but not proposed is discussed in further detail in the following paragraphs. The EPA requests comments as to the appropriateness of all the revisions proposed or considered.

The current rules, 40 CFR part 60, subparts AA and AAa, require facilities to respond to a BLDS alarm and complete corrective action for the cause of the alarm within 3 hours. However, the industry has stated that there have been instances where there was insufficient time to respond to a BLDS alarm within 3 hours to both find and fix the cause of a BLDS alarm. According to the SMA, facility owners and operators report that determining the cause of the alarm often requires operators to undertake a multi-step troubleshooting process that requires numerous physical inspections and other diagnostic efforts that sometimes takes longer than 3 hours.

Some baghouses in the industry can have more than 25 compartments housing 5,000 or more individual bags. In these instances, facilities may have to sequentially isolate compartments to determine which compartment might have caused the BLDS alarm. The facility must then physically examine each of the compartments. If a bag has a significant rupture, the cause of the alarm likely will be apparent during that inspection. However, given the sensitivity of BLDS, the alarms can be triggered by extremely small holes in bags. The SMA claims that, in these cases, even physical observation can fail to find any leak within the allocated time period. In the case of a false alarm, which can happen in some cases due to the sensitivity of the BLDS, the careful search of the isolated compartment(s) will yield no useful information, as per the SMA. However, it is important that baghouses work properly on a continuous basis to minimize PM emissions and that leaks, if present, are identified and fixed in a timely manner.

Given the concerns raised by the SMA, we are soliciting comments as to whether the EPA should allow owners and operators a longer time period (*e.g.,* 8 hours, 12 hours, or 24 hours) to find and fix the cause of a BLDS alarm, which would be more consistent with the time period permitted in some other related rules, such as in the Integrated Iron and Steel NESHAP, as promulgated in 2003, 40 CFR part 63, subpart FFFFF (see *https://www.govinfo.gov/content/pkg/CFR-2015-title40-vol14/pdf/CFR-2015-title40-vol14-part63-subpartFFFFF.pdf*), and the Taconite Iron Ore Processing NESHAP, 40 CFR part 63, subpart RRRRR, also promulgated in 2003 (see *https://www.govinfo.gov/content/pkg/CFR-2015-title40-vol15/pdf/CFR-2015-*

title40-vol15-part63-subpartRRRRR.pdf), which both allow a 24-hour response time to address BLDS alarms.

We are soliciting comments, data, and other information regarding this issue and whether the EPA should change the time to both find and fix the cause of a BLDS alarm from 3 hours to a longer timeframe (*e.g.,* 24 hours as in other rules, or some other duration), including whether this change would be an appropriate amount of time to allow for such action, and information supporting this change. We also solicit comments or suggestions regarding potential measures that could be required to be taken by facility owners or operators during the time the BLDS alarm is being investigated to ensure that the increase in time allowed to address a BLDS alarm does not result in an increase in emissions beyond the level allowable under the rule. For example, if we provided additional time to find and repair the cause of the alarm, are there additional steps that could be taken to ensure that the facility continues to comply with the current emissions standards (*e.g.,* opacity limit of less than 3 percent) during that period such as by requiring the facility to conduct an opacity test (EPA Method 9) or visible emissions test (EPA Method 21) on a regular basis (*e.g.,* once every hour) until the cause of the alarm is found and fixed.

C. Electronic Reporting

The EPA is proposing that owners or operators of EAF facilities submit electronic copies of required performance test/demonstration of compliance reports and semiannual reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action. The proposed rule would require that performance test/demonstration of compliance results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [18] at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website, and other performance test/demonstration of compliance results be submitted in portable document format (PDF) using the attachment module of the ERT.

For semiannual reports, the proposed rule would require that owners or operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed templates for these reports is included in the docket for this action.[19] The EPA specifically requests comment on the content, layout, and overall design of the template.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. These circumstances are (1) outages of the EPA's CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports; and (2) *force majeure* events, which are defined as events that will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically. Examples of *force majeure* events are acts of nature, acts of war or terrorism, equipment failure, or safety hazards beyond the control of the facility. The EPA is providing these potential extensions to protect owners or operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

The electronic submittal of the reports addressed in this proposed rulemaking would increase the usefulness of the data contained in those reports and is keeping with current trends in data availability and transparency. Electronic submittal would further assist in the protection of public health and the environment by improving compliance, facilitating the ability of regulated facilities to demonstrate compliance with requirements, and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance. Ultimately, electronic reporting would reduce the burden on regulated facilities, delegated air agencies, and the EPA by making the data easy to record and read. Electronic reporting also eliminates paper waste and redundancies and minimizes data reporting errors. The resulting electronic data are more quickly and accurately accessible to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [20] to implement Executive Order 13563 and is in keeping with the EPA's agency-wide policy [21] developed in response to the White House's Digital Government Strategy.[22] For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* referenced earlier in this section.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the air quality and other environmental impacts?

For proposed 40 CFR part 60, subpart AAb, the reductions in PM potentially emitted would have a beneficial air impact when comparing 6 percent melt shop opacity in the baseline to the 0 percent opacity proposed for 40 CFR part 60, subpart AAb. Similarly, reductions in PM less than 2.5 micrometers ($PM_{2.5}$) potentially emitted also are estimated from new, modified and reconstructed EAF under the proposed NSPS rule, 40 CFR part 60, subpart AAb, compared to the emissions that are allowed under the current NSPS with 6 percent melt shop opacity.

Based on the actual emissions emitted by 31 facilities in the EAF data, where the actual average opacity was 0.14 percent, the emissions impact for PM from nine new facilities projected in the next 10 years (estimated to reflect three small, four medium, and two large) is estimated to be an emissions reduction of 142 Mg (157 tons) PM that would otherwise be emitted in 2032. Using an estimate of 0.218 [23] for the ratio of $PM_{2.5}$

[18] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[19] See 40 CFR part 60, subpart A, AAa, and AAb, *Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels,* 40 CFR part 60.276(g) Semiannual Compliance Report Spreadsheet Template, available at Docket ID No. EPA–HQ–OAR–2002–0049.

[20] *EPA's Final Plan for Periodic Retrospective Reviews.* August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[21] *E-Reporting Policy Statement for EPA Regulations.* September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[22] *Digital Government: Building a 21st Century Platform to Better Serve the American People.* May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

[23] The $PM_{2.5}$ to PM ratio is an average of similar uncontrolled sources, as cited in ''*Evaluation of*

to PM the emissions impact for $PM_{2.5}$ from nine new facilities projected in the next 10 years, as above, would be an emissions reduction of 30 Mg (33 tons) of $PM_{2.5}$ in 2032. Details of the emissions estimates can be found in the memorandum titled ''*Particulate Matter Emissions from Electric Arc Furnace Facilities*'' located in the docket for this rule (Docket ID No. EPA–OAR–2002–0049) and hereafter referred to as the ''Emissions Memorandum.'' No PM emission reductions are estimated for the new PM limit for facility-wide total baghouse emissions in mg/Mg (lb/ton) because all facilities in the 2010 EAF data could meet the new limit and, therefore, we expect that all new facilities also would be able to meet the limit. The EPA asks for comments on these assumptions and for emission test reports, where appropriate.

Solid wastes would increase slightly, approximately 17 tons per facility, on average, with the additional PM collected to meet 0 percent melt shop opacity limit under proposed 40 CFR part 60, subpart AAb as compared to current facilities meeting opacity limits under 40 CFR part 60, subparts AA and AAa. The small increase in solid wastes would be the same for both the carbon and specialty steel shops. However, most EAF dust is recycled to reclaim zinc.[24] [25]

A relatively small increase in energy results from the use of electricity to power fans that draw EAF exhaust air into the canopy hood that captures the PM and sends PM-laden air to the baghouse, at 66, 940, 4,700 MW-hr per year for small, medium, and large facilities, respectively. Some decrease in energy use may occur if the A/C ratio of the fabric filters to meet the proposed facility baghouse standard is lowered due to an increase in number of bags.

Finally, there would be no water or noise impacts with the proposed 40 CFR part 60, subpart AAb.

B. What are the cost impacts?

Costs are estimated for regular testing every 5 years for nine new facilities projected in the 10 years after proposal. Annual testing costs are $6,672 per year for conducting EPA Method 5 for PM emissions at each baghouse's exhaust for each facility over a 5-year period, using an estimate of 1.64 baghouses per facility based on the EAF data. While new sources that start up after proposal would be subject to testing every five years under the proposed NSPS, 40 CFR part 60, subpart AAb, EPA Method 5 testing is required upon initial startup under 40 CFR part 60.8. Therefore, in the first 5 years after startup there would be no testing costs as a result of the proposed rule for new sources that start up in this period. In the sixth year through the tenth year after initial startup, the new sources estimated to start up in the first five years after proposal would incur costs of approximately $6,000 per year for testing, based on an estimate of 0.9 new facilities per year (0.9 × $6,672). Because the startup of new facilities is estimated to be staggered, with 0.9 new facilities starting each year after proposal, the total costs for testing under this rule after the initial testing required under 40 CFR part 60.8 would range from approximately $6,000 in the sixth year after proposal to a total of approximately $30,000 in the tenth year after proposal (reflecting costs for 4.5 facilities (0.9 × 5 years)), where the testing costs that would occur in years six through ten are for the new facilities that start up in years one through five after proposal.

Based on information from 2010 through 2017 obtained by the EPA for 31 EAF facilities, the EPA found the average opacity to be 0.14 percent, with about half of the units achieving 0 percent opacity in the tests. Because opacity in the baseline in already low, the EPA expects any new, modified or reconstructed facility would be able to meet the proposed opacity and PM limits without any additional control devices beyond those already required by the NSR program or applicable state requirements or by minor process changes to improve capture of exhaust flows or other process parameters, if needed. While the actual cost impacts of the proposed 0 percent opacity limit would likely be substantially lower, the EPA developed an upper bound estimate of potential compliance costs based upon the assumption that affected units would install a partial roof canopy above the crane rails to ensure 0 percent melt shop opacity compared to a hypothetical baseline model facility meeting 6 percent opacity. These costs are estimated to be $60,000, $800,000, and $4,000,000 per year per facility for small, medium, and large model facilities, respectively.

Total annual costs for 40 CFR part 60, subpart AAb, based on nine new facilities in the first 10 years after proposal are $180,000 per year for three small facilities, $3,200,000 per year for four medium facilities, and $8,000,000 per year for two large facilities for a total of $11,380,000 per year by the tenth year after proposal using the same staggered startup rate described above for testing costs. Details of the cost estimates can be found in the *Cost Memorandum*.[6]

For the proposed mass-based PM standard in mg/kg (lb/ton) for facility-wide total baghouse PM emissions, we estimated the capital and annual costs between a baseline scenario based on the current NSPS individual baghouse limit (in mg/dscm (gr/dscf)) and a scenario based on a lower total facility-wide baghouse PM emissions in mg/kg (lb/ton), the format for the BSER we are proposing. Because data from the 31 existing EAF facilities in the 2010 data acquired by the EPA that was used to develop the facility-wide PM limit show these facilities already could meet the 79 mg/kg (0.16 lb/ton) total facility baghouse PM limit, we expect the proposed mass-based standard applied to future new, modified, and reconstructed EAF facilities would be feasible and pose minimal cost impacts, if any. The EPA asks for comments on these cost assumptions and for emission test reports, where appropriate.

Additional cost analysis, including calculation of costs using the upper bound cost estimates for the installation of partial roof canopies, can be found in the Economic Impact Analysis (EIA) associated with this proposal, which is available in the docket for this rule. The EIA additionally presents costs in terms of the present value and equivalent annual value of projected compliance costs over the 2023 to 2032 period discounted at 3 and 7 percent.

C. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs associated with the proposed requirements and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a regulatory requirement. As discussed in section IV.B., the cost analysis incorporates the assumption that units affected by the new subpart AAb would install a partial roof canopy above the crane rails to ensure 0 percent melt shop opacity compared to a hypothetical baseline model facility meeting 6 percent opacity. The costs should be viewed as upper bound

$PM_{2.5}$ Emissions and Controls at Two Michigan Steel Mills and a Coke Oven Battery.'' Final Report. Work Assignment 4–12 under EPA Contract No. 68–D–01–073 by RTI International, Research Triangle Park, NC. U.S. Environmental Protection Agency, Research Triangle Park, NC. February 2006.

[24] Proven Waelz Kiln Technology. Accessed 2/18/22. *http://www.globalsteeldust.com/waelz_kiln_technology*.

[25] Rütten, J. *Application of the Waelz Technology on Resource Recycling of Steel Mill Dust.* Düsseldorf: GmbH. D–40225, 2006.

estimates on the potential compliance costs as the EPA expects any new, modified or reconstructed facility would be able to meet the proposed opacity and PM limits without any additional control devices beyond those already required by the NSR program or applicable state requirements or by minor process changes to improve capture of exhaust flows or other process parameters, if needed. As discussed in the EIA, even under the upper bound cost assumptions described above, the EPA expects the potential economic impacts of this proposal will be small.

As required by the Regulatory Flexibility Act (RFA), we performed an analysis to determine if any small entities might be disproportionately impacts the proposed requirements. The EPA does not know what firms will construct new facilities in the future and, as a result, cannot perform a cost-to-sales analysis with the same confidence as we do with firms owning existing facilities. However, based on an assessment of the new units built during the 2011 to 2020 period and the units that have been announced, which are all owned by firms that are not considered to be small businesses, the EPA does not believe it is likely that any future facilities will be built by a small business. See the EIA in the docket for this action for additional information on the analysis presented in this section.

D. What are the benefits?

The proposed revisions to 40 CFR part 60, subparts AA and AAa would both clarify the rule and enhance compliance and enforcement. Implementing the proposed subpart, 40 CFR part 60, subpart AAb, is expected to reduce PM emissions, including $PM_{2.5}$. As explained in section IV.A, the proposed requirements are projected to reduce 30 Mg (33 tons) of $PM_{2.5}$ in 2032. These emissions reductions would be expected to produce health benefits in the affected locations. The Integrated Science Assessment for Particulate Matter (ISA) report [26] contains synthesized toxicological, clinical, and epidemiological evidence that the EPA uses to determine whether each pollutant is causally related to an array of adverse human health outcomes associated with either acute (*i.e.,* hours or days-long) or chronic (*i.e.,* years-long) exposure. For each outcome, the ISA report includes the EPA conclusions as to whether this relationship is causal, likely to be causal, suggestive of a causal relationship, inadequate to infer a causal relationship, or not likely to be a causal relationship.

In the ISA report it was found that acute exposure to $PM_{2.5}$ was causally related to cardiovascular effects and mortality (*i.e.,* premature death), and respiratory effects as likely-to-be-causally related. In the ISA report, the EPA identified cardiovascular effects and total mortality as causally related to long-term exposure to $PM_{2.5}$ and respiratory effects as likely-to-be-causal; and the evidence was suggestive of a causal relationship for reproductive and developmental effects as well as cancer, mutagenicity, and genotoxicity.

The benefits per ton (BPT) of the $PM_{2.5}$ emissions reductions cited above for years 2025 and 2030 and at 3 percent and 7 percent discount rates are presented in Table 5 below in 2020 dollars. Information regarding the process by which these BPTs were calculated is available in the technical support document *Estimating the Benefit per Ton of Reducing Directly-Emitted $PM_{2.5}$, $PM_{2.5}$ Precursors and Ozone Precursors from 21 Sectors.*[27]

TABLE 5—BENEFITS PER TON OF $PM_{2.5}$ REDUCED

Year	$/ton $PM_{2.5}$ emission reductions—$2020			
	3 Percent discount rate		7 Percent discount rate	
	Low	High	Low	High
2025	$407,000	$413,000	$366,000	$371,000
2030	431,000	449,000	388,000	404,000

Note: The range reported here reflects the use of risk estimates from two alternative long-term exposure PM-mortality studies.

E. What are the environmental justice impacts?

Consistent with the EPA's commitment to integrating environmental justice (EJ) in the agency's actions, and following the directives set forth in multiple Executive Orders,[28] the Agency has carefully considered the impacts of this action on communities with EJ concerns, as per Executive Order 12898 (see section V.J below for more discussion). We do not know the locations of future new, modified, or reconstructed facilities that are affected by this rule, therefore, we assessed the population living in areas around existing EAF facilities.

Demographic proximity analyses allow one to assess the proximity of vulnerable populations to environmental hazards as a proxy for exposure and the potential for adverse health impacts that may occur at a local scale due to economic activity at a given location such as noise, odors, and traffic. We include the following proximity screening analyses to characterize the potential for communities with EJ concerns to be impacted by emissions sources covered under this EPA action.

Although baseline proximity analyses are presented here, several important caveats should be noted. Emissions are not expected to increase from the proposed rulemaking, so most communities nearby affected facilities should not experience increases in exposure from directly-emitted pollutants. However, facilities may vary widely in terms of the risk they already pose to nearby populations; therefore, proximity to affected facilities does not capture the variation in baseline exposure across communities. Nor does it indicate that any exposures or impacts would occur and should not be interpreted as a direct measure of exposure or impact. These points limit the usefulness of proximity analyses when attempting to answer question 1

[26] *Integrated Science Assessment for Particulate Matter* (Final Report, 2019). EPA/600/R–19/188. U.S. Environmental Protection Agency, Washington, DC. 2019.

[27] *Estimating the Benefit per Ton of Reducing Directly-emitted $PM_{2.5}$, $PM_{2.5}$ Precursors and Ozone Precursors from 21 Sectors.* U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711. 2022. Available at: *https://www.epa.gov/system/files/documents/2021-10/source-apportionment-tsd-oct-2021_0.pdf.*

[28] Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. 59 FR 7629, February 16, 1994.

or 2 from the EPA's EJ technical guidance: (1) [Does the rule] ''create new disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples''; and (2) [Does the rule] ''exacerbate existing disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples.'' [29]

We note that while the total proportion of people of color in proximity to existing EAF facilities is similar to the national average, the population of African Americans is higher than the national average. Also, the education level of populations near existing sources is similar to the national average; however, the percent of population living below the poverty level is above the national average.

For the new EAF proposed rule, subpart, 40 CFR part AAb, the EPA expects that the proposed rule would enhance compliance by increasing the frequency of emissions testing, reducing emissions of PM by meeting a lower opacity limit for melt shop roof vents, improving the reporting of total facility-wide baghouse emissions, and requiring facilities to meet the proposed standards, including opacity, at all times, thereby overriding compliance exemptions in the General Provisions to CAA part 60 (part 60.11(c)) provided for opacity during periods of startup, shutdown, and malfunction.

Following is a more detailed description of how the agency considers EJ in the context of regulatory development, and specific actions taken to address EJ concerns for this action.

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 is intended to advance racial equity and support underserved communities through federal government actions (86 FR 7009, January 20, 2021). The EPA defines EJ as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' [30] The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.'' In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

To examine some population demographics of communities residing nearby existing sources, we performed a demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups.

This action proposes standards of performance for new, modified, and reconstructed EAF sources that commence construction after the rule is proposed. Therefore, the locations of the construction of new EAF facilities are not known. In addition, it is not known which of the existing EAF facilities would be modified or reconstructed in the future. Therefore, the demographic analysis was conducted for the 88 existing EAF facilities as a characterization of the demographics in areas where these facilities are now located.

The results of the demographic analysis (see Table 6) indicate that, for populations within 5 km of the 88 existing EAF facilities, the percent minority population (being the total population minus the white population) is below the national average (37 percent versus 40 percent). This difference is largely driven by the percent Hispanic or Latino population that is lower than the national average (14 percent versus 19 percent). However, the percent of the population that is African American is above the national average (17 percent versus 12 percent). The percent of people living below the poverty level is higher than the national average (17 percent versus 13 percent). The percent of the population over 25 without a high school diploma and the percent of the population in linguistic isolation are similar to the national averages.

The results of the analysis of populations within 50 km of the 88 EAF facilities is similar to the 5 km analysis for minorities, with lower total minorities being driven by a smaller Hispanic or Latino population and the African American population being slightly above the national average. However, the percent of the population living below the poverty level, over 25 without a high school diploma, and in linguistic isolation were all similar to the national averages.

A summary of the demographic assessment performed for the EAF facilities is included as Table 6. The methodology and the results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations Living Near Electric Arc Furnace Facilities,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2002–0049).

TABLE 6—DEMOGRAPHIC ASSESSMENT RESULTS FOR EAF FACILITIES

Demographic group	Nationwide	Population within 50 km of 88 existing EAF facilities	Population within 5 km of 88 existing EAF facilities
Total Population	328,016,242	71,577,375	2,781,377
White and Minority by Percent			
White	60%	62%	63%
Minority	40%	38%	37%

[29] *Technical Guidance for Assessing Environmental Justice in Regulatory Actions.* Section 3: Key Analytic Considerations, 3.1 Analyzing Differential Impacts. U.S. Environmental Protection Agency, Washington, DC. June 2016. p. 11. See *https://www.epa.gov/sites/default/files/2016-06/documents/ejtg_5_6_16_v5.1.pdf.*

[30] See *https://www.epa.gov/environmentaljustice.*

TABLE 6—DEMOGRAPHIC ASSESSMENT RESULTS FOR EAF FACILITIES—Continued

Demographic group	Nationwide	Population within 50 km of 88 existing EAF facilities	Population within 5 km of 88 existing EAF facilities
Minority by Percent			
African American	12%	15%	17%
Native American	0.7%	0.3%	0.3%
Hispanic or Latino (includes white and nonwhite)	19%	15%	14%
Other and Multiracial	8%	8%	7%
Income by Percent			
Below Poverty Level	13%	13%	17%
Above Poverty Level	87%	87%	83%
Education by Percent			
Over 25 and without a High School Diploma	12%	11%	11%
Over 25 and with a High School Diploma	88%	89%	89%
Linguistically Isolated by Percent			
Linguistically Isolated	5%	5%	4%

Notes:

1. The nationwide population count and all demographic percentages are based on the Census' 2015–2019 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km and 50 km of all facilities are based on the 2010 Decennial Census block populations.
2. Minority population is the total population minus the white population.
3. To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.
4. This action proposes standards of performance for new, modified, and reconstructed sources that commence construction after the rule is proposed. Therefore, the locations of the construction of new EAF facilities are not known. In addition, it is not known which of the existing EAF facilities would be modified or reconstructed in the future. Therefore, the demographic analysis was conducted for the 88 existing EAF facilities as a characterization of the demographics in areas where these facilities are now located.

The EPA expects that the Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After May 16, 2022 would ensure compliance via frequent testing and reduce emissions via a lower opacity limit for melt shop roof vents and by meeting all the proposed standards at all times (including periods of startup, shutdown, and malfunctions). Therefore, there may be a positive, beneficial effect for populations in proximity to any future affected sources, including in communities potentially overburdened by pollution, which are often minority, low-income and indigenous communities.

The EPA is asking for comment on the list of the current 88 EAF facilities thought to be subject to the NSPS. The Excel™ file document named "EAF NSPS Facility List 2022" in the docket for this rulemaking (EPA–HQ–OAR–2002–0049) contains the list of the 88 EAF NSPS facilities and is formatted to allow for public comments. Please follow the instructions in the file's first worksheet, called "How to Comment," that describes the procedures to comment and submit the edited file back to the EPA.

V. Statutory and Executive Order Reviews

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

A. Executive Orders 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

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned the EPA ICR number 1060.19. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are proposing amendments to 40 CFR part 60, AA and AAa that require electronic reporting, and editorial and clarifying changes to rule language that are estimated to reduce time spent and paperwork for rule. We are proposing a new subpart for new, modified, or reconstructed facilities that start up after this proposal (40 CFR part 60, subpart AAb) with similar reporting, recordkeeping, and compliance requirements as 40 CFR part 60, subparts AA and AAa.

Respondents/affected entities: EAF facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subparts AA; AAa; and AAb).

Estimated number of respondents: 90, includes 88 estimated current facilities subject to 40 CFR part 60, subparts AA and AAa, and three new facilities that would be subject to 40 CFR part 60, subpart AAb in the three years after proposal.

Frequency of Response: One time.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all the requirements in the NSPS is estimated to be 57,100 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting costs for all facilities to comply with all of the requirements in the NSPS is estimated to be $6,950,000 (per year), of which $61,617 (per year) is for this proposed rule ($60,964 for Method 5 compliance and $653 for electronic reporting), and $6,690,000 for other costs related to continued compliance with the NSPS, including $200,000 for paperwork associated with operation and maintenance requirements. The total rule costs reflect a reduction cost of $400,000 (per year) from the previous ICR that reflects savings due to electronic reporting.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule. You may submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than June 15, 2022. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act

I certify that this action would not have a significant economic impact on a substantial number of small entities under the RFA. This action is not expected to impose any requirements on the three identified small entities among the approximately 90 EAF facilities (36 companies), because most facilities are likely to be performing regular compliance tests as part of their permit renewal process. Additionally, no facilities are expected to be built by small entities over the next 10 years based on past industry growth and small business starts. The three current facilities owned by small businesses were started in 1912, 1968, and 1994, respectively. Further discussion is included in the EIA for this proposal.

D. Unfunded Mandates Reform Act of 1995 (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. While this action creates an enforceable duty on the private sector, the cost does not exceed $100 million or more.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It would 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 would not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. No tribal governments own facilities that are the subject of this rulemaking. 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 because the EPA does not believe there are any environmental health or safety risks that disproportionately affects children due to this action. In addition, we believe there would be a positive, beneficial health effect for children as well as others living in proximity to new affected sources as a result of the specific aspects of the proposed rule not in the current rules, such as ensuring compliance via frequent testing, meeting a lower opacity limit for melt shop roof vents, reporting baghouse emissions as a facility-wide total, and meeting all the proposed standards at all times, including periods of startup, shutdown, and malfunctions.

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 Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. Therefore, the EPA conducted searches for the EAF NSPS through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS)organizations and accessed and searched their databases. We conducted searches for EPA Methods 1, 2, 3, 3A, 3B, 4, 5, 5D, and 22 of 40 CFR part 60, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for a particular VCS. No applicable VCS were identified for EPA Methods 5D and 22.

The EPA is incorporating by reference the VCS ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' to provide that the manual procedures (but not instrumental procedures) of VCS ANSI/ASME PTC 19.10–1981—Part 10 may be used as an alternative to EPA Method 3B. The manual procedures (but not instrumental procedures) of VCS ANSI/ASME PTC 19.10–1981—Part 10 (incorporated by reference—see 40 CFR 63.14) may be used as an alternative to EPA Method 3B for measuring the oxygen or carbon dioxide content of the exhaust gas. This standard is acceptable as an alternative to EPA Method 3B and is available from ASME at *https://www.asme.org;* by mail at Three Park Avenue, New York, NY 10016–5990; or by telephone at (800) 843–2763. This method determines quantitatively the gaseous constituents of exhausts resulting from stationary combustion

sources. The gases covered in ANSI/ASME PTC 19.10–1981 are oxygen, carbon dioxide, carbon monoxide, nitrogen, sulfur dioxide, sulfur trioxide, nitric oxide, nitrogen dioxide, hydrogen sulfide, and hydrocarbons; however, the use in this rule is only applicable to oxygen and carbon dioxide.

In the proposed rule, the EPA is incorporating by reference the VCS ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere, as an acceptable alternative to EPA Method 9 with the following caveats:

- During the DCOT certification procedure outlined in Section 9.2 of ASTM D7520–16, the facility or the DCOT vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds or a sparse tree stand).
- The facility must also have standard operating procedures in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in Section 8.1 of ASTM D7520–16.
- The facility must follow the recordkeeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.
- The facility or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15-percent opacity of anyone reading and the average error must not exceed 7.5-percent opacity.
- This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 is on the facility, DCOT operator, and DCOT vendor. This method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity. The ASTM D7520–16 document is available from ASTM at *https://www.astm.org* or l100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, telephone number: (610) 832–9500, fax number: (610) 8329555 at *service@astm.org.*

The EPA is finalizing the use of the guidance document, *Fabric Filter Bag Leak Detection Guidance,* EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, September 1997. This document provides guidance on the use of triboelectric monitors as fabric filter bag leak detectors. The document includes fabric filter and monitoring system descriptions; guidance on monitor selection, installation, setup, adjustment, and operation; and quality assurance procedures. The document is available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.PDF.*

Additional information for the VCS search and determinations can be found in the three memoranda titled *Voluntary Consensus Standard Results for Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983; Voluntary Consensus Standard Results for Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983, and On or Before May 16, 2022;* and *Voluntary Consensus Standard Results for Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After May 16, 2022,* available in the docket for this proposed rule.

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 and indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The impacts of these proposed rules are to clarify current rules and, for new sources built after publication of this proposal, to ensure compliance via frequent testing, to meet a lower opacity limit for melt shop roof vents, to report baghouse emissions as a facility-wide total, and to meet all the proposed standards at all times, including periods of startup, shutdown, and malfunctions. The documentation for this decision is contained in section IV.E of this preamble and in a technical report, *Analysis of Demographic Factors for Populations Living Near Electric Arc Furnace Facilities,* located in the docket for this rule.

Michael S. Regan,

Administrator.

[FR Doc. 2022–09589 Filed 5–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 118 and 300

[EPA–HQ–OLEM–2021–0585; FRL–7881–03–OLEM]

RIN 2050–AH17

Clean Water Act Hazardous Substance Worst Case Discharge Planning Regulations; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is announcing an extension to the comment period for the proposed rule requiring an owner or operator of a facility to prepare and submit a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a hazardous substance published in the **Federal Register** on March 28, 2022. EPA is proposing to require planning for worst case discharges of Clean Water Act (CWA) hazardous substances for onshore non-transportation-related facilities that could reasonably be expected to cause substantial harm to the environment by discharging CWA hazardous substances into or on the navigable waters, adjoining shorelines, or exclusive economic zone. The comment period is being extended to July 26, 2022.

DATES: Comments must be received on or before July 26, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OLEM–2021–0585, by any of the following methods:

—*Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.

—*Mail:* U.S. Environmental Protection Agency, EPA Docket Center, EPA–HQ–OLEM–2021–0585 Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

—*Hand delivery or courier (by scheduled appointment only):* EPA

Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID–19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Rebecca Broussard, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–564–6706; email: *broussard.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** for 60 days (87 FR 17890). In that **Federal Register** notice, EPA proposed a rule requiring an owner or operator of a facility to prepare and submit a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a hazardous substance published in the **Federal Register** on March 28, 2022. EPA is proposing to require planning for worst case discharges of CWA hazardous substances for onshore non-transportation-related facilities that could reasonably be expected to cause substantial harm to the environment by discharging CWA hazardous substances into or on the navigable waters, adjoining shorelines, or exclusive economic zone. EPA received requests from potential commenters to extend the comment period to allow greater time to comment. EPA is hereby extending the comment period, which was set to end on May 27, 2022, to July 26, 2022. Please note that late comments on this rule making may not be considered.

To submit comments or access the docket, please follow the detailed instructions as provided under **ADDRESSES**. If you have questions, consult the individuals listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: May 9, 2022.

Donna K. Salyer,

Director, Office of Emergency Management.

[FR Doc. 2022–10426 Filed 5–13–22; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 87, No. 94

Monday, May 16, 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

Agricultural Marketing Service

[Document Number AMS–AMS–22–0025]

Competition and the Intellectual Property System: Seeds and Other Agricultural Inputs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing an additional 30 days for comments and information from the public to assist AMS in preparing the report required by the Executive Order titled ''Promoting Competition in the American Economy,'' which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy. Among other things, the Executive Order directs the Secretary of Agriculture to prepare a report on concerns and strategies for ensuring that the intellectual property (IP) system, while incentivizing innovation, does not also unnecessarily reduce competition in seed and other input markets.

DATES: The comment period for the notice originally published on March 17, 2022, at 87 FR 15198, is extended. Comments must be submitted on or before June 15, 2022.

ADDRESSES: All written comments in response to this notice should be posted online at *https://www.regulations.gov.* Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS–AMS–22–0025, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Jaina Nian, Agricultural Marketing Service, USDA, Room 2055–S, STOP 0201, 1400 Independence Avenue SW, Washington, DC 20250–0201. Comments will be made available for public inspection at the above address during regular business hours or via the at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaina Nian, Agricultural Marketing Service, at (202) 378–2541; or by email at *jaina.nian@usda.gov.*

SUPPLEMENTARY INFORMATION: On July 9, 2021, President Biden issued an Executive Order titled ''Promoting Competition in the American Economy,'' which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy. Among other things, the Executive Order directs the Secretary of Agriculture (the Secretary) to prepare a report on concerns and strategies for ensuring that the intellectual property (IP) system, while incentivizing innovation, does not also unnecessarily reduce competition in seed and other input markets.

A notice, published in the **Federal Register** on March 17, 2022 (87 FR 15198), requested comments and information from the public to assist AMS in preparing the report required by the Executive Order and advancing policy steps on seeds and other inputs identified in and developed by the report. This notice established a 60-day comment period, ending May 16, 2022. As the comment period overlapped a critical time for agricultural producers to plant crops and for academics to conclude semesters, AMS is extending the public comment period for an additional 30 days to encourage additional public comment.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–10450 Filed 5–13–22; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS–AMS–22–0026]

Competition in Food Retail and Distribution Markets and Access for Agricultural Producers and Small and Midsized Food Processors

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing an additional 30 days for comments and information from the public to assist AMS in preparing the report required by the Executive Order titled ''Promoting Competition in the American Economy,'' which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy. Among other things, the Executive Order directs the Secretary of Agriculture to prepare a report on concerns and strategies to promote competition in the food and agricultural markets.

DATES: The comment period for the notice originally published on March 17, 2022, at 87 FR 15194, is extended. Comments must be submitted on or before June 15, 2022.

ADDRESSES: All written comments in response to this notice should be posted online at *https://www.regulations.gov.* Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS–AMS–22–0026, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Jaina Nian, Agricultural Marketing Service, USDA, Room 2055–S, STOP 0201, 1400 Independence Avenue SW, Washington, DC 20250–0201. Comments will be made available for public inspection at the above address during regular business hours or via the at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaina Nian, Agricultural Marketing Service, at (202) 378–2541; or by email at *jaina.nian@usda.gov.*

SUPPLEMENTARY INFORMATION: On July 9, 2021, President Biden issued an

Executive Order titled ''Promoting Competition in the American Economy,'' which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy. Among other things, the Executive Order directs the Secretary of Agriculture (the Secretary) to prepare a report on concerns and strategies to promote competition in the food and agricultural markets.

A notice, published in the **Federal Register** on March 17, 2022 (87 FR 15194), requested comments and information from the public to assist AMS in preparing the report required by the Executive Order and advancing policy steps on the effect of retail concentration and retailers' practices on competition in the food industries. This notice established a 60-day comment period, ending May 16, 2022. As the comment period overlapped a critical time for agricultural producers to plant crops and for academics to conclude semesters, AMS is extending the public comment period for an additional 30 days to encourage additional public comment.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–10449 Filed 5–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS–AMS–22–0027]

Access to Fertilizer: Competition and Supply Chain Concerns

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; extension of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing an additional 30 days for comments and information from the public to assist AMS in preparing the report required by the Executive Order titled ''Promoting Competition in the American Economy,'' which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy. Among other things, the Executive Order Executive Order directs the Council and member agencies to ''identify and advance any additional administrative actions necessary'' to promote competition on an ongoing basis. This notice requests comments and information from the public to assist the U.S. Department of Agriculture (USDA) in identifying relevant difficulties, including competition concerns, and potential policy solutions for the fertilizer market.

DATES: The comment period for the notice originally published on March 17, 2022, at 87 FR 15191, is extended. Comments must be submitted on or before June 15, 2022.

ADDRESSES: All written comments in response to this notice should be posted online at *https://www.regulations.gov.* Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS–AMS–22–0027, the date of submission, and the page number of this issue of the **Federal Register**. Comments may also be sent to Jaina Nian, Agricultural Marketing Service, USDA, Room 2055–S, STOP 0201, 1400 Independence Avenue SW, Washington, DC 20250–0201. Comments will be made available for public inspection at the above address during regular business hours or via the at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaina Nian, Agricultural Marketing Service, at (202) 378–2541; or by email at *jaina.nian@usda.gov.*

SUPPLEMENTARY INFORMATION: On July 9, 2021, President Biden issued an Executive Order titled ''Promoting Competition in the American Economy,'' which creates a White House Competition Council and directs Federal agency actions to enhance fairness and competition across America's economy. Among other things, the Executive Order directs the Council and member agencies to ''identify and advance any additional administrative actions necessary'' to promote competition on an ongoing basis. The Secretary of Agriculture takes note of wide-ranging concern from agricultural producers regarding access to and pricing of fertilizer. This notice requests comments and information from the public to assist the AMS in identifying relevant difficulties, including competition concerns, and potential policy solutions for the fertilizer market.

A notice, published in the **Federal Register** on March 17, 2022 (87 FR 15191), requested comments and information from the public to assist AMS in identifying relevant difficulties, including competition concerns, and potential policy solutions for the fertilizer market. This notice established a 60-day comment period, ending May 16, 2022. As the comment period overlapped a critical time for agricultural producers to plant crops and for academics to conclude semesters, AMS is extending the public comment period for an additional 30 days to encourage additional public comment.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–10451 Filed 5–13–22; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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 June 15, 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.

Food Safety and Inspection Service

Title: Imported Undenatured Inedible Product and Samples for Laboratory Examination, Research, Evaluation Testing or Trade Show Exhibition.

OMB Control Number: 0583–0161.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and egg products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS uses the forms under this collection to identify and keep track of product not subject to FSIS import reinspection requirements. Foreign governments are to petition FSIS for approval to import undenatured inedible egg products into the United States.

Need and Use of the Information: FSIS will collect the information from firms using form FSIS 9540–4, ''Permit Holder—Importation of Undenatured Inedible Products'' for the undenatured inedible product that they are importing into the United States and form FSIS 9540–5, ''Notification of Intent to Import Meat, Poultry, or Egg Products—Samples for Laboratory Examination, Research, Evaluative Testing or Trade Show Exhibition.'' FSIS will use the information on the forms to keep track of the movement of imported undenatured inedible meat and egg products. If the information is not collected it would reduce the effectiveness of the meat and poultry products inspection program.

Description of Respondents: Business or other-for profit.

Number of Respondents: 211.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 9.489.

Dated: May 11, 2022.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–10491 Filed 5–13–22; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–22–Business–0012]

Notice of Revision of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice, request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request a revision of a currently approved information collection package for the Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program.

DATES: Comments on this notice must be received by July 15, 2022.

FOR FURTHER INFORMATION CONTACT: Pamela Bennett, Regulations Management Division, Innovation Center, U.S. Department of Agriculture. Email: *pamela.bennett@usda.gov.* Telephone: (202) 720–9639.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Rural Business-Cooperative Service is submitting to OMB for approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Business-Cooperative Service, including whether the information will have practical utility; (b) the accuracy of the Rural Business-Cooperative Service's estimate of the burden of the proposed collection of information including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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 may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search'' box, type in the Docket No. RBS–22–Business–0012. A link to the Notice will appear. You may submit a comment here by selecting the ''Comment'' button or you can access the ''Docket'' tab, select the ''Notice,'' and go to the ''Browse & Comment on Documents'' Tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the ''Comment'' button, complete the required information, and select the ''Submit Comment'' button at the bottom. Information on using *Regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link at the bottom.

Title: Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program (Section 9003).

OMB Control Number: 0570–0065.

Expiration Date of Approval: November 30, 2022.

Type of Request: Revision of a currently approved information collection.

Abstract: The Rural Business-Cooperative Service, an Agency within the United States Department of Agriculture, Rural Development, administers the Section 9003 program. The purpose of this information collection is to obtain information necessary to evaluate loan applications to determine the eligibility of the applicant and the project for the program and to qualitatively assess the project's technical and financial merit to determine which projects should be funded.

Estimate of Burden: The following annual estimates are based on an average volume of activity which includes: Nine Phase 1 applications, eight Phase 2 applications, and one new loan guarantee. Phase 1 applications are evaluated by the Agency to determine whether the borrower is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, there is sufficient collateral and equity, and the proposed loan complies with all applicable statutes and regulations. Phase 2 applications are required for Phase I applicants who score favorable and are invited to submit a Phase 2 application. The Agency anticipates the number of respondents to fluctuate based on funding levels.

Respondents: Respondents for this data are lending institutions and for-profit businesses but also include individuals and corporations. The annual estimates below are for both subparts associated with this rule.

Estimated Number of Respondents: 9.

Estimated Number of Responses per Respondent: 36.2.

Estimated Number of Responses: 326.

Estimated Total Annual Burden on Respondents: 7,765 hours.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, at

(202) 720–9639. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Karama Neal,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2022–10441 Filed 5–13–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–22–SFH–0009]

Notice of Request for Revision of Currently Approved Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the USDA Rural Housing Service (RHS) invites comments on this information collection for the Housing Preservation Grant (HPG) Program, which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by July 15, 2022.

FOR FURTHER INFORMATION CONTACT: Pamela Bennett, Regulations Management Division, Innovation Center, U.S. Department of Agriculture. Email: *pamela.bennett@usda.gov.* Telephone: (202) 720–9639.

For program inquires, contact Mandy Couture, Finance and Loan Analyst, Single Family Housing Direct Loan Division, Special Programs and Initiatives Branch, U.S. Department of Agriculture, Email: *mandy.couture@usda.gov.* Telephone (515) 418–2188.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for revision.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms and information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search'' box, type in the Docket No. RHS–22–SFH–0009. A link to the Notice will appear. You may submit a comment here by selecting the ''Comment'' button or you can access the ''Docket'' tab, select the ''Notice,'' and go to the ''Browse & Comment on Documents'' tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the ''Comment'' button, complete the required information, and select the ''Submit Comment'' button at the bottom. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link at the bottom.

Title: 7 CFR Part 1944–N Housing Preservation Grants.

OMB Control Number: 0575–0115.

Expiration Date of Approval: November 30, 2022.

Type of Request: Revision of a currently approved collection.

Abstract: The primary purpose of the HPG Program is to repair or rehabilitate individual housing, rental properties, or co-ops owned or occupied by very low- and low-income rural persons. Grantees will provide eligible homeowners, owners of rental properties and owners of co-ops with financial assistance through loans, grants, interest reduction payments or other comparable financial assistance for necessary repairs and rehabilitation of dwellings to bring them up to code or minimum property standards. Where repair and rehabilitation assistance are not economically feasible or practical the replacement of existing, individual owner-occupied housing is available.

The Rural Housing Amendments of 1983 amended the Housing Act of 1949 by adding Section 533 (12 U.S.C. 1490m). The program is implemented at 7 CFR part 1944, subpart N. In addition, the Secretary of Agriculture has authority to prescribe rules and regulations to implement the HPG and other programs under 42 U.S.C. S 1480G. Section 533(d) is prescriptive about the information applicants are to submit to RHS as part of their application and in the assessments and criteria RHS is to use in selecting grantees. An applicant is to submit a ''statement of activity'' describing its proposed program, including the specific activities it will undertake, and its schedule. RHS is required in turn to evaluate proposals on a set of prescribed criteria, for which the applicant will also have to provide information, such as: (1) Very low- and low-income persons proposed to be served by the repair and rehabilitation activities; (2) participation by other public and private organizations to leverage funds and lower the cost to the HPG program; (3) the areas to be served in terms of population and need: (4) Cost data to assure greatest degree of assistance at lowest cost; (5) administrative capacity of the applicant to carry out the program. The information collected will be the minimum required by law and by necessity for RHS to assure that it funds responsible grantees proposing feasible projects in areas of greatest need. Most data are taken from a localized area, although some are derived from census reports of city, county and Federal governments showing population and housing characteristics.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .85 hours per response.

Estimated Total Annual Burden on Respondents: 11,045 hours.

Estimated Number of Respondents: 2,083.

Estimated Number of Responses per Respondent: 6.21.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, at (202) 720–9639. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Joaquin Altoro,

Administrator, Rural Housing Service.

[FR Doc. 2022–10469 Filed 5–13–22; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–22–ELECTRIC–0018]

Notice of Revision of a Currently Approved Information Collection

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

ACTION: Notice, request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service (RUS), an agency of the U.S. Department of Agriculture (USDA) Rural Development mission area, invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by July 15, 2022.

FOR FURTHER INFORMATION CONTACT: Pamela Bennett, Regulations Management Division, Innovation Center, U.S. Department of Agriculture. Email: *pamela.bennett@usda.gov.* Telephone: (202) 720–9639.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that will be submitted to OMB for approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search'' box, type in the Docket No. RUS–22–ELECTRIC–0018. A link to the Notice will appear. You may submit a comment here by selecting the ''Comment'' button or you can access the ''Docket'' tab, select the ''Notice,'' and go to the ''Browse & Comment on Documents'' Tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the ''Comment'' button, complete the required information, and select the ''Submit Comment'' button at the bottom. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link at the bottom.

Title: RUS Form 675, Certification of Authority.

OMB Control Number: 0572–0074.

Expiration Date of Approval: November 30, 2022.

Type of Request: Revision of a currently approved collection.

Abstract: The Rural Utilities Service manages loan programs in accordance with the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act). A major factor in managing loan programs is controlling the advance of funds, including assuring that actual borrowers receive their funds. The OMB Circular A–123, Management Accountability and Control, provides that information should be maintained on a current basis and that funds should be protected from unauthorized use. The use of RUS Form 675 allows effective control against unauthorized release of funds by providing a list of authorized borrower signatures against which signatures requesting funds are compared. The Form 675 allows borrowers to keep RUS up to-date of changes in signature authority and controls release of funds only to authorized borrower representatives.

Estimate of Burden: Public reporting for this collection of information is estimated to average .10 hours per response.

Respondents: Not-for-profit institutions; Business or other for-profit.

Estimated Number of Respondents: 176.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18 hours.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, at (202) 720–9639. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2022–10437 Filed 5–13–22; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Connecticut Advisory Committee, Revision of Virtual Meeting Platform

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision of virtual meeting platform.

SUMMARY: The Commission on Civil Rights is holding a meeting of the Connecticut Advisory Committee on Monday, May 23, 2022, at 12:00 p.m. ET. This notice revises the virtual meeting platform. The notice is in the **Federal Register** of Thursday, May 5, 2022, in FR Doc. 2022–09562, in the third column of page 26724 and the first column of 26725.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, (202) 921–2212, *ebohor@usccr.gov.*

Revision: Replace Webex virtual details with Zoom virtual details as follows:

- *Zoom Link: https://tinyurl.com/2c7hdxta*; password, if needed: USCCR–CT
- To join by phone only, dial: 1–551–285–1373; Meeting ID: 160 654 4108#

Dated: May 11, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–10475 Filed 5–13–22; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a business meeting on Wednesday May 25, 2022 at 12:00 p.m. Eastern time. The Committee will discuss testimony received regarding the study of civil rights and fair housing in the state.

DATES: The meeting will take place on Wednesday May 25, 2022 from 12:00 p.m.–1:00 p.m. Eastern time.

Online Regisration (Audio/Visual): https://www.zoomgov.com/meeting/register/vJItf-6orDkvHqO_N7d8Wf6GJfmqt7aBveI.

Telephone (Audio Only): Dial 1–669–254–5252 USA Toll Free; Access code: 160 870 2254.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion.

Committee meetings are available to the public through the above listed online registration link or call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Pennsylvania Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email address.

Agenda

Welcome and Roll Call
Discussion: Civil Rights and Fair Housing in Pennsylvania
Future Plans and Actions
Public Comment
Adjournment

Dated: May 11, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–10473 Filed 5–13–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Puerto Rico Advisory Committee, Revision of Virtual Meeting Platform and Additional Meeting Information

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision of virtual meeting platform and additional meeting information.

SUMMARY: The Commission on Civil Rights is holding a meeting of the Puerto Rico Advisory Committee on Wednesday, May 18, 2022, at 1:00 p.m. Atlantic Time. This notice revises the virtual meeting platform and provides additional meeting information. The notice is in the **Federal Register** of Tuesday, May 3, 2022, in FR Doc. 2022–09479, in the third column of page 25185 and the first column of 26186.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, (434) 515–0204, *vmoreno@usccr.gov.*

Revision: Replace Webex virtual details with Zoom virtual details as follows:

- *Zoom Link: https://tinyurl.com/bdd9muu7;* password, if needed: USCCR–PR
- To join by phone only, dial: 1–551–285–1373; Meeting ID: 161 391 4837#

Additional Meeting Information: This meeting will be conducted in Spanish. English interpretation will be available at the same link.

Dated: May 11, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–10474 Filed 5–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–902]

Organic Soybean Meal From India: Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing the countervailing duty order on organic soybean meal from India.

DATES: Applicable May 16, 2022.

FOR FURTHER INFORMATION CONTACT: Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5484.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on March 23, 2022, Commerce published its affirmative final determination in the countervailing duty investigation of organic soybean meal from India.[1] On May 5, 2022, the ITC notified Commerce of its affirmative final determination that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of organic soybean meal from India.[2]

Scope of the Order

The product covered by this order is organic soybean meal from India. For a complete description of the scope of the order, *see* the appendix to this notice.

Countervailing Duty Order

On May 5, 2022, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured by reason of subsidized imports of organic soybean meal from India.[3] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing the countervailing duty order. Because the ITC determined that imports of organic soybean meal from India are materially injuring a U.S. industry, unliquidated entries of such merchandise from India, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

In accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by

[1] *See Organic Soybean Meal from India: Final Affirmative Countervailing Duty Determination,* 87 FR 16453 (March 23, 2022).

[2] *See* ITC's Letter, ''Notification of ITC Final Determination,'' dated May 5, 2022.

[3] *Id.; see also Organic Soybean from India,* Inv. Nos. 701–TA–667 and 731–TA–1559, USITC Pub. 5321 (May 2022) (Final).

Commerce, countervailing duties on unliquidated entries of organic soybean meal from India. With the exception of entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final affirmative injury determination, as further described below, countervailing duties will be assessed on unliquidated entries of organic soybean meal from India entered, or withdrawn from warehouse, for consumption on or after September 3, 2021, the date of publication of the *Preliminary Determination* in the **Federal Register**.[4]

Suspension of Liquidation and Cash Deposits

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of organic soybean meal from India, effective the date of publication of the ITC's notice of final determinations in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates. These instructions will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the amounts as indicated below. The all-others rate applies to all producers or exporters not specifically listed below.

Company	Subsidy rate (percent)
Bergwerff Organic India Private Limited[5]	9.57
Shanti Worldwide*	283.91
Shri Sumati Oil Industries Pvt. Ltd.*	283.91
Navjyot International Pvt. Ltd.*	283.91
Ish Agritech Pvt. Ltd.*	283.91
Satguru Organics Pvt. Ltd.*	283.91
Radiance Overseas*	283.91
Swastik Enterprises*	283.91
Soni Soya Products Limited*	283.91
Raj Foods International*	283.91
Vantage Organic Foods Pvt. Ltd.*	283.91
Shree Bhagwati Oil Mill*	283.91
Pragati Organics*	283.91
All Others	9.57

* Rate based on adverse facts available.

Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigation, Commerce published the *Preliminary Determination* on September 3, 2022.[6] Therefore, entries of organic soybean meal from India made on or after January 1, 2022, and prior to the date of publication of the ITC's final determination in the **Federal Register**, are not subject to the assessment of countervailing duties due to Commerce's discontinuation of the suspension of liquidation.

In accordance with section 703(d) of the Act, Commerce instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of organic soybean meal from India entered, or withdrawn from warehouse, for consumption on or after January 1, 2022, the date on which the provisional countervailing duty measures expired, through the day preceding the date of publication of the ITC final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC final injury determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[7] On September 27, 2021, Commerce also published the notice titled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register.**[8] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[9]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.[10]

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

[4] *See Organic Soybean Meal from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 86 FR 49514 (September 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[5] Commerce has found the following company to be cross-owned with Bergwerff Organic India Private Limited: Suminter India Organics Private Limited.

[6] *See Preliminary Determination.*

[7] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[8] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[9] *Id.*

[10] This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display he month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [11] Accordingly, as stated above, the petitioners and the Government of India should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list. Pursuant to 19 CFR 351.225(n)(3), the petitioners and the Government of India will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and the Government of India are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the countervailing duty order with respect to organic soybean meal from India, pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *https://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: May 10, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise subject to the order is certified organic soybean meal. Certified organic soybean meal results from the mechanical pressing of certified organic soybeans into ground products known as soybean cake, soybean chips, or soybean flakes, with or without oil residues. Soybean cake is the product after the extraction of part of the oil from soybeans. Soybean chips and soybean flakes are produced by cracking, heating, and flaking soybeans and reducing the oil content of the conditioned product. ''Certified organic soybean meal'' is certified by the U.S. Department of Agriculture (USDA) National Organic Program (NOP) or equivalently certified to NOP standards or NOP-equivalent standards under an existing organic equivalency or recognition agreement.

Certified organic soybean meal subject to this order has a protein content of 34 percent or higher.

Organic soybean meal that is otherwise subject to this order is included when incorporated in admixtures, including but not limited to prepared animal feeds. Only the organic soybean meal component of such admixture is covered by the scope of this order.

The products covered by this order are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 1208.10.0010 and 2304.00.0000. Certified organic soybean meal may also enter under HTSUS 2309.90.1005, 2309.90.1015, 2309.90.1020, 2309.90.1030, 2309.90.1032, 2309.90.1035, 2309.90.1045, 2309.90.1050, and 2308.00.9890.

The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

[FR Doc. 2022–10481 Filed 5–13–22; 8:45 am]

BILLING CODE 3510–DS–P

[11] *See Final Rule,* 86 FR at 52335.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–901]

Organic Soybean Meal From India: Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing an antidumping duty order on organic soybean meal from India.

DATES: Applicable May 16, 2022.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4261.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on March 23, 2022, Commerce published its final affirmative determination in the less-than-fair-value (LTFV) investigation of organic soybean meal from India.[1] On May 5, 2022, the ITC notified Commerce of its final affirmative determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of LTFV imports of organic soybean meal from India.[2]

Scope of the Order

The product covered by this order is organic soybean meal from India. For a complete description of the scope of this order, *see* the appendix to this notice.

Antidumping Duty Order

On May 5, 2022, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) by reason of organic soybean meal from India.[3] Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing this antidumping duty order. Because the ITC determined that imports of organic soybean meal from India are materially injuring a U.S. industry, unliquidated entries of such merchandise from India, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

As a result of the ITC's final affirmative determination, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise, for all relevant entries of organic soybean meal from India. Antidumping duties will be assessed on unliquidated entries of organic soybean meal from India entered, or withdrawn from warehouse, for consumption on or after November 2, 2021, the date of publication of the *Preliminary Determination,*[4] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.

[1] *See Organic Soybean Meal from India: Final Affirmative Determination of Sales at Less Than Fair Value,* 87 FR 16458 (March 23, 2022).

[2] *See* ITC's Letter, ''Notification of ITC Final Determinations,'' dated May 5, 2022.

[3] *Id.; see also Organic Soybean from India,* Inv. Nos. 701–TA–667 and 731–TA–1559, USITC Pub. 5321 (May 2022) (Final).

[4] *See Organic Soybean Meal from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 60443 (November 2, 2021) (*Preliminary Determination*).

Continuation of Suspension of Liquidation

Except as noted in the ''Provisional Measures'' section of this notice, in accordance with section 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation of all relevant entries of organic soybean meal from India, as described in the appendix to this notice, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins included in the tables below, adjusted by the export subsidy offset. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the estimated weighted-average dumping margins listed in the tables below. The all-others rate for each country applies to all producers or exporters not specifically listed.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter/producer	Estimated weighted average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Bergwerff Organic Private Limited/Suminter India Organic Private Limited	3.07	0.00
Shanti Worldwide	* 18.80	9.26
Shri Sumati Oil Industries Pvt. Ltd.	* 18.80	9.26
Navjyot International Pvt. Ltd.	* 18.80	9.26
Ish Agritech Pvt. Ltd.	* 18.80	9.26
Satguru Organics Pvt. Ltd.	* 18.80	9.26
Radiance Overseas	* 18.80	9.26
Swastik Enterprises	* 18.80	9.26
Soni Soya Products Limited	* 18.80	9.26
Raj Foods International	* 18.80	9.26
Vantage Organic Foods Pvt. Ltd.	* 18.80	9.26
Shree Bhagwati Oil Mill	* 18.80	9.26
Pragati Organics	* 18.80	9.26
All Others	3.07	0.00

* (facts available with an adverse inference).

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except that Commerce may extend the four-month period to no more than six months at the request of exporters representing a significant portion of exports of the subject merchandise. At the request of exporters that account for a significant proportion of organic soybean meal from India, Commerce extended the four-month period to six months in the *Preliminary Determination,* published on November 2, 2021.[5] Therefore, the extended provisional measures period, beginning on the date of publication of the *Preliminary Determination,* ended on April 30, 2022. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of organic soybean meal from India entered, or withdrawn from warehouse, for consumption on or after May 1, 2022, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[6] On September 27, 2021, Commerce also published the notice titled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[7] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[8]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.''[9]

[5] *See Preliminary Determination.*

[6] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[7] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[8] *Id.*

[9] This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [10] Accordingly, as stated above, the petitioners and foreign governments should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for those orders for which they qualify as an interested party. Pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[10] *See Final Rule,* 86 FR at 52335.

Notifications to Interested Parties

This notice constitutes the antidumping duty order with respect to organic soybean meal from India, pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *https://enforcement.trade.gov/stats/iastats1.html.*

This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: May 10, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The merchandise subject to the order is certified organic soybean meal. Certified organic soybean meal results from the mechanical pressing of certified organic soybeans into ground products known as soybean cake, soybean chips, or soybean flakes, with or without oil residues. Soybean cake is the product after the extraction of part of the oil from soybeans. Soybean chips and soybean flakes are produced by cracking, heating, and flaking soybeans and reducing the oil content of the conditioned product. ''Certified organic soybean meal'' is certified by the U.S. Department of Agriculture (USDA) National Organic Program (NOP) or equivalently certified to NOP standards or NOP-equivalent standards under an existing organic equivalency or recognition agreement.

Certified organic soybean meal subject to this order has a protein content of 34 percent or higher.

Organic soybean meal that is otherwise subject to this order is included when incorporated in admixtures, including but not limited to prepared animal feeds. Only the organic soybean meal component of such admixture is covered by the scope of this order.

The products covered by this order are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 1208.10.0010 and 2304.00.0000. Certified organic soybean meal may also enter under HTSUS 2309.90.1005, 2309.90.1015, 2309.90.1020, 2309.90.1030, 2309.90.1032, 2309.90.1035, 2309.90.1045, 2309.90.1050, and 2308.00.9890.

The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

[FR Doc. 2022–10480 Filed 5–13–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees—Department of the Air Force Scientific Advisory Board

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the Department of the Air Force Scientific Advisory Board (DAF SAB).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, DoD Advisory Committee Management Officer, 703–692–5952.

SUPPLEMENTARY INFORMATION: The DAF SAB is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., appendix) and 41 CFR 102–3.50(d). The charter and contact information for the DAF SAB's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The DAF SAB provides the Secretary of Defense and Deputy Secretary of Defense with independent advice and recommendations on matters supporting the Department of the Air Force's (DAF) scientific and technical (S&T) enterprise and specifically on matters pertaining to (a) conducting studies on topics deemed critical by the Secretary of the Air Force; (b) recommending applications of technology to improve DAF capabilities; and (c) providing independent reviews of the quality and relevance of the DAF S&T programs. The DAF SAB is composed of no more than 20 members who are eminent authorities in the fields of defense and/or S&T. These members come from varied backgrounds such as science, technology, manufacturing, acquisition, logistics, public or private sector business management, Federally Funded Research and Development Centers, National Laboratories, and academia (universities and colleges).

Individual members are appointed according to DoD policy and procedures, and serve a term of service of one-to-four years with annual renewals. One member will be appointed as Chair of the DAF SAB. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the DAF SAB, or serve on more than two DoD Federal advisory committees at one time.

DAF SAB members who are not full-time or permanent part-time Federal

civilian officers or employees, or active duty members of the Uniformed Services, are appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. DAF SAB members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services are appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All DAF SAB members are appointed to provide advice based on their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official DAF SAB-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements about the DAF SAB's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the DAF SAB. All written statements shall be submitted to the DFO for the DAF SAB, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: May 11, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–10493 Filed 5–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0019]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Connecting Adults to Success: Career Navigator Training Study (CATS Study)

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new collection.

DATES: Interested persons are invited to submit comments on or before June 15, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Melanie Ali, (202) 245–8345.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Connecting Adults to Success: Career Navigator Training Study (CATS Study).

OMB Control Number: 1850–NEW.

Type of Review: New collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 120,403.

Total Estimated Number of Annual Burden Hours: 6,640.

Abstract: This demonstration study will examine the impact of training for career navigators—local adult education provider staff who provide services to address the challenges that learners face navigating the transition to the workforce and to further education and training. The study will compare the education and employment outcomes of learners enrolled in adult education sites whose career navigators are assigned by lottery to receive the study's training (the treatment group) with the outcomes of learners enrolled in the business-as-usual sites who are assigned by lottery to receive the study's training after the study period (the comparison group). Approximately 64 adult education sites from across five to seven states are expected to participate in the study. Impacts on learners' education and employment outcomes will be examined after 18 and 30 months.

Dated: May 11, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–10483 Filed 5–13–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0035]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Performance Partnership Pilots Application

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 15, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Corinne Sauri, 202–245–6412.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department

assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Performance Partnership Pilots Application.

OMB Control Number: 1830–0575.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 15.

Total Estimated Number of Annual Burden Hours: 1,200.

Abstract: This information collection request solicits applications for the Performance Partnership Pilots for Disconnected Youth, which provides States, localities, or tribal governments receiving funds under multiple Federal programs additional flexibility in using these funds to achieve significant improvement in outcomes for disconnected youth.

Dated: May 11, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–10476 Filed 5–13–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Electricity Advisory Committee

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Electricity Advisory Committee (EAC). The Federal Advisory Committee Act (FACA) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, June 8, 2022; 1:00 p.m.–6:00 p.m. EST

Thursday, June 9, 2022; 8:00 a.m.–12:30 p.m. EST

ADDRESSES: The June meeting of the EAC will be held at the National Rural Electric Cooperative Association Headquarters in Arlington, VA, 4301 Wilson Blvd., Ste. 1, Arlington, VA 22203. Members of the public are encouraged to participate virtually, however, limited physical space is available for members of the public to attend onsite. To register to attend either in-person or virtually, please visit the meeting website: *https://www.energy.gov/oe/june-8-9-2022-meeting-electricity-advisory-committee.* Please note, you must register for each day you would like to attend.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence, Designated Federal Officer, Office of Electricity, U.S. Department of Energy, Washington, DC 20585; Telephone: (202) 586–5260 or Email: *christopher.lawrence@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The EAC was established in accordance with the provisions of FACA, as amended, to provide advice to the U.S. Department of Energy (DOE) in implementing the Energy Policy Act of 2005, executing certain sections of the Energy Independence and Security Act of 2007, and modernizing the nation's electricity delivery infrastructure. The EAC is composed of individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to the electric sector.

Tentative Agenda

June 8, 2022

12:45 p.m.–1:00 p.m. WebEx Attendee Sign-On
1:00 p.m.–1:20 p.m. Welcome, Introductions, Developments since the March 2022 Meeting
1:20 p.m.–1:50 p.m. Update on Office of Electricity Programs and Initiatives
1:50 p.m.–2:40 p.m. Bipartisan Infrastructure Law Implementation
2:40 p.m.–3:00 p.m. Break
3:00 p.m.–3:40 p.m. National Transmission Planning Study (NTPS) Presentation Panel
3:40 p.m.–5:50 p.m. Electric Transmission Authorities Panel and Discussion
5:50 p.m.–6:00 p.m. Wrap-up and Adjourn Day 1

June 9, 2022

7:45 a.m.–8:00 a.m. WebEx Attendee Sign-On
8:00 a.m.–8:10 a.m. Day 2 Opening Remarks
8:10 a.m.–9:40 a.m. Supply Chain Considerations for Energy Storage
9:40 a.m.–11:10 a.m. Electric Vehicle (EV) Deployment Panel and Discussion
11:10 a.m.–11:25 a.m. Break
11:25 a.m.–11:35 a.m. Subcommittee Update: Energy Storage
11:35 a.m.–11:45 a.m. Subcommittee Update: Grid Resilience for National Security
11:45 a.m.–11:55 a.m. Subcommittee Update: Smart Grid
11:55 a.m.–12:15 p.m. Public Comments
12:15 p.m.–12:30 p.m. Wrap-up and Adjourn June 2022 Meeting of the EAC

The meeting agenda and times may change to accommodate EAC business. For EAC agenda updates, see the EAC website at: *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

Public Participation: The EAC welcomes the attendance of the public at its meetings. Individuals who wish to offer public comments at the EAC meeting may do so on June 9, 2022, but must register in advance by 5:00 p.m. Eastern Time on June 8th. Approximately 20 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the meeting, or for whom the allotted public comments time is insufficient to address pertinent issues with the EAC, is invited to send a written statement identified by ''Electricity Advisory Committee June 2022 Meeting,'' to Mr. Christopher Lawrence at *christopher.lawrence@hq.doe.gov.*

Minutes: The minutes of the EAC meeting will be posted on the EAC web page at *http://energy.gov/oe/services/electricity-advisory-committee-eac.* They can also be obtained by contacting Mr. Christopher Lawrence at the address above.

Signed in Washington, DC, on May 10, 2022.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–10464 Filed 5–13–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, June 16, 2022, 5:30 p.m.–7:00 p.m.

ADDRESSES: The meeting will be held, strictly following COVID–19 precautionary measures, at: West Kentucky Community and Technical College, Emerging Technology Building, Room 109, 5100 Alben Barkley Drive, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Eric Roberts, Board Support Manager, by Phone: (270) 554–3004 or Email: *eric@pgdpcab.org.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Review of Agenda
- Administrative Issues
- Public Comment Period

Public Participation: The meeting is open to the public. The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Eric Roberts as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Comments received by no later than 5:00 p.m. CDT on Monday, June 13, 2022 will be read aloud during the meeting. Comments will also be accepted after the meeting, by no later than 5:00 p.m. CDT on Friday, June 24, 2022. Please submit comments to the Paducah Board Support Manager at the aforementioned email address. Please put ''Public Comment'' in the subject line. Individuals who wish to make oral statements pertaining to agenda items should contact Eric Roberts at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make oral public comments will be provided a maximum of five minutes to present their comments. Individuals wishing to submit written public comments should email them as directed above. The EM SSAB, Paducah, will hear oral public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Eric Roberts, Board Support Manager, Emerging Technology Center, Room 221, 4810 Alben Barkley Drive, Paducah, KY 42001; Phone: (270) 554–3004. Minutes will also be available at the following website: *https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials.*

Signed in Washington, DC, on May 11, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–10485 Filed 5–13–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4784–106]

Topsham Hydro Partners Limited Partnership (L.P.); Notice of Intent To Prepare an Environmental Assessment

On August 31, 2020, Topsham Hydro Partners Limited Partnership (L.P.) (Topsham Hydro) filed an application for a new license for the 12.3-megawatt Pejepscot Hydroelectric Project (Pejepscot Project; FERC No. 4784) on the Androscoggin River in Sagadahoc, Cumberland, and Androscoggin Counties in the village of Pejepscot and the town of Topsham, Maine. The project does not affect federal lands.

In accordance with the Commission's regulations, on April 19, 2021, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Subsequently, Topsham Hydro filed Settlement Agreements for Modified Prescriptions for Fishways executed by and between the licensee and the U.S. Department of Commerce's National Marine Fisheries Service and the U.S. Department of Interior's U.S. Fish and Wildlife Service on February 18, 2022, and February 24, 2022, respectively. Comments on the settlement agreements were due on March 26 and 30, 2022. Comments were filed on the settlement agreements.

Based on the information in the record, including our review of the settlement agreements and comments on the settlement agreements, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare a draft and final Environmental Assessment (EA) on the application to relicense the Pejepscot Project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues draft EA.	June 2022.
Comments on draft EA due.	July 2022.
Commission issues final EA.	November 2022 [1]

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare a draft and final EA for the Pejepscot Hydroelectric Project. Therefore, in accordance with CEQ's regulations, the final EA must be issued within 1 year of the issuance date of this notice.

Any questions regarding this notice may be directed to Ryan Hansen at (202) 502–8074 or at *ryan.hansen@ferc.gov.*

Dated: May 10, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–10470 Filed 5–13–22; 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 electric corporate filings:

Docket Numbers: EC22–64–000.
Applicants: Sentinel Energy Center, LLC, PG Coachella Power Holdings, Inc., Meridian-CAI Aggregator I, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Sentinel Energy Center, LLC.
Filed Date: 5/9/22.
Accession Number: 20220509–5184.
Comment Date: 5 p.m. ET 5/30/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–56–000.
Applicants: Iowa Coalition for Affordable Transmission v. ITC Midwest, LLC.
Description: Complaint of Iowa Coalition for Affordable Transmission.
Filed Date: 5/10/22.
Accession Number: 20220510–5032.
Comment Date: 5 p.m. ET 5/31/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–2004–002.
Applicants: Public Service Electric and Gas Company, PJM Interconnection, L.L.C.
Description: Compliance filing: Public Service Electric and Gas Company submits tariff filing per 35: PSE&G Response to 2nd Deficiency Letter in ER20–2004 to be effective N/A.
Filed Date: 5/10/22.
Accession Number: 20220510–5168.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER21–2164–002.
Applicants: MATL LLP.
Description: Compliance filing: Compliance FIling ER2–2164 (676–H) to be effective 8/21/2021.
Filed Date: 5/10/22.
Accession Number: 20220510–5117.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–914–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: Deficiency Response—Revisions to Attachment AE to Add Uncertainty Reserve to be effective 12/31/9998.
Filed Date: 5/9/22.
Accession Number: 20220509–5127.
Comment Date: 5 p.m. ET 5/30/22.

Docket Numbers: ER22–1370–000.
Applicants: Sunlight Storage, LLC.
Description: Supplement to March 17, 2022 Sunlight Storage, LLC tariff filing.
Filed Date: 5/9/22.
Accession Number: 20220509–5187.
Comment Date: 5 p.m. ET 5/19/22.

Docket Numbers: ER22–1807–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: DEP-Edgecombe Unexecuted ASOA SA No. 388 to be effective 5/1/2022.
Filed Date: 5/6/22.
Accession Number: 20220506–5217.
Comment Date: 5 p.m. ET 5/27/22.

Docket Numbers: ER22–1841–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Compliance filing: 676–J Order First Compliance to be effective 12/31/9998.
Filed Date: 5/10/22.
Accession Number: 20220510–5033.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1842–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 6462; Queue No. AC1–161 to be effective 4/11/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5036.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1843–000.
Applicants: Joliet Battery Storage LLC.
Description: Tariff Amendment: Notice of Cancellation of Market-Based Rate Tariff and Request for Waivers to be effective 5/11/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5050.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1844–000.
Applicants: West Chicago Battery Storage LLC.
Description: Tariff Amendment: Notice of Cancellation of Market-Based Rate Tariff and Request for Waivers to be effective 5/11/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5051.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1845–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 6438; Queue No. AE1–229 to be effective 4/11/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5086.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1846–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Add the Waiver of Base Plan Allocation Methodology to be effective 8/1/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5125.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1847–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: § 205(d) Rate Filing: 2022–05–10 NSPM–SCPU–FSA–708 0.0.0 to be effective 5/11/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5127.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1848–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3703R1 Oxbow Solar GIA to be effective 4/18/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5135.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1849–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3949 Platteview Solar Interim GIA to be effective 4/26/2022.
Filed Date: 5/10/22.
Accession Number: 20220510–5139.
Comment Date: 5 p.m. ET 5/31/22.

Docket Numbers: ER22–1850–000.
Applicants: ISO New England Inc., The United Illuminating Company.
Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: The United Illuminating Company, Revisions to Comply with Order No. 864 to be effective 1/27/2020.
Filed Date: 5/10/22.
Accession Number: 20220510–5157.
Comment Date: 5 p.m. ET 5/31/22.

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: May 10, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–10455 Filed 5–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–227–000]

Columbia Gas Transmission, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on April 26, 2022, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, filed in the above referenced docket, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, for authorization to construct its Coco B Wells Replacement Project that consists of the abandonment of four injection/withdrawal (I/W) wells and associated pipelines and appurtenances and replace with the construction and operation of two new I/W storage wells and related pipeline and appurtenances, located in its Coco B Storage Field in Kanawha County, West Virginia. Columbia estimates the cost of the project to be $17,751,900, all as more fully set forth in the request which is on file with the Commission and open to public inspection with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application should be directed to David A. Alonzo, Manager of Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, by telephone at (832) 320–5477, or by email at *david_alonzo@tcenergy.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Water Quality Certification

Applicant stated that a water quality certificate under section 401 of the Clean Water Act is required for the Coco B Wells Replacement Project from West Virginia Department of Environmental Protection. The request for certification must be submitted to the certifying agency and to the Commission concurrently. Proof of the certifying agency's receipt date must be filed no later than five (5) days after the request is submitted to the certifying agency.

Public Participation

There are two ways to become involved in the Commission's review of this project: You can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on May 31, 2022.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 31, 2022.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP22–227–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You may file a paper copy of your comments by mailing them to the following address below.[2] Your written comments must reference the Project docket number (CP22–227–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[3] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of

[1] 18 CFR 157.9.

[2] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[3] 18 CFR 385.102(d).

Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is May 31, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP22–227–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.[6] Your motion to intervene must reference the Project docket number CP22–227–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email at David A. Alonzo, Manager of Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, or at *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [7] motions to intervene are automatically granted by operation of Rule 214(c)(1).[8] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[9] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the projects will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on May 31, 2022.

Dated: May 10, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–10471 Filed 5–13–22; 8:45 am]

BILLING CODE 6717–01–P

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[7] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[8] 18 CFR 385.214(c)(1).

[9] 18 CFR 385.214(b)(3) and (d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

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:		
None.		
Exempt:		
1. P–14803–001 P–2082–063	4–27–2022	Representative Doug LaMalfa.
2. ER22–983–000	4–28–2022	United States Senate.[1]
3. P–2305–000	5–4–2022	Representative Mike Johnson.

[1] Senators Sheldon Whitehead, Edward J. Markey, Elizabeth Warren and Bernard Sanders.

Dated: May 10, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–10456 Filed 5–13–22; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; System of Records

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Federal Deposit Insurance Corporation (FDIC) is establishing a new system of records titled, FDIC–038, Failed Insured Depository Institution Research. This system of records maintains information collected to conduct research that inform decisions regarding core business objectives of the FDIC, including: Helping the FDIC improve its operations and processes; informing national and international policy discussions and rule-making in areas as varied as resolutions, emerging risks and risk assessments, deposit insurance, and banking policy, among others; and providing important contributions to the broader academic literature on many topics of relevance to the FDIC.

DATES: This action will become effective on May 16, 2022. The routine uses in this action will become effective on June 15, 2022, unless the FDIC makes changes based on comments received. Written comments should be submitted on or before the routine uses effective date of June 15, 2022.

ADDRESSES: Interested parties are invited to submit written comments identified by Privacy Act Systems of Records by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow the instructions for submitting comments on the FDIC website.
- *Email: comments@fdic.gov.* Include ''Comments-SORN'' in the subject line of communication.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments-SORN, Legal Division, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Shannon Dahn, Chief, Privacy Program, 703–516–5500, *privacy@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the provisions of the Privacy Act of 1974, as amended, the FDIC is establishing a new system of records titled, FDIC–038 Failed Insured Depository Institution Research. The SORN is being published to reflect the use of failed insured depository institution data for research purposes. Under the authority of the Federal Deposit Insurance (FDI) Act, the Federal Deposit Insurance Corporation (FDIC) collects data from core systems of failed insured depository institutions. Once the failure of an insured depository institution has been appropriately resolved, the FDIC Division of Insurance and Research (DIR) conducts research using these data that inform decisions regarding core business objectives of the FDIC, including: (a) Helping the FDIC improve its operations and processes; (b) informing national and international policy discussions and rule-making in areas as varied as resolutions, emerging risks and risk assessments, deposit insurance, and banking policy, among others; and (c) providing important contributions to the broader academic literature on many topics of relevance to the FDIC. The data are collected from the failed insured financial institution into electronic and physical storage managed by the FDIC.

This newly established system will be included in FDIC's inventory of record systems.

SYSTEM NAME AND NUMBER:

Failed Insured Depository Institution Research, FDIC–038.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at FDIC facilities in Arlington, VA, and regional offices. Original and duplicate systems may exist, in whole or in part, at secure sites and on secure servers maintained by third-party service providers for the FDIC.

SYSTEM MANAGER(S):

FDIC Business Data Services System Program Manager, Chief Information Officer Organization, FDIC, 550 17th Street NW, Washington, DC 20429.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 10, 11, and 13 of the Federal Deposit Insurance Act (12 U.S.C. 1819, 1820, 1821, and 1822) and 12 CFR part 380.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to conduct research using data from failed insured depository institutions to inform decisions regarding core business objectives of the FDIC, including: (a) Helping the FDIC improve its operations and processes; (b) informing national and international policy discussions and rule-making in areas as varied as resolutions, emerging risks and risk assessments, deposit insurance, and banking policy, among others; and (c) providing important contributions to the broader academic literature on many topics of relevance to

the FDIC. The failed financial institution data are collected from the failed insured depository institution into electronic and physical storage managed by the FDIC.

Data may contain personal identifiers. Those personal identifiers may be useful for research purposes. For example, data with personal identifiers may be used for matching records across different systems of a failed depository institution to conduct aggregate analysis on the failed insured depository institution, such as estimating the dollar amount of insured and uninsured deposits at the depository institution. Disclosure limitation methodologies, including disclosure review of research outputs such as tables, charts, text excerpts, and computer code, are used to reduce the risk of unintentional disclosure of information that impacts privacy. The FDIC does not use any research results to make a determination about a specific individual.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information in the system contains data that have been collected from failed insured depository institutions for which the FDIC was appointed receiver. This includes information about depository institution customers, guarantors, and vendors of the failed insured financial institution, and bank officers, directors, and employees of the failed insured depository institution.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system from the failed insured depository institution fall into the following categories: Loan and collateral files; deposit files; financial institution financials, email, file shares, Suspicious Activity Reports (SAR), Reports of Examinations (ROE), payroll records, human resources records, Board of Directors' minutes, and other related records as necessary to meet the FDIC statutory requirements. The records may include:

- Contact information (*e.g.,* names, phone numbers, email addresses, physical addresses);
- date of birth;
- Social Security number (SSN);
- mother's maiden name;
- certificates (*e.g.,* birth, death, naturalization, marriage, etc.);
- employee identification number (EIN);
- driver's license/state identification number, vehicle identifiers (*e.g.,* license plates);
- legal documents, records, or notes (*e.g.,* divorce decree);
- financial information;
- employment status/history;
- criminal information; and
- military state and/or records.

RECORD SOURCE CATEGORIES:

Information in this system is collected from failed insured depository institutions for which the FDIC was appointed receiver.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(2) To appropriate agencies, entities, and persons when (a) the FDIC suspects or has confirmed that there has been a breach of the system of records; (b) the FDIC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FDIC (including its information systems, programs, and operations), the Federal Government, or national security; the FDIC and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FDIC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

(3) To another Federal agency or Federal entity, when the FDIC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(4) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the OIG, the FDIC or the Federal Government in order to assist those entities or individuals in carrying out their obligation under the related contract, grant, agreement or project; and

(5) To academic researchers and researchers from other agencies that serve as visiting scholars performing or working on contract with the FDIC to help the FDIC improve its operations and processes, and inform national and international policy discussions and rule-making in areas as varied as resolutions, emerging risks and risk assessments, deposit insurance, and banking policy, among others.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in a database and in electronic media hosted in a secure location.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed by failed insured depository institution number and name of insured depository institution. Records may contain personal identifiers for the purpose of matching records. The FDIC retains the personal identifiers after matching, but only for the purpose of performing similar matches for future research and to provide individuals with access to their information pursuant to the record access, contesting records, and notification procedures listed below.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Failed insured depository institution data are maintained for thirty years after appointment of FDIC as receiver in accordance with approved records retention schedules.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Access to electronic records is restricted to authorized personnel. Identifiable data is solely under the control of a limited number of employees or contractors who are required to uphold confidentiality restrictions of the FDIC. In addition, any contract personnel who have access to the records are required to sign nondisclosure agreements prior to working with the data. Role-based training on research procedures and the process for disclosure review must be completed prior to obtaining access to the records.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest or request an amendment to their records in this system of records must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must specify the information being contested, the reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals wishing to know whether this system contains information about them must submit their request in writing to the FDIC FOIA & Privacy Act Group, 550 17th Street NW, Washington, DC 20429, or email *efoia@fdic.gov.* Requests must include full name, address, and verification of identity in accordance with FDIC regulations at 12 CFR part 310.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on May 6, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–10427 Filed 5–13–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than May 31, 2022.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The H.J. and Janet Podoll Living Trust dated June 24, 2002, and H.J. Podoll and Janet Podoll, as co-trustees, all of Lenexa, Kansas;* to join the Clabaugh Family Group, a group acting in concert, to retain voting shares of CLC Enterprises, Inc., and thereby indirectly retain voting shares of Commercial Bank, both of Nelson, Nebraska.

In addition, Todd A. Clabaugh, Elm Creek, Nebraska, and Travis Clabaugh, Sioux Center, Iowa; to join the Clabaugh Family Group to acquire additional voting shares CLC Enterprises, Inc., and thereby indirectly acquire additional voting shares of Commercial Bank.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–10494 Filed 5–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2022–0066, NIOSH–346]

Draft National Institute for Occupational Safety and Health (NIOSH) Healthcare Personal Protective Technology (PPT) Targets for 2020 to 2030; Request for Comment

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information and comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) in the Centers for Disease Control and Prevention (CDC), an Operating Division of the Department of Health and Human Services (HHS), announces the availability of a draft document entitled DRAFT NIOSH Healthcare Personal Protective Technology (PPT) Targets for 2020 to 2030 (Draft PPT Targets) now available for public comment.

DATES: Electronic or written comments must be received by July 15, 2022.

ADDRESSES: You may submit comments, identified by CDC–2022–0066 and docket number NIOSH–346, by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All information received in response to this notice must include the agency name and docket number (CDC–2022–0066; NIOSH–346). All relevant comments, including any personal information provided, will be posted without change to *https://www.regulations.gov.* Do not submit comments by email. CDC does not accept comments by email. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Susan M. Moore, NIOSH NPPTL, Building 141, 626 Cochrans Mill Road, Pittsburgh, PA 15236; Telephone: 412–386–6111.

SUPPLEMENTARY INFORMATION: Reflecting on the nation's past decade of experiences with infectious diseases (*e.g.,* influenza, Ebola virus disease, and coronavirus disease) and non-infectious hazards (*e.g.,* antineoplastic and other hazardous drugs), the National Institute for Occupational Safety and Health (NIOSH) recognizes a growing need for its unique capabilities related to PPT research, development, performance standards and test methods, and conformity assessment. In response to this growing need, NIOSH established DRAFT Healthcare PPT Targets for 2020 to 2030.

Background: The health and welfare of 18 million U.S. healthcare personnel (HCP) is an important priority for NIOSH and CDC. NIOSH's mission is to protect the U.S. workforce from injury and illness via scientific research, practice interventions, and collaborative partnerships. While infection prevention and control efforts favor the role of engineering and administrative measures over PPT, PPT plays an important role in preventing transmission of infectious diseases. PPT includes personal protective equipment (PPE) worn by individuals (*e.g.,* respirators; protective clothing; gloves, eye, fall and hearing protection; and hard hats) and technical methods (*e.g.,*

fit testing methods), processes, techniques, tools, and materials that support the development and use of PPE worn by individuals.

In 2006, the NIOSH Personal Protective Technology Laboratory (NPPTL) began an initiative to develop and execute a comprehensive strategic approach to HCP protection. The resulting NIOSH Healthcare PPT Action Plan focused resources on and raised awareness about the PPT needs of HCP during a potential influenza pandemic. NIOSH undertook a research agenda to advance clinical practices, drive performance standards development, and inform regulation. In addition, NIOSH carried out an information dissemination program to apprise healthcare organizations and HCP about the roles and importance of PPE in protecting themselves. The Action Plan has been updated several times since its inception. The most recent plan (2013–18) focused on PPE used to reduce exposures to viral respiratory pathogens, including the influenza virus.

Reflecting on the nation's past decade of experiences with infectious diseases (*e.g.,* influenza, Ebola, and coronavirus) and non-infectious hazards (*e.g.,* antineoplastic and other hazardous drugs), NIOSH recognizes a growing need for its unique capabilities related to PPT research, development, performance standards and test methods, and conformity assessment. To respond to this growing need, NIOSH developed DRAFT NIOSH Healthcare PPT Targets for 2020 to 2030 (Draft PPT Targets), which have informed NIOSH's PPT efforts since 2020. The public health response to the COVID–19 pandemic has delayed NIOSH's efforts to obtain public input on the PPT Targets; NIOSH will finalize the PPT Targets after receipt of the requested public input. To view the Draft PPT Targets, please visit *https://www.cdc.gov/niosh/npptl/hospresptoolkit/DraftHealthcarePPT.html.*

Information Needs: Additional data and information are needed to assist with finalizing the Draft PPT Targets. Interested persons or organizations are invited to submit applicable materials, including published and unpublished reports and research findings, that NIOSH may consider to:

- Align its activities with other national efforts related to PPT;
- Coordinate and prioritize NIOSH targets with complementary efforts by other entities;
- Explore opportunities to collaborate with other entities;
- Determine the level of effort needed to address specific targets;
- Explore additional or alternative technical approaches; and
- Explore additional knowledge gaps requiring support until 2030.

Disclaimer: This notice is intended for planning purposes; it does not constitute a formal announcement for comprehensive applications. In accordance with Federal Acquisition Regulation 48 CFR 15.201(e), responses to this notice are not offers and cannot be accepted by the Government to form a binding award. NIOSH will not provide reimbursement for costs incurred in commenting on this notice. NIOSH will not respond to individual public comments or publish publicly a compendium of responses. An informational submission in response to this notice does not create any commitment by or on behalf of CDC or HHS to develop or pursue any program or ideas discussed.

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2022–10413 Filed 5–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–2854]

Agency Information Collection Activities; Proposed Collection; Comment Request; Premarket Tobacco Product Applications and Recordkeeping Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on ''Premarket Tobacco Product Applications and Recordkeeping Requirements.''

DATES: Submit either electronic or written comments on the collection of information by July 15, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 15, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 15, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions)*: Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–2854 for ''Premarket Tobacco Product Applications and Recordkeeping Requirements.'' Received comments, those filed in a

timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Premarket Tobacco Product Applications and Recordkeeping Requirements—21 CFR 1114

OMB Control Number 0910–0879—Extension

This information collection supports the requirements for the content, format, submission recordkeeping, and postmarket reporting requirements of a premarket tobacco product application (PMTA). Section 910(a) (21 U.S.C. 387j(a)) of the Federal Food, Drug, and Cosmetic Act (FD&C) established requirements for premarket review of new tobacco products and the implementing regulations are found in 21 CFR subchapter K, part 1114 (part 1114).

An applicant may submit a PMTA to demonstrate that a new tobacco product meets the requirements to receive a marketing granted order. A new tobacco product may not be introduced or delivered for introduction into interstate commerce under this part until FDA has issued a marketing granted order for the product (§ 1114.5). Further, § 1114.7 describes the required content and format of the PMTA. The PMTA must contain sufficient information for FDA to determine whether any of the grounds for denial specified in section 910(c)(2) of the FD&C Act apply. The application must contain the following sections: General information, descriptive information, product samples, labeling, a statement of compliance with 21 CFR part 25, a summary, product formulation, manufacturing, health risk investigations, effect on the population as a whole, and a certification statement.

Submitters can visit the following web page which describes the process for submitting a PMTA (*https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/premarket-tobacco-product-applications*).

After submission of a PMTA FDA may request, and an applicant may submit, an amendment to a pending PMTA. FDA generally expects that when an applicant submits a PMTA, the submission will include all information required by section 910(b)(1) of the FD&C Act and part 1114 to enable FDA to determine whether it should authorize the marketing of a new tobacco product. However, FDA recognizes that additional information may be needed to complete the review of a PMTA and, therefore FDA allows the submission of amendments to a pending application.

An applicant may transfer ownership of its PMTA at any time, including when FDA has yet to act on it. Section 1114.13 describes the steps that an applicant would be required to take when it changes ownership of a PMTA. This section is intended to facilitate transfers of ownership and help ensure that FDA has current information regarding the ownership of a PMTA.

A supplemental PMTA are an alternative format of submitting a PMTA (§ 1114.15). Applicants that have received a marketing granted order would be able to submit a supplemental PMTA to seek marketing authorization for a new tobacco product that results from a modification or modifications to the original tobacco product that received the marketing granted order. FDA restricts the use of supplemental PMTAs to only changes that require the submission of limited information or revisions to ensure that FDA can efficiently review the application.

If an applicant receives a no marketing granted order, they may submit a resubmission to respond to the deficiencies outlined (§ 1114.17). A resubmission may be submitted for the same tobacco product that received a marketing denial order or for a different

new tobacco product that results from changes necessary to address the deficiencies outlined in a marketing denial order. This application format allows an applicant to address the deficiencies described in a marketing denial order without having to undertake the effort of submitting a standard PMTA. The resubmission format is not available for PMTAs that FDA refused to accept, refused to file, cancelled, or administratively closed, or that the applicant withdrew because FDA has not previously completed reviews of such applications upon which it can rely, and such applications may need significant changes to be successfully resubmitted.

FDA requires applicants that receive a marketing granted order to submit postmarket reports. Postmarket reports determine or facilitate a determination of whether there may be grounds to withdraw or temporarily suspend a marketing granted order. Applicants are required to submit two types of postmarket reports after receiving a marketing granted order: Periodic reports and adverse experience reports. Periodic reports are required to be submitted within 60 calendar days of the reporting date specified in the marketing granted order. Applicants would also be required to report all serious and unexpected adverse experiences associated with the tobacco product that have been reported to the applicant or of which the applicant is aware. The serious and unexpected adverse experience reports must be submitted to the Center for Tobacco Products' Office of Science through the HHS Safety Reporting Portal (*https://www.safetyreporting.hhs.gov/*) within 15 calendar days after receiving or becoming aware of a serious or unexpected adverse experience. FDA's Safety Reporting Portal is approved under OMB control number 0910–0645.

Applicants receiving a marketing granted order are required to maintain all records necessary to facilitate a determination of whether there are or may be grounds to withdraw or temporarily suspend the marketing granted order, including records related to both the application and postmarket reports, and ensure that such records remain readily available to the Agency upon request (§ 1114.45).

The Consolidated Appropriations Act of 2022 (the Appropriations Act), enacted on March 15, 2022, amended the definition of the term ''tobacco product'' in section 201(rr) (U.S.C. 321(rr)) of the FD&C Act to include products that contain nicotine from any source. As a result, non-tobacco nicotine (NTN) products that were not previously subject to the FD&C Act (*e.g.,* products containing synthetic nicotine) are now subject to all of the tobacco product provisions in the FD&C Act beginning on April 14, 2022, including the requirement of premarket review for new tobacco products. The Appropriations Act also makes all rules and guidances applicable to tobacco products apply to NTN products on that same effective date, which includes the Premarket Tobacco Product Application and Recordkeeping Requirements final rule. Additionally, the Appropriations Act includes a transition period for premarket review requirements, directing companies to submit PMTAs for NTN products by May 14, 2022, to receive an additional 60-day period of marketing without being considered in violation of premarket review requirements. On April 14, 2022, OMB granted an emergency clearance under this collection to include NTN products and its associated burden. OMB granted a 6-month approval, and as such per the requirements of the PRA, the Agency is seeking comment on these new estimates.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part; activity; form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
1114.5; Submission of Standard Bundled PMTAs [2].	1	1	1	1,713	1,713
PMTA Submission; Form FDA 4057	39	1	39	.75 (45 minutes)	29
PMTA Amendment and General Correspondence Submission; Form FDA 4057a.	39	14	546	.16 (10 minutes)	87
PMTA Grouping Submission; Form FDA 4057b	39	1	39	.75 (45 minutes)	29
1114.41; Reporting Requirements (periodic reports).	4	1	4	50	200
1114.9; Amendments	24	2	48	188	9,024
1114.13; Change in Ownership	1	1	1	1	1
1114.15; Supplemental applications	2	1	2	428	856
1114.17; Resubmissions	3	1	3	565	1,695
1114.41(a)(2); Adverse Experience Reports	4	6	24	1	24
1114.49(b) and (c); Waiver from Electronic Submission.	1	1	1	.25 (15 minutes)	.25
Total					13,658

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] FDA anticipates that applicants will submit bundled PMTAs, which are single submissions containing PMTAs for a number of similar or related products. We estimate that a bundle will contain on average between 6 and 11 distinct products.

Table 1 describes the estimated annual reporting burden. FDA has based these estimates on the full analysis of economic impacts and experience with current PMTA submissions received under OMB control number 0910–0768 (which covers the burden for electronic nicotine delivery system (ENDS) products PMTA submissions). This average represents a wide range of hours that will be required for these applications under different circumstances, with some requiring more hours (*e.g.,* as many as 5,000 hours for early applications that involve complex products and for which the company has no experience conducting studies or preparing analysis of public health impacts, or for which reliance on master files is not possible) as well as many requiring fewer hours (*e.g.,* as few as 50 hours for applications for products that are very similar to other new products). FDA estimates that it will

take each respondent approximately 1,500 hours to prepare a PMTA seeking an order from FDA allowing the marketing of a new tobacco product. FDA also estimates that it would on average take an additional 213 hours to prepare an environmental assessment (EA) in accordance with the requirements of 21 CFR 25.40, for a total of 1,713 hours per PMTA application.

FDA assumes that firms will submit all applications as PMTA bundles. We also considered updated data on market consolidation that has occurred since the Deeming Rule published for originally regulated products that would receive marketing granted orders through the PMTA pathway. For originally regulated products we expect to receive one full PMTA submission for a total of 1,713 hours. We believe that bundling PMTAs results in efficiencies for applicants when compared to submitting standalone, full-text submissions for each product. We expect to receive bundled PMTAs where applicants can use the same evidence to support PMTAs for similar or related products. Bundling PMTAs into a single submission would eliminate the administrative burden of having to reproduce the same evidence in a standalone PMTA for each product.

FDA has three forms for use when submitting PMTA information to the Agency. Form FDA 4057 for use when submitting PMTA single and bundled submissions. FDA estimates that 39 respondents will submit PMTA bundles using this form at 0.75 (45 minutes) per response. Included in this estimate are the 15 new expected bundles submitted for NTN products. The number 39 is accounting for the bundles of ENDS products and the 1 bundle we expect to receive yearly for originally regulated products for a total of 29 hours.

Form FDA 4057a for use when firms are submitting amendments and other general correspondence. Our estimate is 0.16 (10 minutes) per response to fill out this form. Included in this estimate are the 15 new expected submissions submitted from NTN products. We estimate there will be at least 14 amendments per application for a total of 87 hours. With most applications being submitted toward the end of our 3-year range, we expect fewer amendments during this period. However, FDA expects correspondence from earlier applications to be submitted during this period.

Form FDA 4057b assists industry and FDA in identifying the products that are the subject of a submission where an applicant groups multiple PMTAs into a single submission (referred to as a bundled submission or a grouped submission). FDA has previously stated that one approach to submitting PMTAs could be to group applications for products that are both from the same manufacturer or domestic importer and in the same product category and subcategory into a single submission. The form assists applicants in providing the unique identifying information for each product in a grouped submission of PMTAs. A respondent would utilize Form FDA 4057b once for each submission containing more than one PMTA. We assume the submitter could include from 2 to 2,000 products in each Form FDA 4057b. Entering data for up to 2,000 rows can take approximately 4 hours on average per Form FDA 4057b for manual data entry. We reflect the average time of 45 minutes per response based on the assumption that we expect to receive an average of nine bundled products per submission. Included in this estimate are the 15 new expected submissions submitted from NTN products. Assuming 45 minutes per Form FDA 4057b for 39 applications, we estimate a total burden of 29 hours for this activity.

FDA estimates under § 1114.41 that four respondents will submit a periodic report. This number is based on the average number of periodic report submissions expected between 2020–2022 and the addition of NTN products. The Agency estimates that periodic reports will take on average of 50 hours per response for a total of 200 hours. Firms must also submit adverse experience reports for tobacco products with marketing orders. We assume the same number of firms submitting periodic reports will submit adverse experience reports. Currently, firms may voluntarily submit adverse experience reports using Form FDA 3800 under OMB control number 0910–0645. We have based our estimates on this information collection which estimates that it takes 1 hour (for mandatory reporting) to complete this form for tobacco products for a total of 24 hours.

Under § 1114.9 firms will prepare amendments to PMTA bundles in response to deficiency letters. These amendments contain additional information that we need to complete substantive review. We anticipate 2 responses back per bundle and therefore, we estimate that 24 respondents will submit 48 amendments (24×2). Assuming 1,500 hours as the time to prepare and submit a full PMTA and amendments may on average take 10 percent to 15 percent of that time (150–225). We averaged this time out (12.5 percent of a full submission preparation time) and arrived at 188 hours per response. FDA estimates the total burden hours for preparing amendments is 9,024 hours.

Section § 1114.13 would allow an applicant to transfer ownership of a PMTA to a new owner. FDA believes this will be infrequent, so we have assigned 1 hour acknowledging the requirement.

Section § 1114.15 is an alternative format of submitting a PMTA that meets the requirements of § 1114.7 that would reduce the burden associated with the submission and review of an application. Our estimated number of 2 respondents is based on the number estimated for postmarket reports, which is 4 bundles (which is approximately 34 products). Not all applicants will resubmit modifications to previously authorized products, so we estimate 2 bundles (which is approximately 17 products). FDA estimates further that a supplemental PMTA will take 25 percent of the time it takes to do an original submission (including EA hours) for 428 hours per response. We estimate a total of 856 burden hours for this activity.

Under § 1114.17 an applicant may submit a resubmission for the same tobacco product that received a marketing denial order or for a different new tobacco product that results from changes necessary to address the deficiencies outlined in a marketing denial order. We are estimating that out of all bundles received in 2020, 2021, and 2022, that an average of three bundles are authorized. If we receive 24 bundles yearly, and based on historical data, 58 percent fail at acceptance (down to 8 bundles remaining), 17 percent fail at filing (down to 7 bundles remaining), and 25 percent receive marketing orders (5 left). We estimate that 50 percent will try to resubmit in a year. Thus, this number of respondents is three (rounded up). FDA estimates that a resubmission will take 33 percent of the time it takes to complete an original submission (including EA hours) at 565 hours per response for a total of 1,695 hours.

An applicant is required to submit a PMTA and all supporting and related documents to FDA in electronic format that FDA can process, review, and archive unless an applicant requests, and FDA grants, a waiver from this requirement. FDA does not believe we will receive many waivers, so we have assigned one respondent to acknowledge the option to submit a waiver. Consistent with our other application estimates for waivers, we believe it would take .25 hours (15 minutes) per waiver for a total of .25 hours.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR part; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
1114.45; PMTA records	39	1	39	2	78
1100.204; Pre-existing products records	1	1	1	2	2
1107.3; Exemptions from Substantial Equivalence (SE) records	1	1	1	2	2
Total					82

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 2 describes the annual recordkeeping burden. FDA estimates that 39 recordkeepers will maintain records at 2 hours per record. Included in this estimate are the 15 expected new recordkeepers of NTN products. Firms are also required to establish and maintain records related to SE exemption requests and pre-existing products (§ 1100.200 states that subpart C of part 1100). We expect the burden hours to be negligible for SE exemption requests. Firms would have already established the required records when submitting the SE exemption request. Similarly, we expect the hours of to be negligible for any pre-existing tobacco products that have already submitted standalone pre-existing tobacco product submissions, because firms would have established the required records when submitting the standalone pre-existing tobacco product submissions. We believe this time is usual and customary for these firms. We estimate that it would take 2 hours per record to establish the required records for a total of 4 hours.

Based on the emergency approval by OMB our estimated burden for the information collection reflects an overall increase of 72 hours and a corresponding increase of 117 responses/records. We attribute this adjustment to the addition of NTN product submissions.

Dated: May 10, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–10462 Filed 5–13–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4534]

Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a final guidance for industry entitled ''Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting.'' This final guidance is intended to inform the sprout seed industry (seed growers, conditioners, packers, holders, suppliers, and distributors) of FDA's serious concern with the continuing outbreaks of foodborne illness associated with the consumption of raw and lightly cooked sprouts and provide FDA's recommendations to firms throughout the production chain of seed for sprouting.

DATES: The announcement of the guidance is published in the **Federal Register** on May 16, 2022.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–4534 for ''Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting: Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential

with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Food Safety, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Patricia Homola, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1700; or Lauren Kleinman, Center for Food Safety and Applied Nutrition, Office of Regulations and Policy (HFS–024), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Reducing Microbial Food Safety Hazards in the Production of Seed for Sprouting.'' This guidance is intended to inform the sprout seed industry (seed growers, conditioners, packers, holders, suppliers, and distributors) of our serious concern with the continuing outbreaks of foodborne illness associated with the consumption of raw and lightly cooked sprouts and provide our recommendations to firms throughout the production chain of seed for sprouting. We are issuing the guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

In the **Federal Register** of June 25, 2019 (84 FR 29867), we announced a draft guidance for industry and gave interested parties an opportunity to submit comments by August 26, 2019, for us to consider before beginning work on the final version of the guidance. We received 10 comments on the draft guidance and have modified the final guidance where appropriate. Changes to the guidance include the addition of examples, information about the scope of recommendations pertaining to cleaning and sanitizing of wet and dry food contact surfaces, information about testing seed for sprouting, research related to the source of contamination in sprout-related outbreaks, and updated recommendations related to proximity of seed growing operations to a domestic animal raising farm. The guidance announced in this notice finalizes the draft guidance dated June 2019.

II. Paperwork Reduction Act of 1995

This guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) is not required.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/regulatory-information/search-fda-guidance-documents* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: May 6, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–10189 Filed 5–13–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS AMSC Member Conflict Review Meeting.

Date: June 13, 2022.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marisol Espinoza-Pintucci, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Plaza One, Bethesda, MD 20817, 301–827–6959, *marisol.espinoza-pintucci@nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; NIAMS AMS Member Conflict Review.

Date: June 14, 2022.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marisol Espinoza-Pintucci, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Plaza One, Bethesda, MD 20817, 301–827–6959, *marisol.espinoza-pintucci@nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin

Diseases Special Emphasis Panel; NIAMS Mechanistic Ancillary Studies Review Meeting.

Date: June 21, 2022.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yasuko Furumoto, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, 301–827–7835, *yasuko.furumoto@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–10423 Filed 5–13–22; 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; Multi-site Clinical Trial Implementation.

Date: June 16, 2022.

Time: 3:00 p.m. to 4:30 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: Isis S. Mikhail, MD, MPH, DRPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7704, *MIKHAILI@MAIL.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–10420 Filed 5–13–22; 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; Precursors of AD/ADHD.

Date: June 6, 2022.

Time: 4:00 p.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: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–10422 Filed 5–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Correction

Notice document 2022–10055, appearing on page 28840, in the issue of Wednesday, May 11, 2022, inadvertently published in error and is hereby withdrawn.

[FR Doc. C1–2022–10055 Filed 5–13–22; 8:45 am]

BILLING CODE 0099–10–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; the Midlife Study.

Date: June 6, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–10421 Filed 5–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group: Arthritis and Musculoskeletal and Skin Diseases Clinical Trials Study Section.

Date: June 9–10, 2022.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bernard Joseph Dardzinski, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Room 824, Plaza One, Bethesda, MD 20817, 301–435–1146, *bernard.dardzinski@nih.gov.*

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Special Grants Study Section.

Date: June 16–17, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Plaza One, Bethesda, MD 20817, 301–594–4952, *linh1@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–10425 Filed 5–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0251]

Pacific Coast Port Access Route Study; Notice of Availability and Request for Comments

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability, online, of an information center for the public to review information, materials, and the announcement of upcoming public engagements related to the ongoing Pacific Coast Port Access Route Study (PAC–PARS), which is examining existing shipping routes and waterway uses, and, to the extent practicable, reconciling the paramount right of navigation within designated port access routes with other waterway uses.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email LCDR Sara Conrad, Coast Guard Pacific Area (PAC–544); telephone (510) 437–3813, email *Sara.E.Conrad@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

On July 29, 2021, the Coast Guard announced a Port Access Route Study (PARS) that will cover the Pacific Coast from the Washington/Canada border to the California/Mexico border. The Coast Guard is conducting this PARS to evaluate safe access routes for the movement of vessel traffic proceeding to or from ports or places along the western seaboard of the United States and to determine whether a Shipping Safety Fairway (''Fairway'') and/or routing measures should be established, adjusted or modified. The PARS will evaluate the continued applicability of, and the need for modifications to, current vessel routing measures. The data gathered during this Pacific Coast PARS (PAC–PARS) may result in the recommendation for the establishment of one or more new vessel routing measures, modification of existing routing measures, or disestablishment of existing routing measures off the Pacific Coast along Washington, Oregon, and California.

In order to keep the public informed on the PARS as the study proceeds, the Coast Guard Pacific Area has set up an online information center that can be found here: *https://homeport.uscg.mil/Lists/Content/DispForm.aspx?ID=77149&Source=/Lists/Content/DispForm.aspx?ID=77149.*

This notice is issued under authority of 5 U.S.C. 552(a).

Dated: April 28, 2022.

K.B. Reed,

Captain, U.S. Coast Guard, Chief, PACAREA Preparedness Division (PAC–5).

[FR Doc. 2022–10006 Filed 5–13–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG–2020–0093]

Port Access Route Study: Seacoast of North Carolina Including Approaches to the Cape Fear River and Beaufort Inlet, North Carolina

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability, final report.

SUMMARY: The Coast Guard announces the completion of the Port Access Route Study for the Seacoast of North Carolina including approaches to the Cape Fear River and Beaufort Inlet, North Carolina. The study examined existing shipping routes and waterway uses, to include the potential for offshore energy development, in the study area to evaluate the need for establishing or changing existing vessel routing measures. This notice summarizes the study's recommendations.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice or study, call or email Mr. Matthew Creelman, Waterways Section Chief at Fifth Coast Guard District, telephone (757) 398–6230, email *Matthew.K.Creelman2@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

ACPARS Atlantic Coast Ports Access Route Study
BOEM Bureau of Ocean Energy Management
DHS Department of Homeland Security
FR Federal Register
IMO International Maritime Organization
NEPA National Environmental Policy Act
OREI Offshore Renewable Energy Installation
PARS Port Access Route Study
SAR Search and Rescue
USCG United States Coast Guard

II. Background and Purpose

We conducted this Port Access Route Study (PARS) following a Notice of Study, published in the **Federal Register** on March 18, 2020. There was a 60-day public comment period, as

well as other outreach efforts identified in Section C of the study. During the comment period the USCG received 2 discrete comments in response to the notice.

On March 24, 2022, the Notice of Availability of the draft study was published in the **Federal Register** (87 FR 16758) with a 30-day public comment period and a request for public comment.

During the 30-day public comment period, the USCG received 2 comments in response to the draft study.

All comments and supporting documents are available in the public docket and can be viewed at *https://www.regulations.gov.* To view documents, in the ''Search'' box insert ''USCG–2020–0093'' and click ''Search''.

III. Study Recommendations

The recommendations of this PARS are based on the data analysis for historical vessel traffic patterns, comments received to the docket, public outreach, and consultation with other government agencies and stakeholders. Recommendations in the study include:

1. Submit a proposal to the IMO to create a precautionary area offshore from the entrance to the Cape Fear River at the terminus of the Traffic Separation Scheme.

2. Establish two Cape Fear Approach Connector Fairways aligned to the Southeast and the Southwest of the proposed precautionary area.

3. Establish the Beaufort Inlet Connector Fairway

IV. Summary of Changes

No changes were recommended.

V. Future Actions

The USCG will continue to serve as a NEPA cooperating agency to the Bureau of Ocean Energy Management's (BOEM) environmental review of each proposed OREI project. In that role, the USCG will evaluate the navigational safety risks of each proposal on a case-by-case basis.

The final study will be submitted to the Coast Guard's Office of Navigation Systems (CG–NAV–2) for consideration and to inform the Coast Guard's ongoing efforts to establish shipping safety fairways along the Atlantic Coast, which can be found at 85 FR 37034.

The final study is available for viewing and download from the **Federal Register** docket at *http://www.regulations.gov* or the USCG Navigation Center website at *https://www.navcen.uscg.gov/?pageName=PARSReports.*

Dated: May 3, 2022.

Laura M. Dickey,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2022–10457 Filed 5–13–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0032]

Importers of Merchandise Subject to Actual Use Provisions

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

ACTION: 60-Day notice and request for comments; extension without 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 July 15, 2022) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0032 in the subject line and the agency name. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov.*

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

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 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: Importers of Merchandise Subject to Actual Use Provisions.

OMB Number: 1651–0032.

Form Number: N/A.

Current Actions: Extension without change.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: In accordance with 19 CFR 10.137, importers of goods subject to the actual use provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are required to maintain detailed records to establish that these goods were actually used as contemplated by the law, and to support the importer's claim for a free or reduced rate of duty. The importer shall maintain records of use or disposition for a period of three years from the date of liquidation of the entry, and the records shall be available at all times for examination and inspection by CBP.

The collection of information is supplemental to importer information about goods subject to the actual use provisions of the Harmonized Tariff

Schedule of the United States (HTSUS) and pursuant to section 10.137 of title 19 of the Code of Federal Regulations (CFR) (19 CFR 10.137).

Importers of goods subject to 19 CFR 10.137 Actual Use Provisions are required to show the imported item/merchandise:

1. Is not on an exclusion list;
2. Complies with provisions of the law; and
3. Meets the required actual use provisions laid out in law.

This information is collected from members of the trade community who are familiar with CBP regulations.

Type of Information Collection: Importers Subject to Actual Use Provision Recordkeeping.

Estimated Number of Respondents: 12,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 12,000.

Estimated Time per Response: 65 minutes.

Estimated Total Annual Burden Hours: 13,000 hours.

Dated: May 11, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–10463 Filed 5–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0052]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Naturalization

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 July 15, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0052 in the body of the letter, the agency name and Docket ID USCIS–2008–0025. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2008–0025.

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–2008–0025 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 Naturalization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–400; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–400, Application for Naturalization, allows USCIS to fulfill its mission of fairly adjudicating naturalization applications and only naturalizing statutorily eligible individuals. Naturalization is the process by which U.S. citizenship is granted to a foreign citizen or national after he or she fulfills the requirements established by Congress in the INA.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–400 (paper) is 567,314 and the estimated hour burden per response is 9.17 hours; the estimated total number of respondents for the information collection N–400 (electronic) is 214,186 and the estimated hour burden per response is 3.5 hours; and the estimated total number of respondents for the information collection biometrics is 778,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 6,862,180 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 $346,768,928.

Dated: May 10, 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. 2022–10434 Filed 5–13–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0113]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: MyAppointment

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 July 15, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0113 in the body of the letter, the agency name and Docket ID USCIS–2009–0024. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2009–0024.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2009–0024 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* MyAppointment.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The MyAppointment system allows an applicant or petitioner to schedule an interview appointment with USCIS through USCIS' internet website.

(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 MyAppointment is 1,043,319 and the estimated hour burden per response is .1 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 104,332 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* There is no estimated total annual cost burden associated with this collection of information, all costs are captured in the information collections that require an appointment.

Dated: May 10, 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. 2022–10435 Filed 5–13–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0087]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Citizenship and Issuance of Certificate Under Section 322)

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 July 15, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0087 in the body of the letter, the agency name and Docket ID USCIS–2007–0019. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0019.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0019 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 Citizenship and Issuance of Certificate Under Section 322.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600K; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–600K is used by children who regularly reside in a foreign country to claim U.S. citizenship based on eligibility criteria met by their U.S. citizen parent(s) or grandparent(s). The form may be used by both biological and adopted children under age 18. USCIS uses information collected on this form to determine that the child has met all of the eligibility requirements for naturalization under section 322 of the Immigration and Nationality Act (INA). If determined eligible, USCIS will naturalize and issue the child a Certificate of Citizenship before the child reaches age 18.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–600K (Paper filed) is 1,300 and the estimated hour burden per response is 2.08 hours; the estimated total number of respondents for the information collection N–600K (online filing) is 1,700 and the estimated hour burden per response is 1.50 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 5,254 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 $386,250.00.

Dated: May 10, 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. 2022–10433 Filed 5–13–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 LL07772200.XZ0000 (MO#4500161820; 4500161911; 4500161740)]

Call for Nominations for the California Desert District Advisory Council and the Northern California District and Central California Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of call for nominations.

SUMMARY: The purpose of this notice is to request public nominations for positions that are or will soon become vacant on the Bureau of Land Management's (BLM) California Desert District Advisory Council, Central California Resource Advisory Council (RAC), and the Northern California District RAC. The councils provide advice and recommendations to the BLM on public land use planning and management within their geographic areas.

DATES: All nominations must be received no later than June 15, 2022.

ADDRESSES: Nominations and completed applications should be sent to the BLM California District Offices listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Sarah K. Webster, Lead Public Affairs Specialist, BLM California State Office, 2800 Cottage Way, Suite W1623, Sacramento, CA 95825; telephone: (916) 978–4622; email: *swebster@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: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784 and include the following three membership categories:

Category One—Holders of Federal grazing permits or leases within the area for which the RAC is organized; represent interests associated with transportation or rights-of-way; represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities; represent the commercial timber industry; or represent energy and mineral development.

Category Two—Represent nationally or regionally recognized environmental organizations, dispersed recreational activities, archaeological and historical interests, or nationally or regionally recognized wild horse and burro interest groups.

Category Three—Hold State, county, or local elected office; are employed by a State agency responsible for the management of natural resources, land, or water; represent Indian tribes within or adjacent to the area for which the RAC is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of the State of California. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making.

The following must accompany all nominations:

—A completed RAC application, which can be obtained either through your local BLM office or online at: *https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf.*
—Letters of reference from represented interests or organizations; and
—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, BLM California will issue a press release providing additional information for submitting nominations.

Nominations and completed applications should be sent to the office listed below:

California Desert District Advisory Council

Michelle Van Der Linden, Public Affairs Officer, BLM California Desert District Office, 1201 Bird Center Drive, Palm Springs, CA 92262; phone: (760) 833–7172; email: *mvanderlinden@blm.gov.*

Central California District RAC

Philip Oviatt, Acting Public Affairs Officer, BLM Bakersfield Field Office, 35126 McMurtrey Avenue, Bakersfield, CA 93308; phone: (661) 391–6117; email: *poviatt@blm.gov.*

Northern California District RAC

Jeff Fontana, Public Affairs Officer, BLM Northern California District Office, 6640 Lockheed Drive, Redding, CA 96002; phone: (530) 252–5332; email: *jfontana@blm.gov.*

(Authority: 43 CFR 1784.4–1)

Erica St. Michel,

BLM California Deputy State Director, Communications.

[FR Doc. 2022–10445 Filed 5–13–22; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–926000–XXX–L19100000–BJ0000–LRCSKX10350A; LLWY–926000–223–L14400000–BJ0000–LXSSK1810000; LLWY–926000–XXX–L19100000–BJ0000–LRCSKX103300; LLWY–921000–16X–L31300000–HN0000–LXSSK1810000; LLCO–956000–XXX–L19100000–BJ0000–LRCSCX914400]

Filing of Plats of Survey, Wyoming and Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. These surveys, which were executed at the request of the Bureau of Indian Affairs, U.S. Forest Service and Bureau of Land Management are necessary for the management of these lands.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing by June 15, 2022.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY926, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Sonja Sparks, BLM Wyoming Chief Cadastral Surveyor, by telephone at (307) 775–6225 or by email at *s75spark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM Wyoming State Office, Cheyenne, Wyoming.

Sixth Principal Meridian, Nebraska

T. 25 N., R. 7 E., Group No. NE0190, dependent resurvey and survey, accepted March 22, 2022

Sixth Principal Meridian, Wyoming

T. 53 N., R. 92 W., Group No. WY0997, dependent resurvey and survey, accepted March 22, 2022
T. 53 N., R. 92 W., Group No. WY0997, supplemental plat, accepted March 22, 2022
T. 12 N., R. 85 W., Group No. WY1024, dependent resurvey, accepted March 22, 2022
T. 26 N., R. 115 W., Group No. WY1035, dependent resurvey, accepted April 25, 2022
T. 29 N., R. 101 W., Group No. WY1046, dependent resurvey, accepted March 22, 2022
T. 29 N., R. 102 W., Group No. WY1046, dependent resurvey, accepted March 22, 2022

A person or party who wishes to protest one or more plats of survey identified in this notice must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice

of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plat and field notes are available to the public at a cost of $4.20 per plat and $0.15 per page of field notes. Requests can be made to *blm_wy_survey_records@blm.gov* or by telephone at 307–775–6222.

(Authority: 43 U.S.C., chapter 3)

Dated: May 5, 2022.

Sonja S. Sparks,

Chief Cadastral Surveyor of Wyoming.

[FR Doc. 2022–10419 Filed 5–13–22; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

AGENCY: Veterans' Employment and Training Service (VETS), Department of Labor (DOL).

ACTION: Notice of virtual open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the DOL core programs and services that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for individuals or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Gregory Green at *ACVETEO@dol.gov.* Additional information regarding the Committee, including its charter, current membership list, annual reports, meeting minutes, and meeting updates may be found at *https://www.dol.gov/agencies/vets/about/advisorycommittee.* This notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES: Monday, June 6, 2022 beginning at 10:00 a.m. and ending at approximately 1:00 p.m. (EDT).

ADDRESSES: This ACVETEO meeting will be held via TEAMS and teleconference. Meeting information will be posted at the link below under the Meeting Updates tab. *https://www.dol.gov/agencies/vets/about/advisorycommittee.*

Notice of Intent to Attend the Meeting: All meeting participants should submit a notice of intent to attend by Friday, May 27, 2022, via email to Mr. Gregory Green at *ACVETEO@dol.gov,* subject line ''June 2022 ACVETEO Meeting.''

Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Friday, May 27, 2022, by contacting Mr. Gregory Green at *ACVETEO@dol.gov.* Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Green, Designated Federal Official for the ACVETEO, *ACVETEO@dol.gov,* (202) 693–4734.

SUPPLEMENTARY INFORMATION: The ACVETEO is a Congressionally mandated advisory committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary for Veterans' Employment and Training Service, with respect to outreach activities and employment and training needs of veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

Agenda

10:00 a.m. Welcome and remarks, James D. Rodriguez, Assistant Secretary, Veterans' Employment and Training Service
10:20 a.m. Administrative Business, Gregory Green, Designated Federal Official
10:30 a.m. Committee Members introduction
11:15 a.m. Ethics Briefing
11:45 a.m. Employment Situation of Veterans 2021
12:15 p.m. Subcommittee Discussion/Assignments
12:45 p.m. Public Forum
1:00 p.m. Adjourn

Signed in Washington, DC, this 6th day of May 2022.

James D. Rodriquez,

Assistant Secretary, Veterans' Employment and Training Service.

[FR Doc. 2022–10410 Filed 5–13–22; 8:45 am]

BILLING CODE 4510–79–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: [22–038]]

Name of Information Collection: Financial Assistance Awards/Grants and Cooperative Agreements

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection renewal

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by July 15, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review-Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, Washington, DC 20546 or email *claire.a.little@nasa.gov,* 202–358–2375.

SUPPLEMENTARY INFORMATION:

I. Abstract: This is a request to renew OMB control number 2700–0092. This collection is required to ensure proper accounting of Federal funds and property provided under financial assistance awards (grants and cooperative agreements) per 2 CFR 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. 2 CFR 200, subparts A through F, applies to all NASA award recipients except for for-profit organizations. Only subparts A through D of 2 CFR 200 apply to for-profit organizations. Reporting and recordkeeping are prescribed at 2 CFR part 1800—Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The requirements in 2 CFR part 1800 are applicable to awards that NASA issues to non-Federal entities, government, for-profit organization, and foreign organizations as allowed by 2 CFR 200.101, Applicability.

II. Methods of Collection: Grant and cooperative agreement proposals are submitted electronically through the NASA Solicitation and Proposal Integrated Review and Evaluation System (NSPIRES) or *Grants.gov*. The use of these systems reduces the need for proposers to submit multiple copies to the agency. Proposers may submit multiple proposals and notices of intent to different funding announcements without registering in NSPIRES each time.

Basis of Estimate

Approximately 7000 NASA financial assistance awards are open at any one time. It is estimated that out of the 9,900 proposals received each year, NASA awards approximately 1,977 new awards. The period of performance for each financial assistance award is usually three to five years. Performance reports are filed annually, and historical records indicate that, on average, 1,625 changes to these reports are submitted annually. The total number of respondents is based on the average number of proposals that are received each year and the average number of active grants and cooperative agreements that are managed each year. The total number of hours spent on each task was estimated through historical records and experience of former recipients. Using past calculations, the total cost was estimated using the average salary (wages and benefits) for a GS–12 step 5.

III. Data

Title: Financial Assistant Awards/ Grants and Cooperative Agreements.

OMB Number: 2700–0092.

Type of review: Renewal of a previously approved information collection.

Affected Public: Non-profits, institutions of higher educations, government, and for-profit entities.

Estimated Annual Number of Activities: 300.

Estimated Number of Respondents per Activity: 36.

Annual Responses: 10,800.

Estimated Time per Response: 120 hours.

Estimated Total Annual Burden Hours: 1,296,000 hours.

Estimated Total Annual Cost: $47,952,000.00.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2022–10486 Filed 5–13–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–049]

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: We are announcing an upcoming meeting of the Advisory Committee on the Records of Congress in accordance with the Federal Advisory Committee Act. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Legislative Archives, Presidential Libraries, and Museum Services (LPM).

DATES: The meeting will be on June 10, 2022, from 10 a.m. to 12 p.m. (ET).

ADDRESSES: The meeting will take place at the U.S. Capitol Visitor Center, South Congressional Meeting Room, CVC–217, U.S. Capitol at First Street and East Capitol Street.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Due to restricted access at the U.S. Capitol Visitor Center, members of the public who wish to attend the Advisory Committee on the Records of Congress meeting are required to register for access to the meeting no later than Friday, June 3, 2022, by emailing the Office of Art and Archives at *archives@mail.house.gov* with your name and contact information.

Due to building security measures, attendees will be screened before entry and cannot bring certain items into the building. Please see *https://www.visitthecapitol.gov/plan-visit/prohibited-items* for a list of prohibited items.

Agenda

(1) Chair's Opening Remarks—Clerk of the U.S. House of Representatives
(2) Recognition of Co-chair—Secretary of the U.S. Senate
(3) Recognition of the Acting Archivist of the United States
(4) Approval of the minutes of the last meeting
(5) House Archivist's report
(6) Senate Archivist's report
(7) Center for Legislative Archives update
(8) Other current issues and new business

Tasha Ford,

Committee Management Officer.

[FR Doc. 2022–10472 Filed 5–13–22; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

696th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232(b)), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on June 1–3, 2022. The Committee will

be conducting meetings that will include some Members being physically present at the NRC while other Members participate remotely. Interested members of the public are encouraged to participate remotely in any open sessions via MSTeams or via phone at 301–576–2978, passcode 5733356#. A more detailed agenda including the MSTeams link may be found at the ACRS public website at *https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html.* If you would like the MSTeams link forwarded to you, please contact the Designated Federal Officer as follows: *Quynh.Nguyen@nrc.gov* or *Lawrence.Burkhart@nrc.gov.*

Wednesday, June 1, 2022

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Outline for Draft SECY Paper to Allow for Consideration of Risk-Informed Alternatives for Addressing Digital Instrumentation and Control (DI&C) Common Cause Failure (CCF)/SHINE Memoranda Review (Open)—The Committee will have presentations and discussion with representatives from the NRC staff and the Nuclear Energy Institute (NEI).

10:30 a.m.–11:30 a.m.: Committee Deliberation on Outline for Draft SECY Paper to Allow for Consideration of Risk-Informed Alternatives for Addressing DI&C CCF/SHINE Memoranda Review (Open)—The Committee will deliberate regarding the subject topic.

1:00 p.m.–3:00 p.m.: Proposed Rulemaking Language for 10 CFR Part 53, Framework A/SHINE Memoranda Review (Open)—The Committee will have presentations and discussion with representatives from the NRC staff regarding the subject topic.

3:00 p.m.–4:00 p.m.: Committee Deliberation on Proposed Rulemaking Language for 10 CFR part 53, Framework A/SHINE Memoranda Review (Open)—The Committee will deliberate regarding the subject topic.

4:00 p.m.–6:00 p.m.: SHINE Memoranda Review/Report Preparation (Open/Closed)—The Committee will deliberate regarding the subject topic and will continue its discussion of proposed ACRS reports. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.].

Thursday, June 2, 2022

8:30 a.m.–11:30 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations/Preparation of Reports/Commission Meeting Preparation (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or proceed to preparation of reports as determined by the Chairman. [NOTE: Pursuant to 5 U.S.C. 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]. [NOTE: Pursuant to 5 U.S.C. 552b(c)(2) and (6), a portion of this meeting may be closed to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

1:00 p.m.–6:00 p.m.: Preparation of Reports/Commission Meeting Preparation (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and Commission meeting preparation. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Friday, June 3, 2022

8:30 a.m.–9:30 a.m.: Preparation for Commission Meeting, if needed—The Committee will prepare for the Commission meeting as needed.

10:00 a.m.–12:00 p.m.: Meeting with the Commission—The Committee will have a meeting with the Commission (see *https://www.nrc.gov/public-involve/public-meetings/schedule.html*).

1:30 p.m.–6:00 p.m.: Preparation of Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: Pursuant to 5 U.S.C 552b(c)(4), a portion of this session may be closed in order to discuss and protect information designated as proprietary.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on June 13, 2019 (84 FR 27662). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Officer (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the cognizant ACRS staff if such rescheduling would result in major inconvenience.

An electronic copy of each presentation should be emailed to the cognizant ACRS staff at least one day before meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System, which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Dated: May 10, 2022.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2022–10409 Filed 5–13–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, STN 50–530, and 72–44; NRC–2021–0031]

In the Matter of Arizona Public Service Company and Public Service Company of New Mexico; Palo Verde Nuclear Generating Station, Units 1, 2, and 3, and Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Indirect transfer of licenses; extending effectiveness of order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order to

extend until May 25, 2023, the effectiveness of a May 25, 2021, order, which approved the indirect transfer of Public Service Company of New Mexico's (PNM's) interests in Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 for the Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, and the associated general license for the Palo Verde independent spent fuel storage installation to Avangrid, Inc.

DATES: The order was issued on May 10, 2022, and was effective upon issuance.

ADDRESSES: Please refer to Docket ID NRC–2021–0031 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0031. Address questions about Docket IDs in *Regulations.gov* to Stacy Schuman; telephone: 301–415–0624; email: *Stacy.Schuman@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The written application for extending the effectiveness of the indirect transfer order is available in ADAMS under Accession No. ML22040A068. The order extending the effectiveness of the approval of the indirect transfer of licenses is available in ADAMS under Accession No. ML22101A256.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Siva P. Lingam, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1564; email: *Siva.Lingam@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: May 11, 2022.

For the Nuclear Regulatory Commission.

Siva P. Lingam,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Order Extending the Effectiveness of the Approval of the Indirect Transfer of Licenses

United States of America

Nuclear Regulatory Commission

In the Matter of: Arizona Public Service Company, Public Service Company of New Mexico, Palo Verde Nuclear Generating Station, Units 1, 2, 3, and Independent Spent Fuel Storage Installation.

Docket Nos.: STN 50–528, STN 50–529, STN 50–530, and 72–44

License Nos.: NPF–41, NPF–51, and NPF–74

Order Extending the Effectiveness of the Approval of the Indirect Transfer of Licenses

I

Arizona Public Service Company (APS) is the licensed operator and a licensed co-owner of Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 for the Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, and the associated general license for the Palo Verde independent spent fuel storage installation (the licenses). Palo Verde is located in Maricopa County, Arizona. The other licensed co-owners (tenants-in-common), Salt River Project Agricultural Improvement and Power District; Southern California Edison Company; El Paso Electric Company; Public Service Company of New Mexico (PNM); Southern California Public Power Authority; and Los Angeles Department of Water and Power, hold possession-only rights for the licenses (*i.e.,* they are not licensed to operate the facility).

II

By application dated December 2, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20337A344), as supplemented by letters dated February 26, 2021, and May 14, 2021 (ADAMS Accession Nos. ML21061A156 and ML21134A244, respectively), APS, on behalf of PNM, Avangrid, Inc. (Avangrid), and their corporate affiliates (together, the applicants), requested, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 50.80, ''Transfer of licenses,'' and 72.50, ''Transfer of license,'' that the U.S. Nuclear Regulatory Commission (NRC, the Commission) consent to the indirect transfer of PNM's 10.2 percent tenant-in-common interest and possession-only rights in the licenses to Avangrid. By indirect transfer order dated May 25, 2021, the Commission consented to this indirect transfer. By its terms, the indirect transfer order becomes null and void if the transfer is not completed within 1 year (*i.e.,* by May 25, 2022), provided, however, that upon written application and for good cause shown, such date may be extended by order.

III

By letter dated February 8, 2022 (ADAMS Accession No. ML22040A068), the applicants submitted a written application to extend the effectiveness of the indirect transfer order by 1 year, until May 25, 2023. As stated in the application, by order dated December 8, 2021, the New Mexico Public Regulation Commission (NMPRC) declined to issue the regulatory approvals necessary for the applicants to consummate the proposed indirect transfer. The applicants have obtained all other required regulatory approvals, but they cannot proceed with the transfer without the approval of the NMPRC. On January 3, 2022, the applicants filed a Notice of Appeal of the NMPRC order to the Supreme Court of New Mexico. It is not expected, however, that these further legal proceedings will be resolved within the one-year effectiveness of the indirect transfer order (*i.e.,* by May 25, 2022). The extension would allow adequate time for the applicants to obtain the required regulatory approval and consummate the transfer.

Based on the above, the NRC staff has determined that the applicants have shown good cause for extending the effectiveness of the indirect transfer order by 1 year, as requested.

IV

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, *it is hereby ordered* that the effectiveness of the indirect transfer order dated May 25, 2021, is extended until May 25, 2023. Should the subject indirect license transfer from PNM to Avangrid not be completed by May 25, 2023, the indirect transfer order shall

become null and void, provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the written application for extension dated February 8, 2022, which is available electronically through ADAMS in the NRC Library at *https://www.nrc.gov/reading-rm/adams.html* under Accession No. ML22040A068. Persons who encounter problems with ADAMS should contact the NRC's Public Document Room reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by email to *PDR.Resource@nrc.gov.*

Dated: May 10, 2022.

For the Nuclear Regulatory Commission.

/RA/

Gregory F. Suber,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2022–10468 Filed 5–13–22; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94882; File No. SR–Phlx–2022–20]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 3 To Add a New Transaction Credit

May 10, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 2022, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 7, Section 3 to add a new transaction credit, as described further below. The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Equity 7, Section 3 to amend the Exchange's schedule of credits to add a new growth credit for displayed orders.

Pursuant to Equity 7, Section 3, the Exchange presently provides a series of credits to member organizations that enter displayed orders/quotes that execute on the Exchange. The Exchange presently offers the following credits to member organizations that add displayed liquidity to the Exchange: (i) $0.0035 per share executed for Quotes/Orders entered by a member organization that provides 0.10% or more of total Consolidated Volume[3] during the month; (ii) $0.0034 per share executed for Quotes/Orders entered by a member organization that provides 0.05% or more of total Consolidated Volume during the month and removes 0.02% of total Consolidated Volume during the month; (iii) 0.0030 per share executed for Quotes/Orders entered by a member organization that provides a daily average of at least 1 million shares of liquidity in all securities on the Exchange during the month and increases its average daily volume of Quotes/Orders added to the Exchange by 100% or more during the month relative to the month of October 2021; and (iv) $0.0020 per share executed for all other quotes/orders.

The Exchange proposes to establish a new growth credit that will reward a member organization with a credit of $0.0032 per share executed to the extent that it adds a daily average of at least 2 million shares of liquidity in all securities on the Exchange during the month and increases its average daily volume of quotes/orders added to the Exchange by 75% or more during the month relative to the month of March 2022.

The proposed new growth credit will provide an additional incentive to member organizations to add and increase the extent to which they add liquidity to the Exchange. Insofar as the proposed growth credit will require a qualifying member organization to provide double the daily average number of shares of liquidity on the Exchange as it must to qualify for the existing $0.0030 per share executed growth tier credit, the Exchange believes it is reasonable for the amount of the proposed credit to be larger, at $0.0032 per share executed. To the extent that the proposed new credit succeeds in increasing liquidity on the Exchange, the Exchange hopes that additional liquidity will improve the quality of the market and help to grow it over time.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among member organizations and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Pursuant to Equity 7, Section 3, the term ''Consolidated Volume'' means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member organization's trading activity, the date of the annual reconstitution of the Russell Investments Indexes is excluded from both total Consolidated Volume and the member organization's trading activity.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

broader forms that are most important to investors and listed companies.'' [6]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [7] (''NetCoalition'') the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [8]

The Exchange believes that its proposal to add a new growth credit tier of $0.0032 per share executed is reasonable, equitable, and not unfairly discriminatory. The Exchange assesses a particular need to increase the extent to which its member organizations add liquidity to the Exchange as a means of improving market quality. The proposal serves that purpose by adding a new credit to reward member organizations that add a substantial amount of liquidity to the Exchange, and which grow the extent to which they add such liquidity by a substantial percentage relative to a baseline month of March 2022. Although the proposal will benefit net adders of liquidity, the Exchange believes that this is equitable and not unfairly discriminatory because all market participants stand to benefit to the extent that the proposal is successful in increasing liquidity on the Exchange and improving market quality. Insofar as the proposed growth credit will require a qualifying member organization to provide double the daily average number of shares of liquidity on the Exchange as it must to qualify for the existing $0.0030 per share executed growth tier credit, the Exchange believes it is reasonable, equitable, and not unfairly discriminatory for the amount of the proposed credit to be larger, at $0.0032 per share executed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participants at a competitive disadvantage. As noted above, all member organizations of the Exchange will benefit from an increase in activity on the exchange. Moreover, member organizations are free to trade on other venues to the extent they believe that the discounted fee provided is not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

The Exchange believes that its proposed new credit will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other live exchanges and from off-exchange venues, which include alternative trading systems that trade national market system stock. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit changes in this market may impose any burden on competition is extremely limited.

The proposed new growth credit is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises more than 40% of industry volume in recent months.

In sum, the Exchange intends for the proposed credit to incent member organizations to add liquidity to the Exchange and to thereby contribute to market quality, which is reflective of fierce competition for order flow noted above; however, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will either fail to increase its market share or even lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2022–20 on the subject line.

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[7] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[8] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2022–20. 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 (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2022–20 and should be submitted on or before June 6, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–10416 Filed 5–13–22; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94884; File No. SR–IEX–2022–04]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove the Midpoint Price Constraint on Non-Displayed Limit Orders and Make Conforming Changes

May 10, 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 April 29, 2022, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 the Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] the Exchange is filing with the Commission a proposed rule change to remove the midpoint price constraint on non-displayed limit orders and make conforming changes to several rules. The Exchange has designated this rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[6] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[7]

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.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 the 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 these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, IEX Rule 11.190(h)(2) (Non-Displayed Price Sliding) adjusts the price of any non-displayed limit order priced more aggressively than the Midpoint Price[8] to be priced at the Midpoint Price (the ''Midpoint Price Constraint''). The Exchange proposes to amend its non-displayed price sliding rule to allow non-displayed limit orders to be priced more aggressively than the Midpoint Price. Specifically, the Exchange proposes to amend IEX Rule 11.190(h)(2) to remove the Midpoint Price Constraint on non-displayed limit orders, thereby allowing non-displayed limit orders to be priced as aggressively as the contra-side Protected Quotation,[9] provided it does not lock IEX's Order Book.[10] Because this rule change should result in there being more aggressively priced non-displayed liquidity resting on the Exchange, IEX also proposes to amend its Order Execution Recheck[11] rule to increase the circumstances in which a resting non-displayed order may be invited by the System[12] to execute against eligible contra-side liquidity. Additionally, the Exchange proposes to make related changes to IEX Rules 11.190(b) and 11.230(a)(4)(C) to prevent aggressively priced non-displayed limit orders locking or crossing IEX's displayed Order Book. Finally, the Exchange proposes to make conforming changes to IEX Rules 11.190, 11.220, 11.230, 11.231, 11.232, and 11.340. This proposal would align IEX's non-displayed price sliding rules with those of other national securities exchanges that trade equities, as detailed below.[13]

I. Midpoint Price Constraint Removal

Currently, IEX restricts non-displayed limit orders such that they cannot be booked and ranked at a price any more aggressive than the Midpoint Price.[14]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] *See* IEX Rule 1.160(t).

[9] *See* IEX Rule 1.160(bb).

[10] *See* IEX Rule 1.160(p).

[11] *See* IEX Rule 11.230(a)(4)(D).

[12] *See* IEX Rule 1.160(nn).

[13] *See, e.g.,* Cboe BZX Exchange, Inc. (''Cboe BZX'') Rule 11.9(g)(4); MIAX PEARL LLC (''MIAX PEARL'') Rule 2614(g)(2).

[14] Currently, a non-displayed limit order can check past the Midpoint Price on entry, but cannot

Additionally, IEX offers several order types that constrain an order's price to a price no more aggressive than the Midpoint Price.[15] Based on informal feedback, IEX understands that a number of Members [16] would like to be able to post non-displayed orders at prices more aggressive than the Midpoint Price. The Members also express a preference to have IEX's non-displayed price-sliding function like that of other equities exchanges, which only reprice non-displayed limit orders to be equal to the contra-side Protected Quotation when they would otherwise be priced more aggressively than the contra-side Protected Quotation. In response to this feedback, and with the understanding that Members will continue to have the option of using one of several order types that constrain orders to prices no more aggressive than the Midpoint Price, IEX proposes to remove its Midpoint Price Constraint on non-displayed limit orders.

Specifically, IEX proposes to modify IEX Rule 11.190(h)(2) to remove all references to the Midpoint Price Constraint, and to introduce text specifying that non-displayed limit orders can be priced more aggressively than the Midpoint Price (*i.e.,* between the Midpoint Price and the NBO [17] for bids (buy orders) or between the Midpoint Price and the NBB [18] for offers (sell orders). If a non-displayed limit order to buy (sell) is priced more aggressively than the NBO (NBB), IEX will adjust the order's price to the NBO (for bids) or the NBB (for offers).[19]

For example, if the NBBO [20] is $10.00 x $10.10, and IEX receives a non-displayed buy order [21] with a limit price of $10.20, the incoming bid will be repriced to the NBO, $10.10, and execute against any eligible contra-side liquidity on IEX [22] or book at $10.10 if IEX has no eligible contra-side liquidity (*i.e.,* IEX has no offers resting on its Order Book).[23] However, if the incoming non-displayed buy order has a minimum quantity instruction [24] (''MQTY'') or other specific condition [25] that prevents it from matching with an order on the IEX Order Book, the System will reprice the incoming non-displayed buy order to a price one minimum price variant (''MPV'') [26] less aggressive than the NBO price if the IEX sell order is displayed at the NBO, or at the NBO if the IEX sell order is non-displayed.[27]

IEX believes it is appropriate to adjust the price of the non-displayed limit order whose specific conditions prevent an execution with IEX's Protected Bid or Offer (as applicable) prior to posting, because the Member who submitted the order with specific conditions chose to reduce the number of situations in which the order could potentially execute. Thus, in the example above, if another non-displayed buy order arrives that is able to execute against the displayed sell order resting at the NBO, an execution will occur consistent with IEX's execution priority rules,[28] including the rule that orders that cannot execute due to their specific conditions surrender their precedence.[29]

However, when the resting sell order is non-displayed, and the two orders cannot execute because of a specific condition of one or both orders, IEX believes it is appropriate to allow the two non-displayed orders to book at the same price (the NBO), thereby ''locking'' the non-displayed Order Book.[30] If a later arriving buy order can execute with the resting non-displayed sell order at the NBO price, it will appropriately execute before the first buy order with specific conditions that prevented an execution, because the order with specific conditions surrenders its precedence.[31]

Therefore, IEX proposes to add text to IEX Rule 11.190(h)(2) specifying that if a repriced non-displayed limit order would lock or cross IEX's Protected Quotation, the order will be adjusted to a price one MPV less aggressive than the NBO (for bids) or the NBB (for offers). IEX notes this functionality is identical to that of The Nasdaq Stock Market LLC (''Nasdaq''), which also reprices non-displayed minimum quantity orders that would otherwise ''lock'' a contra-side displayed order that does not meet its specific conditions to a price one MPV less aggressive than the price of the contra-side order.[32] Similarly, pursuant to Nasdaq rules, a non-displayed minimum quantity order can lock a contra-side non-displayed order priced at the Protected Quotation, because the order with specific conditions will surrender precedence to incoming orders that can execute against the contra-side order resting at the ''locking'' price.[33] Additionally, other exchanges, such as MIAX PEARL, will not allow minimum quantity orders to trade at a price above (below) any sell (buy) displayed orders that are priced below (above) the price of the minimum quantity order.[34] MIAX PEARL will only execute a non-displayed minimum quantity order that would otherwise ''lock'' a contra-side displayed order that does not meet its specific conditions at a price ½ MPV less aggressive than the contra-side displayed order.[35]

Example 1 demonstrates how, as proposed, IEX's non-displayed price sliding rules will work:

rest at a price more aggressive than the Midpoint Price.

[15] For example, Midpoint Peg and Retail Liquidity Provider orders rest at the less aggressive of the order's limit price or the Midpoint Price, and Discretionary Peg and Corporate Discretionary Peg orders rest one minimum price variant less aggressive than the National Best Bid (for bids) or National Best Offer (for offers) and exercise discretion to the less aggressive of the order's limit price or the Midpoint Price.

[16] *See* IEX Rule 1.160(s).

[17] The term ''NBO'' means the national best offer. *See* IEX Rule 1.160(u).

[18] The term ''NBB'' means the national best bid. *See* IEX Rule 1.160(u).

[19] This repricing could occur upon order entry, or after the NBBO changes such that the order is now priced more aggressively than the contra-side Protected Quotation.

[20] The term ''NBBO'' means the national best bid or offer, as set forth in Rule 600(b) of Regulation NMS under the Act. *See* IEX Rule 1.160(u).

[21] The example focuses on price sliding of non-displayed limit orders to buy, but the same rules would apply to non-displayed orders to sell.

[22] For purposes of this example, we are treating the orders as ''IEX Only'' (non-routable) orders. *See* IEX Rule 11.190(a)(1)(B). If the incoming order was designated as routable, it would first seek to execute against the IEX Order Book and any away markets before booking.

[23] Because the incoming order is non-displayed, it can be priced at the contra-side NBO without locking the away market NBO. *See* Reg NMS Rule 610(d), 17 CFR 242.610(d).

[24] *See* IEX Rule 11.190(b)(11). Significantly, only non-displayed orders can have specific conditions such as a Minimum Quantity that could prevent a match. *Id.*

[25] Any order that cannot be executed due to its specific conditions (but would otherwise be executable against a contra-side order) surrenders its precedence in the Order Book. *See* IEX Rule 11.220(a)(5). Usually, this issue arises when one or both orders have a MQTY instruction preventing an execution, but there are a few other specific conditions that prevent executions and cause an order to surrender precedence, such as an Offset Peg order being ineligible to trade during a locked market, *see* IEX Rule 11.190(h)(3)(C)(iii).

[26] *See* IEX Rule 11.210.

[27] *See* IEX Rule 11.220(a)(5).

[28] Orders execute in price, display, time priority, so the incoming bid, which would be priced at $10.10 has priority over the bid with specific conditions resting at $10.09. *See* IEX Rule 11.220(a)(2).

[29] *See* IEX Rule 11.220(a)(5).

[30] IEX has always permitted non-displayed orders to lock on its non-displayed Order Book when a specific condition of one or both orders prevents an execution. *See* IEX 11.230(a)(4)(C).

[31] *See* IEX Rule 11.220(a)(5).

[32] *See* Nasdaq Rule 4703(e).

[33] *See* Nasdaq Rule 4703(e); *see also* Nasdaq Rule 4702(b)(3)(A) (allowing non-displayed orders to book at the price of an away market Protected Quotation).

[34] *See* MIAX PEARL Rule 2614(c)(7)(B)(iii).

[35] *See* MIAX PEARL Rules 2617(a)(4)(C) and (D). In the same situation, IEX is proposing to re-price the non-displayed order to a price one (1) MPV less aggressive than the contra-side displayed order, which IEX believes is a minor distinction from MIAX PEARL's ½ MPV approach.

Example 1

- NBBO for a stock is $10.10 x $10.20. IEX has no displayed quote.
- Order A, a displayed order to buy 100 shares with a limit price of $10.09 arrives and is booked at $10.09, thereby becoming IEX's Protected Best Bid.
- Order B, a displayed order to sell 100 shares with a limit price of $10.21 arrives and is booked at $10.21, thereby becoming IEX's Protected Best Offer.
- IEX's PBBO for the stock is now $10.09 x $10.21.
- Order C, a non-displayed order to buy 300 shares with a limit price of $10.30 and a minimum quantity [36] of 300 shares arrives.[37]
- Order C is repriced by the System to $10.20, which is the NBO.
- The NBBO changes to $10.10 x $10.21. Order B, which is IEX's Best Offer, is now equal to the NBO.
- Order C remains priced at $10.20, a price one MPV less aggressive than IEX's contra-side Protected Quotation of $10.21.
- Order D, a displayed order to sell 100 shares with a limit price of $10.20 arrives. Order C and Order D do not match because Order D does not satisfy Order C's minimum quantity requirements.
- Order D becomes the NBO, and the NBBO moves to $10.10 x $10.20.
- Order C is repriced to $10.19, a price one MPV less aggressive than IEX's contra-side Protected Quotation of $10.20.

As noted above and discussed in the Statutory Basis section below, these proposed changes would align IEX's non-displayed price sliding rules with those of the other equities exchanges.

II. Impact of Midpoint Price Constraint Removal on Specific Order Types

As discussed above, this rule proposal impacts the price sliding behavior of non-displayed limit orders, including (i) non-displayed Discretionary Limit (''D-Limit'') [38] orders; (ii) non-displayed portions of Reserve [39] orders, and (iii) non-displayed portions of D-Limit Reserve [40] orders, which will be able to rest and trade at prices up to the contra-side away market Protected Quotation. Additionally, as set forth below, this proposed rule change impacts the pricing and functionality of Offset Peg [41] and Primary Peg [42] orders, respectively.

Specifically, IEX proposes to amend IEX Rule 11.190(b)(13), describing Offset Peg orders, to allow them to be priced as aggressively as the contra-side Protected Quotation, dependent upon the limit price plus the offset amount. Currently, Offset Peg orders cannot be priced more aggressively than the Midpoint Price.[43] IEX is proposing to allow Offset Peg orders to rest at prices as aggressive as the contra-side Protected Quotation, irrespective of the Midpoint Price. Therefore, IEX proposes to amend IEX Rules 11.190(b)(13) to reflect the new offset functionality. Additionally, because Offset Peg orders will no longer rest or execute at the Midpoint Price if it is a sub-penny Midpoint Price,[44] IEX proposes to amend IEX Rule 11.190(a)(3) (Pegged Order) to reflect that Offset Peg orders cannot execute in sub-penny increments.

This rule filing also impacts Primary Peg orders, which currently book at a price one MPV less aggressive than the NBB (for bids) or NBO (for offers) and during periods of quote stability [45] can exercise discretion up to the NBB/NBO for bids/offers. Primary Peg orders are not currently eligible for Book Recheck because the Midpoint Price Constraint means there will not be any eligible non-displayed contra-side liquidity on the Order Book resting at a price aggressive enough to match the Primary Peg. And currently, Primary Peg orders cannot have a TIF of IOC or FOK, because the only types of orders Primary Pegs could match with upon entry are non-displayed odd lots priced at the contra-side Protected Quotation. Because, as proposed, non-displayed orders will be able to rest at the contra-side Protected Quotation, there is a greater chance a Primary Peg order could execute upon entry. Therefore, IEX proposes to amend IEX Rules 11.190(a)(3) and 11.190(b)(8) to allow Primary Pegs to be submitted with any TIF.

Notwithstanding that IEX is proposing to remove the Midpoint Price Constraint, there are still several order types that Members seeking a Midpoint Price execution can use. Specifically, Midpoint Peg [46] orders (including Retail Liquidity Provider [47] orders) and Discretionary Peg [48] orders (including Corporate Discretionary Peg [49] orders), will continue to allow Members to submit orders that will execute at prices no more aggressive than the Midpoint Price.

III. Expansion of Book Recheck Opportunities

Currently, all non-displayed orders, other than Primary Peg [50] orders, are eligible to be invited by the System to become active and check the Order Book for contra-side liquidity upon a change to the Order Book or NBBO, or as part of the processing of inbound messages (''Book Recheck'' or ''Recheck'').[51] Book Recheck allows resting orders to trade against other orders on the Order Book that were ineligible for execution, or did not satisfy the order's conditions (*i.e.,* minimum quantity) when they were originally booked.[52] Currently, to be eligible for Book Recheck, orders must be able to execute at a price equal to or more aggressive than the Midpoint Price.[53] IEX's Book Recheck functionality is consistent with the manner in which other exchanges allow a resting order to become active if price changes or other circumstances allow two orders to execute with one another when they previously could not.[54]

As described above, with the proposed removal of the Midpoint Price Constraint, IEX expects to have non-displayed orders resting on the Order Book that are priced more aggressively than the Midpoint Price. Therefore, IEX proposes to amend IEX Rule 11.230(a)(4)(D) to clarify that for an order to be eligible for Book Recheck, it must be able to execute against resting contra-side liquidity, irrespective of if the contra-side order is resting at the Midpoint Price. IEX also proposes to amend the Book Recheck references in

[36] *See* IEX Rule 11.190(b)(11).

[37] The example focuses on price sliding of non-displayed limit orders to buy, but the same rules would apply to non-displayed orders to sell.

[38] *See* IEX Rule 11.190(b)(7).

[39] *See* IEX Rule 11.190(b)(2)(B).

[40] *See* IEX Rule 11.190(b)(2)(B).

[41] *See* IEX Rule 11.190(b)(13).

[42] *See* IEX Rule 11.190(b)(8).

[43] Currently, if the offset amount plus the limit price would result in a price more aggressive than the Midpoint Price, the Offset Peg would be priced at the Midpoint Price.

[44] Depending upon the difference between the NBB and NBO, the Midpoint Price for any execution over $1.00 per share can be a whole penny or a sub-penny price (*i.e.,* if the NBB is $10.01 and NBO is $10.05, the Midpoint Price is a sub-penny price, $10.025. But if the NBB is $10.01 and the NBO is $10.06, the Midpoint Price is a whole penny price, $10.03).

[45] *See* IEX Rules 11.190(b)(8)(K) and 11.190(g).

[46] *See* IEX Rule 11.190(b)(9).

[47] *See* IEX Rule 11.190(b)(14).

[48] *See* IEX Rule 11.190(b)(10).

[49] *See* IEX Rule 11.190(b)(16).

[50] As discussed above, Primary Peg orders are not currently eligible for Book Recheck because the Midpoint Price Constraint means there will not be any eligible non-displayed contra-side liquidity on the Order Book resting at a price aggressive enough to match the Primary Peg.

[51] *See* IEX Rule 11.230(a)(4)(D).

[52] *See* IEX Rule 11.230(a)(4)(D).

[53] *See* IEX Rule 11.230(a)(4)(D)(ii).

[54] *See* New York Stock Exchange (''NYSE'') Rules 7.37(b)(8) and (9) (Resting orders that are repriced and become marketable against contra-side orders on the order book will trade consistent with their ranking, and resting orders on both sides of market that reprice and become marketable against one another will trade consistent with their ranking); *see also* MIAX PEARL Rule 1901(a) (resting orders may become ''Aggressing'' orders if the PBBO or NBBO is updated, in which case the Aggressing order will check the order book for marketable contra-side liquidity); Nasdaq Rule 4702(a) (whenever an order receives a new timestamp, including if it was repriced, it is treated by Nasdaq as a new, active order).

IEX Rule 11.190(b) to align the language (and functionality) with IEX Rule 11.230(a)(4)(D). By way of example, with this proposed change, a resting non-displayed bid priced at $10.03 with a NBBO of $10.00 x $10.10 would be eligible to Recheck against a resting sell order (either a displayed odd lot or a non-displayed order) with a limit price equal to or more aggressive than $10.03.

As a result of this rule change, non-displayed limit orders will be allowed to rest at the contra-side Protected Quotation, which means there can now be circumstances when a resting Primary Peg order could execute against resting contra-side liquidity. Therefore, IEX also proposes to amend the Book Recheck rule to remove the language excluding Primary Peg orders from Book Recheck eligibility and amend the Primary Peg order definition to state they are eligible for Book Recheck.

IV. Minimum Quantity Order Changes

As described above, orders with specific conditions, such as MQTY orders, might not always be able to execute against contra-side liquidity with which they would otherwise match because of the Minimum Quantity order's specific conditions.[55] Therefore, as discussed above, IEX proposes to amend IEX Rule 11.190(h)(2) to adjust the price of a minimum quantity order in such a circumstance to a price one MPV less aggressive than the contra-side Protected Quotation when the Exchange's Protected Quotation is equal to the NBBO. IEX also proposes a conforming change to amend IEX Rule 11.190(b)(11), governing MQTY orders, by adding a paragraph reflecting that the new repricing functionality in IEX Rule 11.190(h)(2) applies when an order's minimum quantity prevents it from executing with an order resting at the contra-side Protected Quotation. Specifically, IEX proposes to add subparagraph (G)(iii)(c) to IEX Rule 11.190(b)(11) specify that an incoming MQTY order that would otherwise be executable against a resting non-displayed order but for the MQTY order's specific conditions will be booked and ranked by the System at the less aggressive of the incoming MQTY order's limit price, if any, or the contra-side protected quotation (*i.e.,* the NBO for buy orders and NBB for sell orders) unless the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the incoming MQTY order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers).

Additionally, IEX proposes to add subparagraph (G)(iv)(b) to IEX Rule 11.190(b)(11) to specify what happens when two MQTY orders cannot match because of at least one of the order's specific conditions. The proposed new subparagraph specifies that in this situation, the incoming MQTY order would be booked and ranked by the System at the less aggressive of its limit price, if any, or the contra-side Protected Quotation (*i.e.,* the NBO for buy orders and NBB for sell orders). However, if the Exchange's Protected Bid (for offers) or Protected Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), the incoming MQTY order would be booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule 11.190(h)(2). As proposed, this functionality could result in a ''crossed'' non-displayed Order Book, as reflected in Example 2, below. Therefore, the Exchange proposes to amend IEX Rule 11.230(a)(4)(C) to remove the last sentence, which reads ''Lastly, orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity.''

Example 2

- NBBO for a stock is $10.00 x $10.10. IEX has no displayed orders resting on the Order Book.
- Order A, a non-displayed order to sell 10,000 shares with a limit price of $10.08 and a MQTY of 3,000 shares arrives and is booked at $10.08.
- Order B, a non-displayed order to buy 2,000 shares with a limit price of $10.11 and a MQTY of 500 shares arrives.
- Order B does not satisfy Order A's MQTY, so the two orders do not match.
- Order B books at $10.10, the contra-side Protected Quotation, because it is able to rest at the contra-side Protected Quotation so long as IEX does not have a Protected Quotation priced at the NBO.
- IEX's non-displayed Order Book is crossed at $10.10 x $10.08.

IEX notes that the manner in which it proposes to allow two MQTY orders to cross IEX's non-displayed Order Book is the same approach taken by other exchanges. For example, MEMX LLC (''MEMX'') allows orders with minimum execution quantities to create a dark order book cross,[56] and MIAX PEARL allows its non-displayed order book to be internally locked or crossed, in the same manner IEX is proposing.[57]

V. Related Changes to the Retail Price Improvement Program

IEX's Retail Price Improvement Program[58] currently allows a Retail[59] order to trade with a contra-side order resting at the Midpoint Price, or with an aggressively priced displayed odd lot order priced between the Midpoint Price and the contra-side Protected Quotation.[60] Because this proposed rule change will allow non-displayed orders to also be priced between the Midpoint Price and the contra-side Protected Quotation, IEX proposes to amend IEX Rule 11.232 to allow Retail orders to interact with any order priced between the Midpoint Price and the contra-side Protected Quotation. Specifically, IEX proposes to amend IEX Rules 11.232(a)(2) and 11.232(e)(2) to reflect this change.

Additionally, IEX proposes to amend Rule 11.232(e)(3) regarding Retail order priority, by adding subparagraph (iii), which states that non-displayed orders priced more aggressively than the Midpoint Price will have price priority over orders resting at the Midpoint Price because of their more aggressive price.[61] IEX also proposes to renumber subparagraph (iii) to (iv) to reflect the insertion of the new subparagraph (iii).

Finally, IEX proposes to add a new Example 6, to demonstrate how an aggressively priced non-displayed limit order will have execution priority over orders priced to execute at the Midpoint Price.

VI. Conforming Changes Caused by Midpoint Price Constraint Removal

IEX also proposes several conforming changes to other IEX rules. Specifically, IEX proposes to make the following conforming changes:

- Amend IEX Rule 11.190(a)(3) (Pegged Order) to remove the text stating that an Offset Peg order may be executed in sub-pennies if necessary to obtain a Midpoint Price. As noted below, Offset Peg orders would no longer be constrained by the Midpoint Price, and therefore will no longer execute in sub-pennies.[62]

[55] This scenario would not arise if the contra-side order were a displayed order because displayed orders cannot include a minimum quantity and would execute against any eligible contra-side order.

[56] *See* MEMX Rule 11.6(f).

[57] *See* MIAX PEARL Rule 2614(c)(7)(B)(iv).

[58] *See* IEX Rule 11.232.

[59] *See* IEX Rules 11.190(b)(15) and 11.232(a)(2).

[60] *See* IEX Rule 11.232(a)(2).

[61] An aggressively priced displayed odd lot order resting at the same price as the aggressively priced non-displayed limit order will have execution priority over the non-displayed limit order.

[62] As set forth in IEX Rule 11.210, for securities that execute at sub-dollar prices (*i.e.,* the order is priced less than $1.00 per share), the minimum price variation is $0.0001. Therefore, sub-penny executions can still occur for any sub-dollar executions.

• Amend IEX Rule 11.190(a)(3)(A) to remove the text stating that Primary Peg orders may not have a TIF of IOC or FOK. As discussed above, because the removal of the Midpoint Price Constraint means the IEX Order Book could have resting orders priced at the contra-side Protected Quotation, it is now possible for a Primary Peg order to execute upon entry, and therefore IEX proposes to allow Primary Peg orders to be submitted with a TIF of IOC or FOK. Relatedly, IEX proposes to amend subparagraph (E) of the same rule to remove the text saying that Primary Peg orders submitted with a TIF of IOC or FOK will be rejected on entry.

• Amend IEX Rule 11.190(b)(2) (Reserve Order) and the accompanying Supplementary Material to remove references to the Midpoint Price Constraint and replace them with references to the non-displayed price sliding rule. IEX also proposes to correct a typographical error by inserting a ''B'' into the last word of the sentence that reads: ''[f]or example, NBBO is $10.01 × $10.02, and IEX does not have any orders resting at the NBO,'' which will now end by saying ''at the NBBO.'' Further, IEX proposes to modify the example in Supplementary Material .01 (Reserve Orders) to describe a displayed odd lot reserve order with 50 shares displayed and 950 shares in reserve, to demonstrate how the displayed and non-displayed portions of a reserve order can be booked at different prices. Therefore, IEX proposes to end the example by changing the non-displayed portion's resting price from $10.015 (the Midpoint Price) to $10.02, the NBO. Additionally, IEX proposes to reorder the paragraphs in the Supplementary Material about reserve orders such that the paragraph about D-Limit reserve orders is the last paragraph.

• Amend IEX Rule 11.190(b)(3) (Non-Displayed Order) to remove the text stating that Primary Peg orders are not eligible for Book Recheck. As discussed above, these changes are proposed because Primary Peg orders have a higher likelihood of executing on entry now that non-displayed orders can rest at the contra-side Protected Quote.

• Amend IEX Rule 11.190(b)(8) (Primary Peg Order) to: Amend subparagraph (B) to state that a Primary Peg order may have any TIF described in IEX Rule 11.190(a)(3); and remove the text in subparagraph (J) that says Primary Peg orders are not eligible for Book Recheck and add text saying that they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, the TIF changes are proposed because Primary Peg orders have a better likelihood of executing on entry now that non-displayed orders can rest at the contra-side Protected Quote. Additionally, as discussed above, the proposed change to allow Primary Peg orders to Recheck the Order Book conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.

• Amend IEX Rule 11.190(b)(9) (Midpoint Peg Order) to remove the text in subparagraph (J) that states that Midpoint Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.

• Amend IEX Rule 11.190(b)(10) (Discretionary Peg Order) to remove the text in subparagraph (J) that says Discretionary Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.

• Amend IEX Rule 11.190(b)(13) (Offset Peg Order) to remove the text in subparagraph (L) that provides that an Offset Peg order with an offset amount that results in a price more aggressive than the Midpoint Price will have the offset amount reduced so that the order is priced at the Midpoint Price until such time as the full offset amount will not result in the price of the order being more aggressive than the Midpoint Price. IEX further proposes to add text stating that if the offset amount results in a price more aggressive than the contra-side Protected Quotation, the offset amount will be reduced so that the order is booked and ranked on the Order Book non-displayed at the contra-side protected quotation (*i.e.,* the NBO for buy orders and NBB for sell orders), unless the Exchange's Best Bid (for offers) or Best Offer (for bids) is equal to the current NBB (for offers) or current NBO (for bids), in which case the order is booked and ranked on the Order Book non-displayed one (1) MPV below the current NBO (for bids) or one (1) MPV above the current NBB (for offers), as set forth in IEX Rule 11.190(h)(2), until such time as the full offset amount will not result in the price being more aggressive than the contra-side Protected Quotation. Additionally, as discussed above, because Offset Peg orders will no longer be eligible to be priced in sub-pennies, IEX proposes to remove the sentence describing how a sub-penny priced order is rounded up or down.

• Amend Supplementary Material .03 (Minimum Quantity Orders) to specify that the IEX PBBO for the example is $10.01 × $10.03 and modify the example to specify that Order #4 in the example would book at its limit price of $10.02 (removing the text saying it would book at the Midpoint Price). Additionally, IEX proposes to reorder the paragraphs in the Supplementary Material about reserve orders such that the paragraph about D-Limit reserve orders is the last paragraph.

• Amend IEX Rule 11.190(b)(16) (Corporate Discretionary Peg Order) to remove the text in subparagraph (J) that says Corporate Discretionary Peg orders are eligible to be invited to Recheck to trade against interest resting at the Midpoint Price and replace it with text saying they are eligible to be invited to Recheck to trade against eligible resting contra-side interest. As discussed above, this conforms to proposed changes to the Book Recheck rule to reflect that orders will no longer only be invited to recheck the Order Book if there is a contra-side order resting at the Midpoint Price.

• Amend IEX Rule 11.190(h)(3) (Locked and Crossed Markets) to remove all references to the Midpoint Price Constraint and replace them with references to non-displayed price sliding. Additionally, amend IEX Rule 11.190(h)(3)(D)(i) to remove the reference to Offset Peg orders and add Corporate Discretionary Peg orders to the list of order types for which reference to the Midpoint Price is relevant.

• Amend IEX Rule 11.190(h)(4) (Short Sale Price Sliding) to remove subparagraph (E) and amend subparagraph (C) to remove references to displayed or displayable orders and the Permitted Display Price, and add a sentence saying that ''[i]n the event the NBB changes such that the price of a non-displayed Order subject to Rule 201 of Regulation SHO would lock or cross the NBB, the order will receive a new timestamp, and will be re-priced by the System at the Permitted Price.'' These changes reflect the fact that without the Midpoint Price Constraint, IEX's short sale price sliding rules no longer need to distinguish between a ''Permitted Display Price'' and a ''Permitted Price.''

• Amend IEX Rule 11.220 (Priority of Orders) Supplementary Material .01 (Surrendering Precedence) to change the order #4 in the example to a midpoint peg order, so that the example will continue to demonstrate how MQTY orders booked at the Midpoint Price surrender precedence if their specific conditions prevent an execution.

• Amend IEX Rule 11.230(a)(4)(C) (Order Execution) to replace references to the Midpoint Price with references to contra-side Protected Quotation (*i.e.,* the NBB or NBO), modify the first sentence of the subparagraph to specify that orders are permitted to post and rest non-displayed on the Order Book at prices that lock the protected quotation of an away market, so long as IEX does not have a protected quotation at the same price, and, as discussed above, delete the last sentence of the subparagraph that states that orders are never permitted to post non-displayed nor rest non-displayed on the Order Book at prices that cross contra-side liquidity.

• Amend IEX Rule 11.230(a)(4)(D) (Book Recheck) to include Corporate Discretionary Pegs in the list of orders eligible for Book Recheck and update the rule citations accordingly. Renumber subparagraphs (v) and (vi) to (iv) and (v) to reflect the deletion of subparagraph (iv), which said Primary Peg orders are not eligible for Book Recheck) as described above. And amend IEX Rule 11.230(a)(4)(D) Supplementary Material .01 to modify the example to reflect that a non-displayed limit order would be booked at its limit price of $10.02, not the Midpoint Price of $10.015.

• Amend IEX Rule 11.231 (Regular Market Session Opening Process for Non-IEX-Listed Securities) by removing the reference to the

Midpoint Price from subparagraph (a)(v) and replacing it with a reference to the contra-side protected quotation (*i.e.,* the NBO for buy orders and NBB for sell orders).

• Amend IEX Rule 11.340 (Compliance with Regulation NMS Plan to Implement a Tick Size Pilot) to remove the reference to the Midpoint Price Constraint in subparagraph (d)(4)(D)(ii) and replace it with a reference to the non-displayed price sliding rules set forth in IEX Rule 11.190(h)(2).

Implementation

This proposed rule change will be immediately effective upon filing, but subject to the thirty (30) day operative delay. The Exchange anticipates implementing the rule change within ninety (90) days of the effective date and will provide at least ten (10) days' notice to Members and market participants of the implementation timeline.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b) of the Act,[63] in general, and furthers the objectives of Section 6(b)(5),[64] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and 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.

Specifically, the Exchange believes that removing the Midpoint Price Constraint for non-displayed limit orders is consistent with the protection of investors and the public interest because it is designed to incentivize the entry of more aggressively priced non-displayed limit orders, because it will allow Members to submit orders that are more likely to post at their instructed limit price, as opposed to being limited to posting no higher than the Midpoint Price. And these orders resting between the Midpoint Price and the contra-side Protected Quotation will trade before any orders resting at the Midpoint Price, which would enhance the aggressively priced orders' execution opportunities. Conversely, any contra-side orders that match with these aggressively priced non-displayed limit orders will benefit by the ability to obtain more price improvement than if they had executed at the Midpoint Price. Thus, IEX believes that allowing Members more control over the pricing of their non-displayed orders should both incentivize the submission of more orders to IEX (improving the overall liquidity profile of IEX) and offer more potential price improvement opportunities, to the benefit of all market participants.

The Exchange further believes that removing the Midpoint Price Constraint and modeling its non-displayed price sliding rule on those of other equity exchanges is consistent with the Act because such treatment is designed to remove impediments to and perfect the mechanism of a free and open market and national market system by conforming IEX's treatment of non-displayed limit orders with the other equities exchanges.[65]

In addition, since this proposed rule change would make IEX's non-displayed price sliding rule consistent with that of the other equities exchanges, IEX believes that it will promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in facilitating securities transactions because market participants will no longer have to potentially adjust their order routing strategies or trading algorithms to reflect that non-displayed limit orders are never allowed to be priced more aggressively than the Midpoint Price.

The Exchange further believes that modifying its Book Recheck functionality and Retail Price Improvement program are consistent with the protection of investors and the public interest because the rule change is designed to increase the opportunities for eligible orders to execute on the Exchange, which inures to the benefit of all market participants who send orders to the Exchange.

As discussed in the Purpose Section, each of these proposed changes is consistent with rules of other equities exchanges. Specifically:

• As proposed, IEX will slide the price of a non-displayed limit order priced more aggressively than the contra-side Protected Quotation to the price of the contra-side Protected Question. Cboe BZX Rule 11.9(g)(4), Nasdaq Rule 4702(b)(3)(A), and MIAX PEARL Rule 2614(g)(2) provide for the same functionality.[66]

• As proposed, IEX will slide the price of a non-displayed order that fails to match with a contra-side order because of the order's special conditions to a price one MPV less aggressive than the contra-side order. Nasdaq Rule 4703(e) provides for the same functionality.[67] And MIAX PEARL Rules 2617(a)(4)(C) and (D) provide for very similar functionality, with the only distinction being that MIAX PEARL allows the minimum quantity order that to trade at a price ½ MPV less aggressive than the price of the contra-side order against which it would match but for the minimum quantity instruction.[68]

• As proposed, IEX will allow resting orders to become active and check the Order Book if they become marketable against contra-side liquidity resting on the Order Book. NYSE Rules 7.37(b)(8) and (9), Nasdaq Rule 4702(a), and MIAX PEARL Rule 1901(a) provide for the same functionality.[69]

• As proposed, IEX will allow non-displayed order with specific conditions that prevent an execution against a contra-side order that also has specific conditions to cross on the non-displayed Order Book. MEMX Rule 11.6(f) and MIAX PEARL Rule 2614(c)(7)(B)(iv) provide for the same functionality.[70]

Overall, while the proposed rule change mirrors the functionality of several exchanges, IEX notes that the MIAX PEARL and Nasdaq rules are the most substantially similar to IEX's proposal. Specifically, IEX's non-displayed price sliding rule proposal mirrors that of MIAX PEARL with the sole exception that MIAX PEARL will reprice a non-displayed order that cannot match with a contra-side order because of the non-displayed order's minimum quantity at a price ½ of an MPV less aggressive than the contra-side order, while IEX proposes to rank the order at a price one MPV away from the price of the contra-side order. Further, Nasdaq's non-displayed price sliding rules mirror this proposal with the exception that Nasdaq does not explicitly state that it will allow two non-displayed minimum quantity orders to cross each other on the non-displayed order book, while IEX's rules explicitly permit such a cross.[71] Also, neither MIAX PEARL nor Nasdaq use identical terminology (*e.g.,* descriptions of how resting orders can become active and check the order book for contra-side liquidity rather than use of the term ''recheck'' used in IEX rules).

IEX does not believe that these differences raise any new or novel issues, but merely reflect minor implementation differences. Both MIAX PEARL and IEX (as proposed) reprice a non-displayed order that cannot match with a contra-side order because of a minimum quantity, and it appears that both Nasdaq and IEX will allow two minimum quantity orders to cross each other on the non-displayed order book. Therefore, IEX does not believe that this

[63] 15 U.S.C. 78f(b).

[64] 15 U.S.C. 78f(b)(5).

[65] *See supra* note 13.

[66] *See supra* note 13.

[67] *See supra* note 32.

[68] *See* supra note 35.

[69] *See supra* note 54.

[70] *See supra* notes 56 and 57.

[71] IEX notes that Nasdaq's rules, while not explicit, appear to allow a crossed non-displayed order book in this particular situation.

proposal raises any new or novel issues that have not already been considered by the Commission.

Finally, IEX believes that the proposed conforming changes and typographical corrections further the purposes of the Act because they provide greater clarity and consistency to the IEX Rule Book thereby reducing the potential for confusion by market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the proposal is designed to enhance IEX's competitiveness with other markets by adopting rules providing for more prices at which non-displayed limit orders can execute or rest on the exchange and allowing for more circumstances in which orders eligible for Recheck or Retail orders will be able to interact with these aggressively priced non-displayed limit orders to the benefit of all market participants.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition because it will apply to all Members in the same manner. All Members are eligible to enter non-displayed limit orders and, as discussed in the Purpose section, all Members seeking a Midpoint Price may continue to use Discretionary Peg and Midpoint Peg orders which will not execute at a price more aggressive than the Midpoint Price. Moreover, the proposal would provide potential benefits to all Members to the extent that there is more liquidity available on IEX as a result of the ability to book non-displayed limit orders at more aggressive prices. The proposal is intended to incentivize the entry of more orders on the Exchange and thereby increase the likelihood of executions on the Exchange, which would benefit all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) [72] of the Act and Rule 19b–4(f)(6) thereunder.[73]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2022–04 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–IEX–2022–04. This file number should be included in 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 will also 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–IEX–2022–04 and should be submitted on or before June 6, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–10415 Filed 5–13–22; 8:45 am]

BILLING CODE 8011–01–P

[72] 15 U.S.C. 78s(b)(3)(A).

[73] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[74] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–0088, OMB Control No. 3235–0083]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 15Ba2–1 and Form MSD

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15Ba2–1 (17 CFR 240.15Ba2–1) and Form MSD (17 CFR 249.1100), under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et*

seq.) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 15Ba2–1 provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information obtained from Form MSD filings to determine whether bank municipal securities dealers meet the standards for registration set forth in the Act, to maintain a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop risk assessment information about bank municipal securities dealers.

Form MSD is a one-time registration form that must be amended only if it becomes inaccurate. Based upon past submissions of zero initial filings and 14 amendments in 2019, zero initial filings and three amendments in 2020, zero initial filings and one amendment in 2021, and zero initial filings and zero amendments so far in 2022, the Commission estimates that on an annual basis approximately one respondent will use Form MSD for an initial registration application, and that approximately six respondents will utilize Form MSD for an amendment, for a total of seven respondents per year. The time required to complete Form MSD varies with the size and complexity of the bank municipal securities dealer's proposed operations. Bank personnel that prepare Form MSD filings previously indicated that it can take up to 15 hours for a bank with a large operation and many employees to complete the form, but that smaller banks with fewer personnel can complete the form in one to two hours. We believe that most recent applications have come from smaller banks. Also, amendments to form MSD are likely to require significantly less time. We estimate that the total annual burden is currently approximately 11 hours at an average of 1.5 hours per respondent. (7 respondents/year × 1.5 hours/respondent = 10.5 hours/year rounded up to 11). The staff estimates that the average internal compliance cost per hour is approximately $406.[1] Therefore, the estimated total annual internal cost of compliance is approximately $4,263 per year (10.5 hours/year × $406/hour = $4,263/year).

Rule 15Ba2–1 does not contain an explicit recordkeeping requirement, but the rule does require the prompt correction of any information on Form MSD that becomes inaccurate, meaning that bank municipal securities dealers need to maintain a current copy of Form MSD indefinitely. In addition, the instructions for filing Form MSD state that an exact copy should be retained by the registrant. Providing the information on the application is mandatory in order to register with the Commission as a bank municipal securities dealer. The information contained in the application will not be kept confidential.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by July 15, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 10, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–10418 Filed 5–13–22; 8:45 am]

BILLING CODE 8011–01–P

[1] The estimate of $406 per hour is for a compliance attorney, based on the Securities Industry and Financial Markets Association's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 87 FR 27669, May 9, 2022.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, May 12, 2022 at 2 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Thursday, May 12, 2022 at 2:00 p.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

(Authority: 5 U.S.C. 552b.)

Dated: May 12, 2022.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2022–10569 Filed 5–12–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2 p.m. on Thursday, May 19, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: May 12, 2022.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2022–10571 Filed 5–12–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94883; File No. SR–CboeEDGX–2022–004]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Codify Certain Practices and Requirements Related to the Exchange's Port Message Rate Thresholds

May 10, 2022.

I. Introduction

On January 21, 2022, Cboe EDGX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to codify certain practices and requirements related to the Exchange's port message rate thresholds. The proposed rule change was published for comment in the **Federal Register** on February 9, 2022.[3] On March 23, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission has received no comment letters on the proposed rule change. This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange states that its System[7] does not have unlimited port capacity to consistently support an unlimited number of messages throughout the trading day.[8] The Exchange states that for this reason, the Exchange limits each Member[9] to a maximum number of messages over a set amount of time, per port (''Port Order Rate Threshold'').[10] The Exchange states that historically, it has provided Members with the Port Order Rate Threshold through its publicly available technical specifications.[11] The Exchange's current Port Order Rate Threshold is 10,000 messages per second.[12] The Exchange further states that while Members may elect to establish a lower Port Order Rate Threshold, each Member is subject to the same maximum Port Order Rate Threshold.[13]

The Exchange now proposes to establish Rule 11.23, entitled Port Order Rate Threshold, to state that all Members shall be subject to a Port Order Rate Threshold, as determined by the Exchange in its discretion. In support of its proposal, the Exchange cites to rules that historically existed in the Cboe Options Exchange (''C1'') and the Cboe C2 Options Exchange (''C2'') rulebooks.[14] The Exchange further states that proposed Rule 11.23 is based on MIAX and MIAX Emerald Rule 502.[15] The Exchange states that the proposed amendment will promote transparency and maintain clarity in its rules and help preserve its operational resiliency.[16]

III. Proceedings To Determine Whether To Approve or Disapprove SR–CboeEDGX–2022–004 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[17] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[18] the Commission is providing notice of the grounds for disapproval under consideration. As described above, the Exchange's proposed rule states that each Member shall be subject to a maximum Port Order Rate Threshold, as determined by the Exchange. As proposed, the rule provides the Exchange with discretion to set the maximum Port Order Rate Threshold and does not include a set maximum or range within which the maximum threshold would be set. Further, although the Exchange describes how the current maximum Port Order Rate Threshold is applied to new non-administrative messages received once the threshold is reached,[19] the Exchange does not specify its application under the proposed rule change. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed, among other things, 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.[20]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94144 (February 3, 2022), 87 FR 7519 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94496, 87 FR 18410 (March 30, 2022). The Commission designated May 10, 2022 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] ''System'' means the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away. *See* Exchange Rule 1.5(cc).

[8] *See* Notice, *supra* note 3, at 7519.

[9] ''Member'' means a registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. *See* Exchange Rule 1.5(n).

[10] *See* Notice, *supra* note 3, at 7519.

[11] *See id. See also* Cboe FIX Specifications at p. 72, available at: *https://cdn.cboe.com/resources/membership/Cboe_US_Equities_FIX_Specification.pdf;* and Cboe BOE Specifications, available at: *https://cdn.cboe.com/resources/membership/Cboe_US_Equities_BOE_Specification.pdf.*

[12] *See id.* According to the Exchange, when the first non-administrative message is received, a one second window begins. During the second no more than 9,999 additional non-administrative messages will be allowed within that one second window. If the rate is exceeded, all new orders in the time window are rejected, modifies are treated as cancels, and cancels are processed. *See* Notice, *supra* note 3, at 7519 n. 6.

[13] *See* Notice, *supra* note 3, at 7519.

[14] *See* Notice, *supra* note 3, at 7519–20.

[15] *Id.*

[16] *Id.*

[17] 15 U.S.C. 78s(b)(2)(B).

[18] *Id.*

[19] *See supra* note 12.

[20] 15 U.S.C. 78f(b)(5).

the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [21] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[22] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[23]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposal is consistent with the Act.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,[24] any request for an opportunity to make an oral presentation.[25]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by June 6, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 21, 2022.

[21] 17 CFR 201.700(b)(3).

[22] *See id.*

[23] *See id.*

[24] 17 CFR 240.19b–4.

[25] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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 No. SR–CboeEDGX–2022–004 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 No. SR–CboeEDGX–2022–004. The 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 No. SR–CboeEDGX–2022–004 and should be submitted by June 6, 2022. Rebuttal comments should be submitted by June 21, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–10417 Filed 5–13–22; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 200.30–3(a)(57).

SMALL BUSINESS ADMINISTRATION

Meeting of the Interagency Task Force on Veterans Small Business Development

AGENCY: Small Business Administration (SBA).

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time, and agenda for the next meeting of the Interagency Task Force on Veterans Small Business Development (IATF).

DATES: Wednesday, June 1, 2022, from 1:00 p.m. to 3:30 p.m. EST.

ADDRESSES: Due to the coronavirus pandemic, the meeting will be held via Microsoft Teams.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is strongly encouraged. To RSVP and confirm attendance, the public should email *veteransbusiness@sba.gov* with subject line—''RSVP for June 1, 2022, IATF Public Meeting.'' To submit a written comment, individuals should email *veteransbusiness@sba.gov* with subject line—''Response for June 1, 2022, IATF Public Meeting'' no later than May 26, 2022, or contact Timothy Green, Deputy Associate Administrator, Office of Veterans Business Development (OVBD) at (202) 205–6773. Comments received in advanced will be addressed as time allows during the public comment period. All other submitted comments will be included in the meeting record. During the live meeting, those who wish to comment will be able to do so during the public comment period.

Participants can join the meeting via computer *https://bit.ly/JuneIATF* or phone. Call in (audio only): Dial: 202–765–1264: Phone Conference ID: 162 086 940#

Special accommodation requests should be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov.* All applicable documents will be posted on the IATF website prior to the meeting: *https://www.sba.gov/page/interagency-task-force-veterans-small-business-development.* For more information on veteran-owned small business programs, please visit *www.sba.gov/ovbd.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development (IAFT). The IATF is established pursuant to Executive Order

13540 to coordinate the efforts of Federal agencies to improve capital, business development opportunities, and pre-established federal contracting goals for small business concerns owned and controlled by veterans and service-disabled veterans. The purpose of this meeting is to discuss efforts that support veteran-owned small businesses, updates on past and current events, and the IATF's objectives for fiscal year 2022.

Dated: May 10, 2022.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2022–10454 Filed 5–13–22; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Meeting of the Advisory Committee on Veterans Business Affairs

AGENCY: Small Business Administration (SBA).

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the date, time, and agenda for a meeting of the Advisory Committee on Veterans Business Affairs (ACVBA).

DATES: Thursday, June 2, 2022, from 9:00 a.m. to 12:00 p.m. EST.

ADDRESSES: Due to the coronavirus pandemic, the meeting will be held via Microsoft Teams using a call-in number listed below.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public; however advance notice of attendance is strongly encouraged. To RSVP and confirm attendance, the general public should email *veteransbusiness@sba.gov* with subject line—''RSVP for June 2, 2022, ACVBA Public Meeting.'' To submit a written comment, individuals should email *veteransbusiness@sba.gov* with subject line—''Response for June 2, 2022, ACVBA Public Meeting'' no later than May 26, 2022, or contact Timothy Green, Deputy Associate Administrator, Office of Veterans Business Development (OVBD) at (202) 205–6773. Comments received in advanced will be addressed as time allows during the public comment period. All other submitted comments will be included in the meeting record. During the live meeting, those who wish to comment will be able to do so during the public comment period.

Participants can join the meeting via computer *https://bit.ly/JuneACVBA* or phone. Call in (audio only): Dial: 202–765–1264: Phone Conference ID: 147 026 343#.

Special accommodation requests should be directed to OVBD at (202) 205–6773 or *veteransbusiness@sba.gov.* All applicable documents will be posted on the ACVBA website prior to the meeting: *https://www.sba.gov/page/advisory-committee-veterans-business-affairs.* For more information on veteran-owned small business programs, please visit *www.sba.gov/ovbd.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The ACVBA is established pursuant to 15 U.S.C. 657(b) note and serves as an independent source of advice and policy. The purpose of this meeting is to discuss efforts that support veteran-owned small businesses, updates on past and current events, and the ACVBA's objectives for fiscal year 2022.

Dated: May 10, 2022.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2022–10448 Filed 5–13–22; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17440 and #17441; NEW MEXICO Disaster Number NM–00080]

Presidential Declaration of a Major Disaster for the State of New Mexico

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New Mexico (FEMA–4652–DR), dated 05/04/2022.

Incident: Wildfires and Straight-line Winds.

Incident Period: 04/05/2022 and continuing.

DATES: Issued on 05/04/2022.

Physical Loan Application Deadline Date: 07/05/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 02/06/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/04/2022, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Colfax, Lincoln, Mora, San Miguel, Valencia.

Contiguous Counties (Economic Injury Loans Only):

New Mexico: Bernalillo, Chaves, Cibola, De Baca, Guadalupe, Harding, Otero, Quay, Rio Arriba, Santa Fe, Sierra, Socorro, Taos, Torrance, Union.

Colorado: Costilla, Las Animas.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.875
Homeowners without Credit Available Elsewhere	1.438
Businesses with Credit Available Elsewhere	5.880
Businesses without Credit Available Elsewhere	2.940
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.940
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17440 5 and for economic injury is 17441 0.

(Catalog of Federal Domestic Assistance Number 59008)

Joshua Barnes,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–10439 Filed 5–13–22; 8:45 am]

BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2020–0042]

Finding Regarding Foreign Social Insurance or Pension System of Estonia

AGENCY: Social Security Administration.

ACTION: Notice of finding regarding foreign social insurance or pension system of Estonia.

SUMMARY: We find that, under the Alien Nonpayment Provision of the Social Security Act (Act), citizens of Estonia may continue to receive Social Security benefits under title II, after 6 consecutive calendar months of absence from the United States. This finding is based on information and data we received about the social insurance system of Estonia and its laws. The Commissioner of Social Security delegated the authority to make this finding to the Deputy Commissioner for Retirement and Disability Policy.

DATES: We will implement this finding on May 16, 2022.

FOR FURTHER INFORMATION CONTACT: Icie K. Allen, Office of Income Security Programs, 2500 Robert Ball Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–8945.

SUPPLEMENTARY INFORMATION: We are prohibited by law from paying benefits under title II of the Act to non-U.S. citizens who remain outside the United States for more than 6 consecutive calendar months, unless they meet an exception provided in the law. We refer to this portion of the law as the Alien Nonpayment Provision (ANP).[1]

We recently reviewed the Estonian social insurance system to determine if it meets the criteria for an ANP exception. This is a new finding about the social insurance system of Estonia under the ANP. As a result of this finding, citizens of Estonia may continue receiving benefits under title II of the Act after 6 consecutive calendar months outside the United States.

Background

The ANP, section 202(t) of the Act, prohibits payment of title II benefits to individuals who are not U.S. citizens or nationals for any month after they have been outside the United States for more than 6 consecutive calendar months. Beneficiaries who meet one of the exceptions in the ANP may continue to receive benefits under title II without regard to absence from the United States. Some of these exceptions require that dependents and survivors meet a 5-year U.S. residency requirement for benefits to continue after 6 consecutive calendar months of absence from the United States.[2]

To determine whether the social insurance or pension system meets the criteria for an exception under section 202(t) of the Act, we review the foreign country's laws. In addition, we review information and data that we receive from the administrators of the social insurance or pension system of that country. The Commissioner of the Social Security Administration publishes these findings in the **Federal Register**.

Previously, we determined that the social insurance system of Estonia did not meet the exception under section 202(t)(2) of the Act because, although the social insurance system satisfied the requirements of section 202(t)(2)(A), it did not satisfy the requirements of section 202(t)(2)(B). The system did not meet subparagraph (B) because Estonia restricted the payment of its pension abroad. We published this determination in the **Federal Register** on February 26, 1993.[3]

The Estonian government informed us that they passed an amendment, effective January 1, 2018, which allowed payment of all benefits outside of Estonia. In April 2018, we received a completed SSA–142 *Report of Social Insurance or Pension System,* submitted by the Ministry of Social Affairs of Estonia. We initiated an analysis to reach the finding we describe here.

Finding

Section 202(t)(2) of the Act provides that the prohibition against payment shall not apply to individuals who are citizens of a foreign country that the Commissioner of Social Security finds has a social insurance or pension system that is in effect and of general application in such country, and that:

(A) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(B) permits individuals who are U.S. citizens but not citizens of that country and who qualify for benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

We find that, beginning January 1, 2018, Estonia met all of the required criteria of section 202(t)(2) of the Act because it had a social insurance system that was in effect, was of general application, and met the conditions in subparagraphs (A) and (B).

Our finding that the exception under section 202(t)(2) applies to citizens of Estonia is subject to section 202(t)(11) of the Act. Section 202(t)(11) requires that dependent and survivor title II beneficiaries must also have resided in the United States for a total period of 5 years or more while in a qualifying relationship with the individual on whose earnings the benefits are based.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; and 96.004, Social Security—Survivors Insurance)

The Acting Commissioner of Social Security, Kilolo Kijakazi, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

[FR Doc. 2022–10440 Filed 5–13–22; 8:45 am]

BILLING CODE 4191–02–P

[1] Section 202(t) of the Act, 42 U.S.C. 402(t).

[2] Section 202(t)(2), (4), (11) of the Act, 42 U.S.C. 402(t)(2), (4), (11).

[3] 58 FR 11612 (Feb. 26, 1993).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0047; Notice 1]

Cooper Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Cooper Tire & Rubber Company (Cooper Tire), has determined that certain Cooper CS5 Grant Touring and Cooper Evolution Tour replacement passenger car tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Cooper Tire filed a noncompliance report dated April 28, 2021, and subsequently, Cooper Tire petitioned NHTSA on May 12, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Cooper Tire's petition.

DATES: Send comments on or before June 15, 2022.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Jayton Lindley, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (325) 655–0547.

SUPPLEMENTARY INFORMATION:

I. Overview

Cooper Tire has determined that certain Cooper CS5 Grand Touring and Cooper Evolution Tour replacement passenger car tires do not fully comply with the requirements of paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). Cooper Tire filed a noncompliance report dated April 28, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Cooper Tire subsequently petitioned NHTSA on May 12, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Cooper Tire's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved

Approximately 294 Cooper CS5 Grand Touring, size 225/50R18, and Cooper Evolution Tour, size 225/60R16, replacement passenger car tires, manufactured between February 14, 2021, and March 27, 2021, are potentially involved.

III. Noncompliance

Cooper Tire explains that the noncompliance is that the subject tires were molded with an upside down and backwards serial week and year on the outboard sidewall as required by paragraph S5.5.1(b) of FMVSS No. 139.

IV. Rule Requirements

Paragraph S5.5.1(b) of FMVSS No. 139 includes the requirements relevant to this petition.

• Each tire must be labeled with the tire identification number required by 49 CFR part 574, which includes the date code, on the intended outboard sidewall of the tire.

V. Summary of Cooper Tire's Petition

The following views and arguments presented in this section, ''V. Summary of Cooper Tire's Petition,'' are the views and arguments provided by Cooper Tire. They have not been evaluated by the Agency and do not reflect the views of the Agency. Cooper Tire describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Cooper Tire submitted the following reasoning:

1. The tires subject to this petition, on their outboard side only, were molded with an upside down and backwards DOT serial week and year. The serial number stampings should read: DOT U9 X3 1 LP 0721 and UP 78 1CW 1221. The outboard side, which includes the date code, was molded with the date code information oriented incorrectly upside down and backwards, which resulted in the characters being out of proper sequence.

2. Cooper contends that the 294 tires subject to this petition meet and/or exceed all performance requirements and all other labeling markings as required by FMVSS No. 139.

3. Furthermore, Cooper Tire says that is not aware of any crashes, injuries, customer complaints, or field reports associated with the subject tires involved in this petition.

4. Cooper Tire believes that the upside down and backward date code will not cause confusion for the consumer or dealer that is selecting and mounting the tire, as the error is quite obvious, and there is no logical reading or interpretation of the date code in its upside down and backward position. Cooper Tire also believes that consumers and dealers will easily be able to see the issue and correctly identify the date code.

5. Cooper believes the following NHTSA statements, taken from another petition, apply to its petition: ''The purpose of the date code is to identify a tire so that, if necessary, the appropriate action can be taken in the interest of public safety—such as a safety recall notice.'' *See* Bridgestone/Firestone, Inc., 64 FR 29080 (May 28, 1999); *see also* Cooper Tire & Rubber Company, 68 FR 16115 (April 2, 2003). Furthermore, Cooper feels the following NHTSA statement applies to its petition, ''[t]he agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the ability of the tire manufacturer to identify the tires in the event of recall.'' *See* Bridgestone/Firestone, Inc., 66 FR 45076 (Aug. 27, 2001).

6. Cooper also stated that NHTSA has granted petitions and found that TIN noncompliance is inconsequential to safety in cases where the TIN is out of sequence or mislabeled. *See,* Bridgestone/Firestone North America Tire, LLC, 71 FR 4396 (Jan. 26, 2006) (granting petition where date code was missing because manufacturer could still identify and recall the tires); Cooper Tire & Rubber Company, 68 FR 16115 (April 2, 2003) (granting petition where

tires were labeled with wrong plant code, because ''the tires have a unique DOT identification''); Bridgestone/Firestone, Inc., 66 FR 45076 (Aug. 27, 2001) (granting petition where the date code was labeled incorrectly, because ''the information included on the tire identification label and the manufacturer's tire production records is sufficient to ensure that these tires can be identified in the event of a recall''); Bridgestone/Firestone, Inc., 64 FR 29080 (May 28, 1999) (granting petition where the wrong year was marked in date code on the tires); Cooper Tire & Rubber Company; 63 FR 29059 (May 27, 1998) (granting petition where date code was missing where tires had a unique TIN for recall purposes); Bridgestone/Firestone, Inc., 60 FR 57617 (Nov. 16, 1995) (granting petition where date code was out of sequence); Uniroyal Goodrich Tire Company, 59 FR 64232 (Dec. 13, 1994) (granting petition where week and year were mislabeled on tires).

Cooper Tire concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Cooper Tire no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper Tire notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2022–10438 Filed 5–13–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2022–0053]

Notice To Establish the Advisory Committee on Transportation Equity

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of the establishment of the Advisory Committee on Transportation Equity.

SUMMARY: The Office of the Secretary of Transportation (OST) announces the establishment of the Advisory Committee on Transportation Equity. The Secretary has determined that establishing the Advisory Committee on Transportation Equity is necessary and in the public interest.

DATES: The Advisory Committee on Transportation Equity will operate for two years after the filing date of its charter that will meet the 15-days requirements of the **Federal Register** Notice, unless otherwise renewed in accordance with FACA.

FOR FURTHER INFORMATION CONTACT: Advisory Committee on Transportation Equity Designated Federal Officer, Portia Allen-Kyle, Senior Advisor, Departmental Office of Civil Rights, Office of the Secretary, *portia.allenkyle@dot.gov.*

SUPPLEMENTARY INFORMATION: This notice announces the establishment of the Advisory Committee on Transportation Equity as a Federal Advisory Committee in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 2) to provide information, advice, and recommendations to the Secretary on comprehensive, interdisciplinary issues related to civil rights and transportation equity in the planning, design, research, policy, and advocacy contexts. The Committee is tasked with providing advice and recommendations to the Secretary about approaches to achieving the Department's equity goals. The Committee will only undertake tasks assigned to it by the Secretary. The **Federal Register** Notice will be published 15 days prior to filing the charter with Congress.

This notice is provided in accordance with the Federal Advisory Committee Act. Please see the Advisory Committee on Transportation Equity website at *https://www.transportation.gov/civil-rights/acte.*

Issued in Washington, DC, on May 11, 2022.

Irene B. Marion,

Director, Departmental Office of Civil Rights, U.S. Department of Transportation.

[FR Doc. 2022–10489 Filed 5–13–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2022–0054]

Solicitation of Nominations for Membership to the Advisory Committee on Transportation Equity

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Solicitation of nominations for membership to the Advisory Committee on Transportation Equity.

SUMMARY: The Office of the Secretary of Transportation (OST) calls for applications to the Advisory Committee on Transportation Equity.

DATES: Applications for the Advisory Committee on Transportation Equity are due June 15, 2022.

FOR FURTHER INFORMATION CONTACT: Advisory Committee on Transportation Equity Designated Federal Officer, Portia Allen-Kyle, Senior Advisor, Departmental Office of Civil Rights, Office of the Secretary, *portia.allenkyle@dot.gov.*

SUPPLEMENTARY INFORMATION: This notice calls for applications from the public for membership to the Advisory Committee on Transportation Equity, established as a Federal Advisory Committee in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. app. 2) to provide information, advice, and recommendations to the Secretary on comprehensive, interdisciplinary issues related to civil rights and transportation equity in the planning, design, research, policy, and advocacy contexts. The Committee is tasked with providing advice and recommendations to the Secretary about approaches to achieving the Department's equity goals. The Committee will only undertake tasks assigned to it by the Secretary. Members of The Committee may be selected to serve either as representatives of an organization or as members appointed solely for their expertise. Interested persons should submit a letter of interest and a statement of qualifications, such as a resume to both *portia.allenkyle@dot.gov* and *equity@dot.gov.*

Please see the Advisory Committee on Transportation Equity website at *https://*

www.transportation.gov/civil-rights/acte.

Issued in Washington, DC, on May 11, 2022.

Irene B. Marion,

Director, Departmental Office of Civil Rights, U.S. Department of Transportation.

[FR Doc. 2022–10488 Filed 5–13–22; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Revision; Comment Request; Municipal Securities Dealers and Government Securities Brokers and Dealers—Registration and Withdrawal

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revised information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the revision of its information collection titled, ''Municipal Securities Dealers and Government Securities Brokers and Dealers—Registration and Withdrawal.''

DATES: You should submit written comments by July 15, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0184, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0184'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop down menu. Click on ''Information Collection Review.'' From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0184'' or ''Municipal Securities Dealers and Government Securities Brokers and Dealers—Registration and Withdrawal.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency of information by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or revision of an existing collection of information, before submitting the collection to OMB for approval. In compliance with the PRA, the OCC is publishing notice of the proposed revision of the collection of information set forth in this document.

Title: Municipal Securities Dealers and Government Securities Brokers and Dealers—Registration and Withdrawal.

OMB Control No.: 1557–0184.

Form Numbers: MSD, MSDW,[1] MSD–4, MSD–5, G–FIN, G–FINW, GFIN–4 and GFIN–5.[2]

Abstract: This information collection is required to satisfy the requirements of section 15B[3] and section 15C[4] of the Securities Exchange Act of 1934, which require, in part, any national bank or Federal savings association that acts as a government securities broker/dealer or a municipal securities dealer, and certain national bank and FSA employees, to file the appropriate form with the OCC to inform the agency of its broker/dealer activities. The OCC uses this information to determine which national banks and Federal savings associations are acting as government securities broker/dealers and municipal securities dealers and to monitor entry into and exit from these activities by institutions and registered persons. The OCC also uses the information in planning national bank and Federal savings association examinations.

Type of Review: Renewal of a currently approved collection.

Affected Public: Businesses or other for-profit; individuals.

Estimated Number of Respondents: 15 (5 government securities dealers and 10 municipal and government securities dealers).

Estimated Number of Responses: 717.

Frequency of Response: On occasion.

Estimated Annual Burden: 597 burden hours.

Comments submitted in response to this notice will be summarized,

[1] The Securities and Exchange Commission (SEC) maintains collections for the MSD and MSDW under OMB Control Nos. 3235–0083 and 3235–0087; however, there is a requirement that these be filed with the OCC, which is covered by OMB Control No. 1557–0184.

[2] The Department of the Treasury maintains collections for the G–FIN–4 and G–FIN–5 under OMB Control No. 1535–0089; however, there is a requirement that the forms be filed with the OCC, which is covered by OMB Control No. 1557–0184.

[3] 15 U.S.C. 78o–4.

[4] 15 U.S.C. 78o–5.

included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–10436 Filed 5–13–22; 8:45 am]

BILLING CODE P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act; Meeting

TIME AND DATE: May 19, 2022, 11 a.m. to 1 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 922 7219 7200, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJYvcOuppzwoGtQ6BgoDuRXJFUdjcg0GW6jg.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Industry Advisory Subcommittee (the ''Subcommittee'') will conduct an initial organization meeting to begin its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Agenda

I. Call to Order—Industry Advisory Subcommittee Chair

The Industry Advisory Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Industry Advisory Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—Executive Director

The Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda—Industry Advisory Subcommittee Chair

For Discussion and Possible Board Action

The proposed Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee actions taken only in designated areas on agenda

IV. Discussion of the Role of the Subcommittee—Executive Director

The Executive Director will discuss the statutory role of the Subcommittee.

V. UCR Compliance and Increasing Participation—Tamara Young, UCR Board Member

UCR Board Member Tamara Young will discuss UCR compliance and increasing participation.

VI. Truck Parking Initiative—Monte Wiederhold, UCR Board Member

UCR Board Member Monte Wiederhold will discuss the truck parking initiative.

VII. Discussion on the Value of Participation in the Industry Advisory Subcommittee for the Motor Carrier Industry—Industry Advisory Subcommittee Members

Industry Advisory Subcommittee Members will discuss the value of participation in the Industry Advisory Subcommittee for the motor carrier industry.

VIII. Other Items—Industry Advisory Subcommittee Chair

The Industry Advisory Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

IX. Adjournment—Industry Advisory Subcommittee Chair

The Industry Advisory Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5 p.m. Eastern time, May 12, 2022 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2022–10557 Filed 5–12–22; 11:15 am]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0406]

Agency Information Collection Activity: Verification of VA Benefits

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. 2900–0406''.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0406'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Verification of VA Benefits, 26–8937.

OMB Control Number: 2900–0406.

Type of Review: Revision to currently approved collection.

Abstract: VA Form 26–8937 is designed to assist lenders and VA in the completion of debt checks in a uniform manner. The form restricts information

requested to only that needed for the debt check and also eliminates unlimited versions of lender-designed forms. This form is also occasionally used to inform the lender prior to loan closing if a Veteran is eligible for an exemption from the funding fee.

Lenders ensure the completion of the upper portion of VA Form 26–8937, including the veteran's authorization for release of the information, and forward it to the appropriate VA Office. VA personnel perform the debt check, complete the balance of the form, and return it to the lender, who considers any repayment terms in evaluating the veteran's creditworthiness. Following the closing of any loan, the lender submits the form with the loan report and related documents for post closing review. The form is reviewed by a loan examiner to ensure that debt check requirements have been observed in each case.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at insert citation date: 87 FR 14100 on March 11, 2022, pages 14100 and 14101.

Affected Public: Individuals and households.

Estimated Annual Burden: 440 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,500.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt) Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–10428 Filed 5–13–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee Charter Renewals

AGENCY: Department of Veterans Affairs.

ACTION: Notice of advisory committee charter renewals.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (FACA) and after consultation with the General Services Administration, the Secretary of Veterans Affairs has determined that the following Federal advisory committee is vital to the mission of the Department of Veterans Affairs (VA) and renewing its charter would be in the public interest. Consequently, the charter for the following Federal advisory committee is renewed for a two-year period, beginning on the dates listed below:

Committee name	Committee description	Charter renewed on
VA National Academic Affiliations Council	Provides advice on matters affecting partnerships between VA and its academic affiliates.	January 28, 2022.
Veterans' Rural Health Advisory Committee ..	Provides advice on health care issues that affect Veterans residing in rural areas.	March 21, 2022.
Cooperative Studies Scientific Evaluation Committee.	Provides advice on VA cooperative studies, multi-site clinical research activities, and policies related to conducting and managing these efforts and ensures that new and ongoing projects maintain high quality, are based upon scientific merit, mission relevance, and quality and are conducted efficiently, safely and economically conducted.	May 19, 2022.
Health Services Research and Development Service Scientific Merit Review Board.	Provides advice on the fair and equitable selection of the most meritorious research projects for support by VA research funds and to offer advice for research program officials on program priorities and policies; ensures the high quality and mission relevance of VA's legislatively mandated research and development program; and advises on the scientific and technical merit, the mission relevance and the protection of human and animal subjects proposals.	May 19, 2022.
Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board.	Provides advice on the scientific quality, budget, safety and mission relevance of investigator-initiated research proposals submitted for VA merit review consideration and to offer advice for research program officials on program priorities and policies.	May 19, 2022.
Rehabilitation Research and Development Service Scientific Merit Review Board.	Provides advice on the fair and equitable selection of the most meritorious research projects for support by VA research funds; provides advice for research program officials on program priorities and policies; and ensures that the VA Rehabilitation Research and Development program promotes functional independence and improves the quality of life for impaired and disabled Veterans.	May 19, 2022.

The Secretary also determined that the following Federal advisory committee is vital to VA and reestablished its charter:

Committee name	Committee description	Charter renewed on
National Research Advisory Council	Provides advice on the nature and scope of research and development sponsored and/or conducted by the Veterans Health Administration, to include policies and programs of the Office of Research and Development.	June 4, 2021.

Committee name	Committee description	Charter renewed on
Veterans' Family, Caregiver and Survivor Advisory Committee.	Provides advice related to Veterans' families, caregivers, and survivors across all generations, relationships, and Veteran status; the use of VA care and benefits services by Veterans' families, caregivers, and survivors, and possible expansion of such care and benefits services; Veterans' family, caregiver, and survivor experiences; VA policies, regulations, and administrative requirements related to the transition of Servicemembers from the DoD to enrollment in VA that impact Veterans' families, caregivers, and survivors; and factors that influence access to, quality of, and accountability for services and benefits for Veterans' families, caregivers, and survivors.	June 4, 2021.

The Secretary has also renewed the charter for the following statutorily authorized Federal advisory committee for a two-year period, beginning on the date listed below:

Committee name	Committee description	Charter renewed on
Advisory Committee on Cemeteries and Memorials.	Provides advice on the administration of VA national cemeteries, Soldiers' lots and plots, the selection of cemetery sites, the erection of appropriate memorials and the adequacy of Federal burial benefits.	June 2, 2021.
Veterans and Community Oversight and Engagement Board.	Coordinates locally with VA to identify the goals of the community and Veteran partnership; provides advice and recommendations to the Secretary of Veterans Affairs, to improve services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and provides advice and recommendations on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any other successor master plans.	June 10, 2021.
Special Medical Advisory Group	Provides advice on the care and treatment of enrolled Veterans and other matters pertinent to the operations of the Veterans Health Administration.	July 30, 2021.
Advisory Committee on Women Veterans	Provides advice on the administration of benefits for women Veterans; reports and studies pertaining to women Veterans; and the needs of women Veterans with respect to health care, rehabilitation benefits, compensation, outreach, and other relevant programs administered by VA.	October 14, 2021.
Veterans' Advisory Committee on Rehabilitation.	Provides advice on the administration of Veterans' rehabilitation programs under title 38, U.S.C.	January 18, 2022.
Advisory Committee on Minority Veterans	Provides advice on the administration of VA benefits for Veterans who are minority group members, by reviewing reports and studies on compensation, health care, rehabilitation, outreach, and other benefits and services administered by the Department.	March 25, 2022.

FOR FURTHER INFORMATION CONTACT: Jeffrey Moragne, Committee Management Officer, Department of Veterans Affairs, Advisory Committee Management Office (00AC), 810 Vermont Avenue NW, Washington, DC 20420; telephone (202) 714–1578; or email at *Jeffrey.Moragne@va.gov.* To view a copy of a VA Federal advisory committee charters, please visit *http://www.va.gov/advisory.*

Dated: May 11, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–10452 Filed 5–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease (EUL) of U.S. Department of Veterans Affairs (VA) Real Property for the Development of Permanent Supportive Housing at the Greater Los Angeles Healthcare System (GLAHS)—Principal Developer EUL—West Los Angeles (WLA), CA Campus

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent to enter into an EUL.

SUMMARY: The purpose of this **Federal Register** notice is to provide the public with notice that the Secretary of Veterans Affairs intends to enter into an EUL of certain assets identified below on the campus of the GLAHS–WLA.

FOR FURTHER INFORMATION CONTACT: C. Brett Simms, Executive Director, Office of Asset Enterprise Management, Office of Management, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–7092. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 8161–8169 and the West Los Angeles Leasing Act of 2016, Public Law 114–226, as amended, the Secretary of Veterans Affairs is authorized to enter into an EUL for a term of up to 99 years on the GLAHS–WLA Campus for the provision of supportive housing, if the lease is not inconsistent with and will not adversely affect the mission of VA. Consistent with this authority, the Secretary intends to enter into an EUL for the purpose of outleasing certain assets on the GLAHS–WLA Campus to develop at least 900 units of permanent supportive housing for Veterans and their families. The property to be leased may include the following assets on the area of the campus north of Wilshire Boulevard: Buildings 13, 113, 114, 115, 117, 156, 157, 158, 206, 210, 233, 236,

256, 257, 258, 306, 337, 340, 342, 346; parking lots 18, 20, 21, 38 and 49; and other assets identified in the Request for Qualifications No. 36E7718Q9061_1. The competitively-selected EUL Lessee/Principal Developer, the West LA Veterans Collective LLC, will finance, design, develop, rehabilitate, construct, manage, maintain and operate permanent supportive housing for eligible homeless Veterans or Veterans at-risk of homelessness on a priority placement basis. The housing will be developed in multiple phases over the next 11-plus years consistent with the GLAHS–WLA Master Plan 2022. Additionally, the Lessee/Principal Developer will be required to provide supportive services that guide Veteran residents towards long-term independence and self-sufficiency.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 10, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2022–10465 Filed 5–13–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0523]

Agency Information Collection Activity: Loan Analysis

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. 2900–0523''.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0523'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Loan Analysis, VA Form 26–6393.

OMB Control Number: 2900–0523.

Type of Review: Extension with change of a currently approved collection.

Abstract: VA Form 26–6393 is currently used by employees of both lending institutions and VA to determine the ability of a borrower to qualify for any type of VA-guaranteed loan authorized by 38 U.S.C. 3710(a). Lenders complete and submit the form to provide evidence that the lender's decision to submit a prior approval loan application or close a loan on the automatic basis is based upon appropriate application of VA credit standards as required by 38 U.S.C. 3710(b) and 3710(g). Section 36.4340, 38 CFR, implements those underwriting standards, which include evaluating income, expenses, and credit history. This form specifically pertains to those standards evaluating a borrower's present and anticipated income and expenses and credit history.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at insert citation date: *Example:* 87 FR 13046 on 15, 2016, March 8, 2022 page 13046.

Affected Public: Individuals and households.

Estimated Annual Burden: 280,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 560,000.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt) Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–10431 Filed 5–13–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–XXXX]

Agency Information Collection Activity: Guaranteed or Insured Loan Reporting Requirements

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Loan Guaranty Service, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. 2900–XXXX''.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 CFR 36.4303.

Title: Guaranteed or Insured Loan Reporting Requirements.

OMB Control Number: 2900–XXXX.

Type of Review: New Collection.

Abstract: This information collection package seeks OMB approval of information collection requirements currently found in VA regulations, but that do not appear to have previously been approved by OMB. VA statute requires lenders to report a guaranteed or insured loan to VA in such detail as

the Secretary may prescribe. 38 U.S.C. 3702(c). In cases where the loan is guaranteed, the Secretary shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. Regulations codified at 38 CFR 36.4303 detail the requirements of lenders to report loans to VA in order to obtain evidence of the guaranty.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 46 on March 9, 2022, pages 13371 and 13372.

Affected Public: Individuals and households.

Estimated Annual Burden: 67,452 hours.

Estimated Average Burden per Respondent: 4.8 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 843,150.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer, (Alt) Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–10477 Filed 5–13–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. app. 2, that a virtual meeting of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on June 2, 2022 starting on 9:00 a.m. Eastern Standard Time (EST) and adjourning at 5:00 p.m. EST. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on matters of structural safety in the construction and remodeling of VA facilities and to recommend standards for use by VA in the construction and alteration of its facilities.

On June 2, the Committee will receive appropriate briefings and presentations on current seismic, natural hazards, and fire safety issues that are particularly relevant to facilities owned and leased by the Department. The Committee will also discuss appropriate structural and fire safety recommendations for inclusion in VA's construction standards.

No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments. Comments should be emailed to Donald Myers, Director, Facilities Standards Service, Office of Construction & Facilities Management (003C2B), Department of Veterans Affairs, at *donald.myers@va.gov.* In the communication, writers must identify themselves and state the organization, association, or person(s) they represent. For any members of the public that wish to attend virtually, they may use the Microsoft Teams link or call in with the phone number and Phone Conference ID below:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NGViMDdlZjctMzgzNi00YTQyLTllZTgtZWNkOWI1YmMxOGYy%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22d2eb6490-e84d-4737-b9ce-b5664e018fd6%22%7d, or to join by phone (audio only): +1 872–701–0185, Phone Conference ID: 313 515 809#.

Those seeking additional information or wishing to attend should contact Mr. Myers at the email address noted above or by phone at 202–632–5388.

Dated: May 11, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–10446 Filed 5–13–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 87 Monday,

No. 94 May 16, 2022

Part II

Department of the Interior

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—High Pressure High Temperature and Subpart B Revisions; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2021–0003; EEEE500000 223E1700D2 ET1SF0000.EAQ000]

RIN 1014–AA49

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—High Pressure High Temperature and Subpart B Revisions

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Safety and Environmental Enforcement (BSEE) is proposing to add requirements for new or unusual technology, including equipment used in high pressure high temperature (HPHT) environments, to revise and reorganize the information submission requirements for a project's Conceptual Plans and Deepwater Operations Plans (DWOP), and to require independent third parties to review certain information prior to submission to BSEE. This proposed rule would improve operational and environmental safety and human health while providing consistency and clarity to industry regarding the equipment and operational requirements necessary for BSEE review and approval of projects using new or unusual technology.

DATES: Send your comments on this proposed rule to BSEE on or before July 15, 2022. BSEE is not obligated to consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed below (see **ADDRESSES**). *Information Collection Requirements:* If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by June 15, 2022. The deadline for comments on the information collection burden does not affect the deadline for the public to comment to BSEE on the proposed regulations.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1014–AA49 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal: https://www.regulations.gov.* In the entry titled Enter Keyword or ID, enter BSEE–2021–0003 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this rulemaking. BSEE may post all submitted comments.
- *Mail or Hand-Carry Comments to BSEE:* Attention: Regulations and Standards Branch, 45600 Woodland Road, VAE–ORP, Sterling VA 20166. Please reference RIN 1014–AA49, ''Oil and Gas and Sulfur Operations on the Outer Continental Shelf—High Pressure High Temperature and Subpart B Revisions,'' in your comments, and include your name and return address.
- All API standards that are safety-related and that are incorporated into Federal regulations are available to the public for free viewing online in the Incorporation by Reference Reading Room or for purchase on API's website at: *https://publications.api.org* and *https://www.api.org/products-and-services/standards/purchase*, respectively.
- NACE International (NACE) standards can be accessed through the American National Standards Institute (ANSI) Incorporated by Reference (IBR) Portal. The website can be accessed at: *https://ibr.ansi.org.*
- For the convenience of the viewing public who may not wish to purchase or view the incorporated documents online, the documents may be inspected at BSEE's offices at: 1919 Smith Street, Suite 14042, Houston, Texas 77002 (phone: 1–844–259–4779), or 45600 Woodland Road, Sterling, Virginia 20166 (email: *regs@bsee.gov*), by appointment only.
- Send comments on the information collection in this rule to: Interior Desk Officer 1014–0028, Office of Management and Budget; 202–395–5806 (fax); email: *oira_submission@omb.eop.gov.* Please send a copy to BSEE at *regs@bsee.gov.*

Public Availability of Comments: 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. In order for BSEE to withhold from disclosure your personal identifying information, you must identify any information contained in your comment submittal that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence(s) of the disclosure of information, such as embarrassment, injury, or other harm. While you may request that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: For questions, contact Kirk Malstrom, Regulations and Standards Branch, (202) 258–1518, or by email: *regs@bsee.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

Through this rulemaking, BSEE would improve operational safety and human health and environmental protections while providing industry with clarity and consistency regarding the submissions necessary for BSEE to review and approve operations using new or unusual technology. BSEE considers new or unusual technology to include equipment or procedures that have not been used previously or extensively under the anticipated operating conditions, or that have not been used previously in a particular BSEE Outer Continental Shelf (OCS) Region, or that have operating characteristics outside the performance parameters established in 30 CFR part 250. Currently, operations and equipment used in HPHT environments are relatively new on the United States OCS. In general, an HPHT environment is present when well conditions have pressures greater than 15,000 pounds per square inch absolute (psia) or have a temperature greater than 350 degrees Fahrenheit. Historically, oilfield equipment has not been designed to withstand these high pressures and temperatures. Working in an HPHT environment also increases the operational complexity because HPHT associated operations require the use of equipment that exists at the limits of current technology and without a long operational history. Due to limited industry experience in HPHT environments, there are few standards that directly address HPHT equipment and operations. Currently, BSEE carefully reviews HPHT projects on a case-by-case basis. To date, BSEE has received several applications for projects in an HPHT environment and anticipates HPHT project interest to increase due to equipment technological advancements and industry capabilities to develop resources in these environments.

For new or unusual technology projects, including HPHT projects, BSEE regulations currently:

- Require submission of information in a sequence that is not conducive to new or unusual technology projects because these projects require more BSEE review and approval upfront;
- Lack specific equipment requirements because the technology is new and there are few applicable industry standards; and
- Do not require submission of information in a way that best facilitates BSEE review.

To address these issues, this rulemaking would:

- Require submission of information in a sequence that provides both operators and BSEE the ability to evaluate whether a new or unusual technology project is economically and operationally feasible;
- Add specific equipment requirements, particularly for barriers, through new regulations and incorporation of industry standards; and
- Require Independent Third Party (I3P) review of operator submissions, in certain cases, or provide BSEE with the ability to require I3P review, to ensure project viability and safety.

Currently, the DWOP process requires information to be submitted in two distinct phases: The Conceptual Plan phase and the DWOP approval phase. This rulemaking would revise the DWOP process to establish three stand-alone conceptual plans to address deepwater development projects, subsea tieback development technology, and new or unusual technology. The three proposed Conceptual Plans would be a Project Conceptual Plan, a New or Unusual Technology Conceptual Plan, or a New or Unusual Technology Barrier Conceptual Plan. A Project Conceptual Plan would be required for any project planned in water depths greater than 1,000 feet or that will include the use of subsea tieback development technology regardless of water depth. A New or Unusual Technology Conceptual Plan would be required for any project or system involving new or unusual technology equipment or procedures. A New or Unusual Technology Barrier Conceptual Plan would be required for any project or system involving new or unusual technology equipment or procedures identified as a primary or secondary barrier to isolate hydrocarbons and or pressure from people and the environment. An operator must submit the applicable Conceptual Plan(s) and may be required to submit multiple Conceptual Plans based on specifics of the proposed project. Equipment or procedures that would be used in an HPHT environment would be considered new or unusual technology, and, for operations involving such equipment or procedures, an operator would be required to submit either a New or Unusual Technology Conceptual Plan or a New or Unusual Technology Barrier Conceptual Plan. The information specific to HPHT projects submitted in the applicable Conceptual Plan(s) or in the DWOP would be evaluated for adequacy prior to approval. Creation of the new Conceptual Plans and a new timing requirement—whereby these Conceptual Plans must be approved before any associated applicable permit (*e.g.,* pipeline, platform, Application for Permit to Drill (APD), Application for Permit to Modify (APM)) approval—would provide both operators and BSEE the ability to evaluate whether a new or unusual technology project is economically and operationally feasible earlier in the project planning process, before permit approval.

In addition, 30 CFR part 250, subpart B and the DWOP Process would be revised to incorporate the BSEE Barrier Concept into the requirements, including for new or unusual technology projects. The Barrier Concept is a holistic approach to the barrier system. BSEE considers a barrier or barrier system to be any engineered equipment, materials, component, or assembly that is intended to prevent the release of a hydrocarbon or other pressure source(s) that would cause harm to people or the environment. This proposed rulemaking would define, in subpart B, the types of equipment that BSEE considers to be barriers and how barriers must be used. Portions of the Barrier Concept would also be included in the DWOP Process under the New or Unusual Technology Barrier Conceptual Plan as a means of ensuring that new or unusual technology projects include sufficient barriers, which will enhance protections for people and the environment. This rulemaking would incorporate into regulations the existing BSEE policy on the Barrier Concept discussed in NTLs 2009–G36, *Using Alternate Compliance in Safety Systems for Subsea Production Operations,* 2019–G02, *Guidance for Information Submissions Regarding Proposed High Pressure and/or High Temperature (HPHT) Well Design, Completion, and Intervention Operations,* and 2019–G03, *Guidance for Information Submissions Regarding Site Specific and Non-Site Specific HPHT Equipment Design Verification Analysis and Design Validation Testing.*

Furthermore, the DWOP Process would be revised to require I3P review of equipment or procedures identified in a New or Unusual Technology Barrier Conceptual Plan and allow BSEE to require an operator to use an I3P to review certain equipment or procedures identified in a New or Unusual Technology Conceptual Plan. Independent third parties have been utilized as a longstanding industry practice to support certifications and verifications that ensure project viability and safety. I3P review provides an additional review in circumstances where proposed equipment or processes may be technically complex and require a high degree of specialized engineering knowledge, expertise, and experience to evaluate.

The Principal Deputy Assistant Secretary—Lands and Minerals Management takes this action pursuant to delegated authority.

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I. Background

A. BSEE Statutory and Regulatory Authority and Responsibilities

BSEE derives its authority primarily from the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331–1356a. Congress enacted OCSLA in 1953, authorizing the Secretary of the Interior (Secretary) to lease the OCS for mineral development, and to regulate oil and gas exploration, development, and production operations on the OCS. The Secretary has delegated authority to perform certain of these functions to BSEE.

To carry out its responsibilities, BSEE regulates offshore oil and gas operations to enhance the safety of exploration for and development of oil and gas on the OCS, to ensure that those operations protect the environment, and to implement advancements in technology. BSEE also conducts onsite inspections to assure compliance with regulations, lease terms, and approved plans and permits. Detailed information concerning BSEE's regulations and guidance to the offshore oil and gas industry may be found on BSEE's website at: *https://www.bsee.gov/guidance-and-regulations.*

BSEE's regulatory program covers a wide range of OCS facilities and

activities, including drilling, completion, workover, production, pipeline, and decommissioning operations. Drilling, completion, workover, and decommissioning operations are types of well operations that offshore operators [1] perform throughout the OCS. This rulemaking is applicable to these listed operational activities that involve deepwater development projects, subsea tieback development technology, projects or systems that use new or unusual technology, or barriers.

B. Purpose and Summary of the Rulemaking

The purpose of this rulemaking is to improve the requirements and information submission process for oil and gas operations in deepwater and for new or unusual technology equipment or procedures. The proposed regulations would achieve this purpose by adding requirements for new or unusual technology projects, including HPHT projects, by reorganizing the deepwater project information submission process, and by requiring I3P review of certain submissions.

Together, these regulations would ensure that operators consider and submit sufficient information to BSEE at an early stage in the process so that the operator and BSEE can adequately address any issues concerning equipment selection, design, and fabrication.

C. Summary of Documents Incorporated by Reference

This rulemaking would update one document currently incorporated by reference to a newer edition and would apply three documents already incorporated by reference to additional workover and completion operations. A brief summary of the proposed changes, based on the descriptions in each standard or specification, is provided in the following text.

American National Standards Institute (ANSI)/API Specification (Spec.) 11D1, Packers and Bridge Plugs, Third Edition, April 2015.

This specification provides minimum requirements and guidelines for packers and bridge plugs used downhole in oil and gas operations. The performance of this equipment is often critical to maintaining well control during drilling and production operations. This specification provides requirements for the design, design verification and validation, materials, documentation and data control, repair, shipment, and storage of packers and bridge plugs.

ANSI/API Spec. 6A, Specification for Wellhead and Christmas Tree Equipment, October 2010; Addendum 1, November 2011; Errata 2, November 2011; Addendum 2, November 2012; Addendum 3, March 2013; Errata 3, June 2013; Errata 4, August 2013; Errata 5, November 2013; Errata 6, March 2014; Errata 7, December 2014; Errata 8, February 2016; Addendum 4, June 2016; Errata 9, June 2016; Errata 10, August 2016.

This specification defines requirements for the design of valves, wellheads and Christmas tree equipment that is used during drilling and production operations. This specification includes requirements related to dimensional and functional interchangeability, design, materials, testing, inspection, welding, marking, handling, storing, shipment, purchasing, repair and remanufacture.

ANSI/API Spec. 17D, Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment, Second Edition, May 2011; Addendum 1, September 2015; Errata, September 2011; Errata 2, January 2012; Errata 3, June 2013; Errata 4, July 2013; Errata 5, October 2013; Errata 6, August 2015; Errata 7, October 2015.

This specification provides requirements for subsea wellheads, mudline wellheads, and drill-through mudline wellheads, as well as vertical and horizontal subsea trees. These devices are located on the seafloor, and, therefore, ensuring the safe and reliable performance of this equipment is extremely important. This specification identifies the tooling necessary to handle, test and install the equipment. It also specifies the parameters for design, material, welding, quality control (including factory acceptance testing), marking, storing, and shipping for both individual sub-assemblies (used to build complete subsea tree assemblies) and complete subsea tree assemblies.

NACE Standard MR0175–2003, Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments, Revised January 2003.

This standard describes general principles and provides requirements and recommendations for the selection and qualification of metallic materials for equipment used in oil and gas production, and in natural-gas sweetening plants, in hydrogen sulfide (H_2S)-containing environments, where the failure of such equipment can pose a risk to the health and safety of the public and personnel or to the environment. Application of this standard can help avoid costly corrosion damage to equipment. This standard supplements, but does not replace, the material requirements contained in applicable design codes, standards, or regulations. This standard also addresses all mechanisms of cracking that can be caused by H_2S, including sulfide stress cracking, stress corrosion cracking, hydrogen-induced cracking and stepwise cracking, stress-oriented hydrogen-induced cracking, soft zone cracking, and galvanically induced hydrogen stress cracking. This standard does not include, and is not intended to include design specifications.

The American Petroleum Institute (API) provides free online public access to view read-only copies of its key industry standards, including a broad range of technical standards. All API standards that are safety-related and that are incorporated into Federal regulations are available to the public for free viewing online in the Incorporation by Reference Reading Room on API's website at: *https://publications.api.org.*[2] In addition to the free availability of these standards on API's website, hardcopies and printable versions are available for purchase from API. The API website address to purchase standards is: *https://www.api.org/products-and-services/standards/purchase.*

NACE International (NACE) standards can be accessed through the American National Standards Institute (ANSI). The ANSI Incorporated by Reference (IBR) Portal provides access to many standards that have been incorporated by reference in the U.S. Code of Federal Regulations (CFR). These standards incorporated by the U.S. government in rulemakings are offered at no cost in ''read only'' format and are presented for online reading. However, there are no print or download options. The website can be accessed at: *https://ibr.ansi.org.*

For the convenience of the viewing public who may not wish to purchase or view the incorporated documents online, the documents may be inspected at BSEE's offices at: 1919 Smith Street, Suite 14042, Houston, Texas 77002 (phone: 1–844–259–4779), or 45600

[1] BSEE's regulations at 30 CFR part 250 generally apply to ''a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s). . . .'' 30 CFR 250.105 (definition of ''you''). For convenience, this preamble will refer to these regulated entities as ''operators'' unless otherwise indicated.

[2] BSEE's regulations at 30 CFR part 250 generally apply to ''a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s). . . .'' 30 CFR 250.105 (definition of ''you''). For convenience, this preamble will refer to these regulated entities as ''operators'' unless otherwise indicated.

Woodland Road, Sterling, Virginia 20166 (email: *regs@bsee.gov*), by appointment only. An appointment is required to ensure personnel are available to accommodate the request and to account for competing agency obligations or concerns, including those related to public health and natural disasters. Additional information on where these documents can be inspected or purchased can be found at 30 CFR 250.198, *Documents incorporated by reference,* or by sending a request by email to *regs@bsee.gov.*

II. Section-by-Section Discussion of Proposed Changes

BSEE is proposing to revise the following regulations:

Subpart A—General

Definitions (§ 250.105)

This rulemaking would add definitions for ''*BOP systems and related equipment*'' and ''*HPHT environment.*''

The new definition of ''*BOP systems and related equipment*'' would include all pressure controlling and pressure containing well control equipment that may or will be exposed to the well's maximum anticipated surface pressure (MASP) during any phase of operation (*i.e.,* drilling, completion, workover, intervention, or abandonment). The definition would also explain that well control equipment includes equipment that is installed for the purpose of pressure control and containment when it becomes necessary to physically enter a well bore during drilling, completion, workover, intervention, or abandonment modes of operation. The proposed definition of ''*BOP systems and related equipment*'' is consistent with how BSEE defined the term in NTL 2019–G03.

The definition of *HPHT environment* would be moved from § 250.804(b) to this section and revised to include operations (1) that require equipment or well control equipment pressure rated for greater than 15,000 psia or temperature rated for greater than 350 degrees Fahrenheit; (2) where the MASP or shut in tubing pressure (SITP) is greater than 15,000 psia on the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead; or (3) with a flowing temperature greater than 350 degrees Fahrenheit measured on the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead. The proposed definition is consistent with BSEE's current definition of HPHT environments in § 250.804(b) and is identical to the definition in NTL 2019–G03.

Service Fees (§ 250.125)

This rulemaking would revise paragraph (a)(2) of § 250.125 by adding new service fees for BSEE review of submittals associated with the DWOP Process. Specifically, this rulemaking would add service fees for processing a Project Conceptual Plan, New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, revised DWOP, Combined Conceptual Plan/DWOP, and Supplemental DWOP. This rulemaking would also revise the cost recovery fee amount for DWOP approval to reflect current BSEE review and processing timeframes. These service and cost recovery fees would cover BSEE's costs for administrative and technical review of each identified submittal and processing.

Documents Incorporated by Reference (§ 250.198)

This rulemaking would revise paragraph (e)(82) of § 250.198, which incorporates ANSI/API Spec. 6A, Specification for Wellhead and Christmas Tree Equipment, to add new references to §§ 250.518 and 250.619, making this standard applicable to completion and workover operations. The changes to this paragraph are administrative to reflect changes made to §§ 250.518 and 250.619 to reference this standard and are addressed further in the section-by-section discussion for these two sections.

This rulemaking would revise paragraph (e)(86) of § 250.198 to update the incorporation of ANSI/API Spec. 11D1 to the third edition of that standard. BSEE reviewed the new edition and differences between the second and third editions of ANSI/API Spec. 11D1 and determined that the third edition is appropriate to incorporate into the regulations. The ANSI/API Spec. 11D1 third edition now includes an improved testing procedure for design verification and validation of packers and bridge plugs. The most significant change from the second edition to the third edition was the addition of the enhanced validation of the testing processes.

This rulemaking would revise paragraph (e)(91) of § 250.198, which incorporates ANSI/API Spec. 17D, Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment, Second Edition, to add new references to §§ 250.518 and 250.619, making this standard applicable to completion and workover operations. The changes to this paragraph are administrative and reflect changes made to §§ 250.518 and 250.619 and are addressed further in the section-by-section discussion for these two sections.

This rulemaking would also revise paragraph (i)(1) of § 250.198, which incorporates NACE Standard MR0175–2003, Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments, Revised January 17, 2003, to add new references to §§ 250.518 and 250.619, making this standard applicable to completion and workover operations. The changes to this paragraph are administrative and reflect changes made to §§ 250.518 and 250.619 and are addressed further in the section-by-section discussion for these two sections.

Subpart B—Plans and Information

BSEE is proposing to reorganize this subpart to incorporate new requirements and to ensure that information is submitted in an appropriate sequence. Many of the current provisions in this subpart would be moved into other sections within this same subpart without change. This section-by-section discussion identifies where BSEE proposes to move the content of the current provisions, explains proposed revisions to existing language, and proposes new provisions. For more information on these changes, BSEE has included a derivation table in Section IV of this notice.

The proposed rule would restructure Subpart B—*Plans and Information,* under the following undesignated headings:

—General Information
—Barrier Equipment and Systems
—Activities and Post-Approval Requirements for the EP, DPP, DWOP, AND DOCD
—Deepwater Operations Plan (DWOP) Process
—Conceptual Plans
—DWOP Approval.

General Information

Definitions (§ 250.200)

This rulemaking would revise paragraph (a) of § 250.200 by adding the acronym for HPHT. These are all common terms that are used throughout this subpart.

This rulemaking would also revise paragraph (b) of § 250.200 by adding, revising, or eliminating the following definitions, as noted:

- Add definition for ''Barrier categorization'' to identify barriers as one of the following two categories:
  - Category 1 Barrier, which would mean any equipment, component, or

assembly that functions as part of a primary barrier system during any operational phase of its life cycle. The operational phases of the barrier equipment, component or assembly are drilling, completion, workover, intervention, injection, production, or abandonment; and

○ Category 2 Barrier, which would mean any equipment, component, or assembly that normally functions as part of a secondary barrier system in all operational phases of its life cycle, except when a primary barrier fails. The operational phases of the barrier equipment, component or assembly are drilling, completion, workover, intervention, injection, production, or abandonment. BSEE may consider non-barrier structural components of a barrier system as Category 2 barriers, if failure of this structural component could reasonably result in a barrier failure.

• Add a definition for Primary Barrier system, which would mean the component, or group of components that is designated as the principle means of isolating the source of hydrocarbons and/or pressure from people and the environment.

• Add the definition for Secondary Barrier system, which would mean the component or group of components that is designated as the secondary means of isolating the source of hydrocarbons and/or pressure from people and the environment. The secondary barrier system would be redundant to the primary barrier system as long as the primary barrier remains intact.

• Revise the definition for ''new or unusual technology'' to include equipment or procedures used for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operation that meets any of the following criteria:

(1) Has not been approved for use or used extensively in a BSEE OCS Region;

(2) Has not been approved for use or used extensively under the anticipated operating conditions;

(3) Has operating characteristics that are outside the performance parameters established in 30 CFR part 250;

(4) Will operate in an HPHT environment as defined in proposed (§ 250.105); or

(5) Is part of a primary or secondary barrier system that uses materials, design analysis techniques, validation testing methods or manufacturing processes not addressed in existing industry standards. This is intended to include any existing industry standard and is not limited to those standards incorporated by reference in BSEE regulations.

These revisions would provide improved clarity regarding operations that BSEE has determined involve new or unusual technology and provide consistency for operators when actions would need to be taken using new or unusual technology.

• Replace the definition for ''non-conventional production or completion technology'' with ''subsea tieback development technology.'' The definition of ''subsea tieback development technology'' would still include the current examples of floating production systems, tension leg platforms, spars, Floating Production Storage and Offloading Vessel (FPSO) systems, guyed towers, compliant towers, subsea manifolds, and subsea production components and would add subsea wells, hybrid wells, and other subsea completion components to the list of examples. This proposed term revision is intended to provide clarity and reflect the current nomenclature for this technology.

• Remove the definitions of ''modification,'' ''offshore vehicle,'' ''resubmitted OCS plan,'' ''revised OCS plan,'' and ''supplemental OCS plan.'' These terms are currently not used elsewhere in this subpart and are residual from when BSEE separated these regulations from BOEM requirements (see 76 FR 64432).

What plans and information must I submit before I conduct any activities on my lease or unit? (§ 250.201)

This rulemaking would revise existing paragraph (a) of § 250.201 to reflect the creation of the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, and the Project Conceptual Plan. This section provides general information about each plan and identifies when BSEE approval is necessary. Paragraph (a) would also clarify when each plan approval is required for certain activities. An operator is only required to submit the applicable conceptual plan(s). Each of these conceptual plans are standalone plans and are not contingent upon approval of each other. For example, if an operator plans to use new or unusual technology barrier equipment, they would only be required to submit a New or Unusual Technology Barrier Conceptual Plan, they would not be required to submit a New or Unusual Technology Conceptual Plan as well.

This rulemaking would also remove existing paragraph (c), which includes the limiting information provisions. The limiting information provisions allow the Regional Director to limit the amount of information or analyses required to be included with the submitted plans or documents, covered by this subpart, under certain conditions. The limiting information provisions are not used by BSEE and are residual from when BSEE separated these regulations from BOEM requirements (see 76 FR 64432).

How must I protect the rights of the Federal government? (§ 250.202)

The content of this proposed section would be moved from existing § 250.204 without revision.

Are there special requirements if my well affects an adjacent property? (§ 250.203)

The content of this proposed section would be moved from existing § 250.205 without revision.

Requirements for High Pressure High Temperature (HPHT) Barrier Equipment (§ 250.204)

This proposed section is new and clarifies what information an operator would be required to submit to BSEE if the operator plans to install HPHT barrier equipment. This section cross-references the applicable DWOP Process requirements associated with the New or Unusual Technology Barrier Conceptual Plan. These additions are necessary to help ensure that the equipment is fit for service in the specific HPHT environment. BSEE's review and approval of information submitted during the DWOP Process is intended to occur in conjunction with BSEE review and approval of associated applications or permits (*e.g.,* APD, APM, pipeline, and production safety system).

Barrier Equipment and Systems

What equipment does BSEE consider to be a barrier? (§ 250.206)

This section would codify some of the barrier concepts from BSEE NTL 2009–G36. Many parts of existing BSEE regulations under Subparts D, E, F, G, H, J and Q are dedicated to establishing barrier requirements. This section would clarify that BSEE considers a barrier or barrier system to be any engineered equipment, materials, component, or assembly that is installed to contain a hydrocarbon or other pressure source(s) to prevent harm to people or the environment. BSEE only recognizes barriers (non-mechanical or mechanical in nature) that are either permanently or temporarily installed, pressure controlling, and/or pressure containing barriers. Pressure controlling barriers must be able to be activated on demand. This rulemaking would also

clarify that barriers or barrier systems are required to be able to function and/or be pressure tested repeatedly to defined acceptance criteria. If the barrier or barrier system is classified as Safety and Pollution Prevention Equipment (SPPE) (as described under § 250.801(a)), then it must also be compliant with the leak test requirements established in Subpart H. Any specific engineered equipment, materials, components, or assembly that exist within a barrier system that are not tested would not be considered a barrier. This section would not alter or impact any existing regulation; it only documents a principle that is the basis of many BSEE regulations.

These barrier concepts are based on BSEE's viewpoint that abnormal conditions and/or failures are potential risks in a well or pipeline system. When an abnormal condition or failure occurs, it must be detectable, and upon detection, it is important to isolate its source behind redundant barriers. Primary or Secondary Barrier equipment may include, but is not limited to:

- Wellhead system, such as the high pressure housing, production casing hangers, and seal assemblies
- Tubing head
- Tubing hanger
- Tree, including all valves, fittings, and chokes
- Surface Controlled Subsurface Safety Valve (SCSSV), including all associated safety valve locks and landing nipples
- Capping stack
- BOP
- Completion workover riser system (CWOR)
- Surface flowhead used above a CWOR
- Subsea test tree (SSTT)
- Wellhead connector
- Landing nipples and tubing plugs
- Production liner hanger/packer
- Packers
- Pipeline boarding shutdown valve
- Flowline riser
- High integrity pressure protection system (HIPPS), including all equipment between the HIPPS and the tree
- Well top tension riser systems
- Production tubing
- Production casing
- Production liner
- Production casing and liner cement
- Production tubing, casing, and liner threaded connections
- Production liner hanger/packer
- Flowline jumpers
- Jumper connectors
- Manifolds
- Pipeline End Termination (PLETs)
- Pipeline End Manifolds (PLEMs)
- Flowlines
- Umbilicals
- Any other pressure containing or pressure controlling equipment from the production liner within the well through the last barrier in a subsea production, BOP, or intervention system.

How must barrier systems be used? (§ 250.207)

Under this section, operators would be required to install and maintain a primary and secondary barrier system to prevent a loss of containment during any operational phase of a well, flowline, pipeline, production, or riser system. It is BSEE's goal to prevent loss of containment by minimizing single point failures wherever possible. Given the probability that any barrier may fail during its service life due to age, corrosion, wear, damage, environment or accidents, the best mitigation is redundancy. This section would not alter or impact any existing regulation; it only documents a principle that is the basis of many BSEE regulations.

Activities and Post-Approval Requirements for the EP, DPP, DWOP, and DOCD

How must I conduct activities under an approved EP, DPP, or DOCD? (§ 250.208)

The content of this proposed section would be similar to the language in 30 CFR 550.280, *How must I conduct activities under the approved EP, DPP, or DOCD*? During the regulatory split between BSEE and BOEM, the content of this section was inadvertently removed from this part; however, the content is still applicable to BSEE and should be included in this part, as well as in 30 CFR part 550.

What must I do to conduct activities under the approved EP, DPP, or DOCD? (§ 250.209)

The content of this proposed section would be similar to the language in 30 CFR 550.281, *What must I do to conduct activities under the approved EP, DPP, or DOCD?* paragraphs (a) and (b). During the regulatory split between BSEE and BOEM, the content of this section was inadvertently removed from this part; however, the content is still applicable to BSEE and should be included in this part, as well as in 30 CFR part 550.

Do I have to conduct post-approval monitoring? (§ 250.210)

The content of this proposed section would be moved from § 250.282. This section would also add minor revisions to clarify that the Regional Supervisor may direct operators to conduct monitoring programs in association with their approved EP, DPP, DWOP, or DOCD.

What are my new or unusual technology failure reporting requirements? (§ 250.211)

This proposed section is new and would clarify the new or unusual technology failure reporting requirements. Currently, BSEE does not receive new or unusual technology failure data associated with approved DWOPs; however, BSEE has recently requested new or unusual technology failure data as a condition of DWOP approval. This section would require an operator to notify BSEE within 30 days of a failure and provide a written report identifying the root causes of the failure. This new section is intended to provide BSEE with a better understanding of operational limitations of equipment associated with an approved DWOP. Existing failure and incident reporting requirements in §§ 250.188, *What incidents must I report to BSEE and when must I report them*?, 250.730, *What are the general requirements for BOP systems and system components?,* and 250.803, *What SPPE failure reporting procedures must I follow?* may be used to help fulfill the new or unusual technology failure reporting requirements of this section. This section is not a substitute for other currently applicable failure or incident reporting requirements. Even though BSEE requires the operator to perform a risk assessment, failure mode analysis, design verification analysis, and validation testing on all new or unusual technology, a failure could still occur. Operating experience is an important tool for comprehensively understanding all possible issues with new technologies. BSEE has approved many new technologies for operators in the OCS. Even with successful implementation, new technology is often modified based on lessons learned during its use and application on the OCS. If a failure occurs on a new or unusual technology that was installed, BSEE may not approve this same new or unusual technology for installation again until we comprehensively understand the root cause of the failure and we confirm that the failure can be mitigated. Therefore, it is important for all failures to be reported.

Deepwater Operations Plan (DWOP) Process

What is the DWOP Process? (§ 250.220)

The content of this proposed section would be moved from § 250.286 and

would contain the following revisions and additions:

Paragraph (a) of § 250.220 would clarify that the DWOP Process is not only used for review of subsea tieback development technology, but also applies to deepwater development projects and other projects or systems that use new or unusual technology during any phase of drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations. These additions clarify when the DWOP Process is necessary and correspond with the proposed additions of DWOP Process new or unusual technology requirements.

Paragraph (b) would add that the DWOP Process does not replace other BSEE applications or permits (*e.g.,* APD, APM, pipeline, and platform). Other minor revisions to this paragraph reflect the corresponding additions to the proposed new or unusual technology requirements for the DWOP Process.

Paragraph (c) would clarify that the DWOP Process consists of two phases: The Conceptual Plans and the DWOP. The current DWOP regulations do not differentiate between the DWOP Process and the DWOP plan itself, as they currently use the term DWOP to refer to both. This proposed section would clarify the terms and is intended to reduce confusion about the different phases of the DWOP Process. The proposed DWOP requirements are not intended to require the submittal of a DWOP for operations not currently covered under the DWOP plan stage (*e.g.,* drilling and decommissioning), but would require submittal of the appropriate Conceptual Plan. Proposed §§ 250.227 through 250.229 would identify the contents of the Conceptual Plans. Proposed §§ 250.236 through 250.242 would identify what the DWOP must contain.

When must I use the DWOP Process? (§ 250.221)

The content of this proposed section would be moved from § 250.287 and would clarify that the DWOP Process is applicable to any project in water depths greater than 1000 feet and to any project that will include the use of subsea tieback development technology, regardless of water depth, or new or unusual technology for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations. These revisions provide consistency and reflect corresponding additions to the proposed new or unusual technology and DWOP requirements.

DWOPs have always been required when a development is situated in water depths of 1000 feet or greater or when subsea tieback development technology is used in any water depth. BSEE proposes to codify our existing practices to include the expansion of new or unusual technology. This rulemaking would also add requirements for the DWOP Process when any new or unusual technology is used for drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment projects. This would provide consistency for all new or unusual technology reviews.

Conceptual Plans

What are the types of Conceptual Plans that I must submit? (§ 250.225)

This proposed section is new and would identify the three types of proposed Conceptual Plans:

- *A Project Conceptual Plan* is required for any project that is planned in water depths greater than 1000 feet or will include the use of subsea tieback development technology, regardless of water depth (see proposed § 250.221 paragraphs (a)(1) and (2));
- *A new or unusual technology Conceptual Plan* is required for any project or system that involves equipment or systems that are considered new or unusual technology (see proposed § 250.200 for the definition of new or unusual technology); and
- *A new or unusual technology Barrier Conceptual Plan* is required for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier (see proposed § 250.200 for the definition of primary or secondary barriers).

This proposed section would add clarity by describing the proposed types of Conceptual Plans. The proposed requirements for each Conceptual Plan are discussed in the applicable corresponding sections, §§ 250.227 through 250.229. An operator must submit the applicable Conceptual Plan(s) based on specifics of the proposed project. The operator may be required to submit multiple Conceptual Plans.

When and how must I submit each applicable Conceptual Plan? (§ 250.226)

The content of this proposed section would be moved from §§ 250.288 and 250.290 and revised to clarify that the operator must submit its Conceptual Plans to the Regional Supervisor after the operator decides on the general concept(s) for a project or system, and before it begins final engineering design of the equipment, well, well safety control system, or subsea production systems. These revisions would help ensure that the operator considers the information associated with the proposed Conceptual Plans before application or permit (*e.g.,* APD, APM, pipeline, platform) approval. Once an operator begins final engineering design, it is generally too late to address changes to design and fabrication that may affect an entire project and may significantly delay project approval if such changes are necessary. This rulemaking would add a table to organize and clarify information associated with the three types of proposed Conceptual Plans.

Proposed paragraph (a) of § 250.226 would include content from § 250.290 and would further clarify that Project Conceptual Plan approval would be required before completion of any production or injection well, or installation of the tree.

Proposed paragraph (b) would add the following requirements regarding a New or Unusual Technology Conceptual Plan:

—The operator may not install any new or unusual technology until BSEE approves the New or Unusual Technology Conceptual Plan;

BSEE must approve the New or Unusual Technology Conceptual Plan before BSEE may approve any associated application or permit (*e.g.,* pipeline, platform, APD, APM); and

—The Regional Supervisor may require the operator to use an I3P to perform certain functions and verifications in accordance with § 250.231, as applicable. This addition would allow BSEE to use I3P services for new or unusual technology reviews that may involve technically complex engineering and require a high degree of specialized engineering knowledge, expertise, and experience to evaluate and help ensure appropriate reviews are conducted for the new or unusual technology.

These revisions would help ensure that operators consider the information associated with the proposed Conceptual Plans before application submittal, which would allow for changes to be considered in the design and fabrication process, potentially saving operators significant time and expense. This would also establish a formalized process for BSEE to review new or unusual technology technologies.

Proposed paragraph (c) would add the following requirements regarding a New or Unusual Technology Barrier Conceptual Plan:

—The operator must submit a New or Unusual Technology Barrier Conceptual Plan for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier;
—BSEE must approve the New or Unusual Technology Barrier Conceptual Plan prior to new or unusual technology barrier equipment installation;
—BSEE must approve the new or unusual technology barrier equipment before BSEE may approve of any associated application or permit (*e.g.,* pipeline, platform, APD, APM); and
—An operator submitting a New or Unusual Technology Barrier Conceptual Plan must use an I3P to perform certain functions and verifications in accordance with proposed § 250.231, *What are the I3P review requirements for Conceptual Plan reviews?*

These revisions would help ensure that operators consider the information associated with the proposed conceptual plans before application submittal, thereby allowing for changes to be considered in the design and fabrication process, potentially saving operators significant time and expense. This would also establish a formalized process for BSEE to review new or unusual technology barrier technologies.

What must the Project Conceptual Plan contain? (§ 250.227)

This proposed section would require a Project Conceptual Plan to include the basis of design that the operator would use to develop the field. Proposed paragraphs (a), (b), (c), and (i)(1) of § 250.227 would reflect content of existing § 250.289. In addition, this section would require the operator to include the following information in the Project Conceptual Plan:

—Confirmation that the subsea production safety system will comply with Subpart H;
—For a new facility, a description of the type of facility the operator plans to install (*e.g.,* Spar, Tension Leg Platform (TLP), FPSO, etc.);
—For a subsea tieback to an existing facility, a statement identifying whether a minor or major structural modification will be made to the facility and the facility's remaining design life. If modifications will be made to the existing facility, a calculation of the facility's remaining design life and explanation of how the modifications will impact the design life;
—A statement regarding whether the host facility will be manned or unmanned;
—A schedule of development activities, including well completion, facility installation, and date of first oil;
—Schematics, including:
  ○ A well location plat;
  ○ A subsea field schematic depicting the planned development infrastructure that contains the wells, pipelines, riser systems, umbilical(s), and facility footprint;
  ○ The surface or subsea tree;
  ○ Wellbore and completion schematic for a typical well (including SCSSV location and chemical injection points; and depiction of, or statement of whether there will be gas zones behind the production casing or production liner and how they will be isolated); and
  ○ Information concerning the drilling and completion systems.
—The estimated shut-in tubing pressure for the proposed well(s), including the calculation used to arrive at the estimate, specifying true vertical depth (TVD), reservoir pressure, and the fluid gradient used, or a brief discussion of the pressure volume temperature (PVT) data used for estimation;
—The wellbore static bottomhole temperature and the estimated flowing temperature at the tree;
—The pressure and temperature rating of the tree and wellhead;
—Identify if there will be corrosive production (*e.g.,* H_2S, carbon dioxide (CO_2), Mercury (Hg) or injection fluids (*e.g.,* acid), including concentrations;
—Identify whether any proposed equipment will be re-furbished and re-certified;
—Identify whether enhanced recovery is planned for the early life of the project;
—Identify whether any new or unusual technology will be used to develop your project involving the following activities: Drilling, completion, injection, production, pipeline, or platform;
—Identify whether the well(s) will include smart completion technology; and
—Payment of the service fee listed in § 250.125.

BSEE currently requests and receives information similar to information listed in these proposed revisions for current conceptual plan approval. These revisions would codify current BSEE practices and provide BSEE with sufficient information to review Project Conceptual Plans. These revisions would also provide clarity and consistency for operator submittals of the Project Conceptual Plan. This rulemaking would also align the DWOP Process requirements with the current electronic system for submitting applicable plans.

These revisions would help ensure that operators consider the information associated with the Project Conceptual Plan before application submittal and allow for potential changes to be considered in the design and fabrication process, potentially saving operators significant time and expense.

What must the New or Unusual Technology Conceptual Plan contain? (§ 250.228)

Proposed paragraph (a) of § 250.228 would require the following information to be included in the New or Unusual Technology Conceptual Plan:

—How the New or Unusual Technology Conceptual Plan fits within the overall site-specific project, if applicable, including an overview of the project development concepts;
—Description of the technology and specific conditions under which it will be used;
—Description of shut-in capabilities and procedures;
—Description of redundancies of critical components or systems that will be used;
—Discussion of how the technology could impact the barrier system, if any, including the detection method for technology failure and how the barrier functions to a fail-safe state when impacted by new or unusual technology failure;
—Information on inspection and testing capabilities;
—A risk assessment and failure mode analysis;
—Operating procedures;
—History of development and application of the technology;
—The basis of design, including design verification and validation testing;
—Detailed schematics;
—Justification for new or unusual technology use, and any additional information required for a complete review;
—A list of any requested alternate procedures or equipment in accordance with § 250.141 and requested departures in accordance with § 250.142;
—A certification statement that the technology is fit for service in the applicable environment for the specific project location; and

—Payment of the service fee listed in § 250.125.

Proposed paragraph (b) would allow for the Regional Supervisor to require the use of an I3P according to proposed § 250.230 if the system or equipment requires a high degree of specialized or technically complex engineering knowledge, expertise, and experience to evaluate, or is not addressed in existing industry standards. This addition would help BSEE ensure that the equipment or process is appropriate for use in the specific environmental and operating conditions. In addition, the Regional Supervisor would be able to require operators to follow I3P requirements under § 250.231, on a case-by-case basis. Finally, this section would instruct operators to direct any questions about I3P requirements for New or Unusual Technology Conceptual Plans to the Regional Supervisor.

BSEE currently requests and receives information for conceptual plans similar to what would be required by these revisions. These revisions would codify current BSEE practices and would ensure BSEE consistently receives sufficient information for New or Unusual Technology Conceptual Plan review. These revisions would also provide clarity and consistency for operator submittal of the New or Unusual Technology Conceptual Plan. Similar information is presently required or requested of operators and provided to BSEE for review in the current DWOP Process.

What must the New or Unusual Technology Barrier Conceptual Plan include? (§ 250.229)

This proposed section would require the following information to be included in the New or Unusual Technology Barrier Conceptual Plan:

—Description of how the New or Unusual Technology Barrier Conceptual Plan fits within the overall site specific project, if applicable, including an overview of the project development concepts and a proposed schedule for submittal of associated conceptual plans;
—Diagram depicting the primary and secondary barriers, including all components, assemblies or sub-assemblies labeled and categorized as Category 1 barriers or Category 2 barriers;
—List of the primary and secondary barriers that include all components, assemblies, or sub-assemblies, specifying each assigned barrier as either a Category 1 barrier or Category 2 barrier;
—List of the engineering standards that will be used in the equipment's material selection and qualification, design verification analysis, and design validation testing;
—List of requested alternate procedures or equipment in accordance with § 250.141 or requested departures in accordance § 250.142;
—List of the functional requirements (*i.e.,* environmental, and physical loads (magnitude and frequency)) for which the barrier equipment is being designed;
—Description of the barrier equipment's safety critical functions, (*i.e.,* function(s) performed by or inherent to the equipment enabling it to achieve or maintain a safe state);
—An I3P nomination, in accordance with proposed § 250.230 paragraph (a); and
—An I3P verification plan that includes:
  —Discussion of the barrier equipment's material selection and qualification;
  —Discussion of the barrier equipment's design verification analyses;
  —Discussion of the barrier equipment's design validation testing;
  —Explanation of why the analyses, processes, and procedures ensure that the barrier equipment is fit for service in the applicable environment; and
  —Details regarding how the I3P will address the additional items listed in proposed § 250.231;
—I3P reports as required in proposed § 250.232; and
—Payment of the service fees listed in § 250.125.

Proposed paragraph (l) would clarify that, after BSEE receives all of the required I3P reports, the operator must submit a certification statement that the barrier equipment is fit for service in the applicable environment (for the specific project location).

BSEE currently requests and receives information in conceptual plans similar to these proposed revisions. These revisions would provide clarity and consistency for operator submittal of the New or Unusual Technology Barrier Conceptual Plan, codify existing BSEE practices, and would provide BSEE with sufficient information for proper New or Unusual Technology Barrier Conceptual Plan review and, if warranted, approval.

What are the requirements for the Independent Third Party (I3P) nomination? (§ 250.230)

This proposed section would outline the requirements for the operator to nominate an I3P to be used in conjunction with applicable Conceptual Plans. Paragraph (a) would add the nomination criteria for the I3P to review the design verification and design validation classification of the Original Equipment Manufacturer (OEM), including that the I3P must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications. This paragraph would also clarify that the I3P nomination must be submitted to BSEE for approval and must include the following information:

—Previous experience in third-party verification or experience in the design, fabrication, or installation of applicable offshore oil and gas equipment;
—Technical capabilities of the individual or the primary staff for the specific project;
—Size and type of organization or corporation;
—In-house availability of, or access to, appropriate technology to review the specific project (this should include computer programs, hardware, and testing materials and equipment as applicable);
—Ability to perform the I3P functions for the specific project considering current commitments (*e.g.,* project timelines, schedules, and personnel availability); and
—Previous experience with BSEE requirements and procedures.

This proposed section would help ensure that BSEE is informed of the I3P competencies and show that the I3P is qualified to perform the required verifications and certifications of this subpart.

Paragraph (b) would require that operators allow the I3P to access all associated documentation and equipment related to items in proposed § 250.229(i) to perform the complete reviews in accordance with proposed § 250.231. This may include OEM documents or access to the fabrication and manufacturing locations. The operator is responsible for ensuring that the I3P has the appropriate information to complete the required verifications and certifications. This documentation is necessary for the I3P to conduct its review and verify, as appropriate, that the equipment is designed and manufactured to operate within its specified operating limits.

Multiple I3Ps may be used to conduct the applicable verifications. These proposed revisions are not intended to limit the number of I3Ps, as operators may need multiple I3Ps to cover

multiple types of equipment covered under all applicable Conceptual Plans.

What are the I3P review requirements for Conceptual Plan reviews? (§ 250.231)

This proposed section identifies the requirements for the I3P review. Paragraph (a) would require the I3P to review the following information regarding the applicable equipment or system:

—Basis of Design, Technical Specification (if known at this point in the design process) and Functional Requirements (*i.e.,* environmental, and physical loads (magnitude and frequency));
—Risk assessment and failure mode analysis;
—Material specification, selection, qualification, and testing;
—Design verification analysis, including a structural/strength analysis and fatigue assessment and/or analysis;
—If fatigue is identified as a potential failure mode in the required fatigue assessment and/or analysis, the plan to record and gather data (*i.e.,* load monitoring) in order to conduct a future fatigue analysis;
—Design validation testing; and
—Fabrication, quality management system, and inspection and test plan(s) that identifies the quality control/quality assurance process, and inspection of the final products.

Paragraph (b) would require the I3P to submit a report to BSEE documenting the review of each item covered under paragraph (a) of this section. This paragraph would also require each report to identify all OEM and operator documents used during the I3P reviews.

Paragraph (c) would require the I3P to submit a final report to BSEE that summarizes each of the review requirements covered under paragraph (a) of this section. This paragraph would also require the final report to include the equipment and/or system's technical specifications, including a certification statement that the equipment and/or system is fit for purpose for the technical specification by the I3P, and verification that the equipment's technical specifications meet or exceed the project's functional requirements, including a certification statement that the equipment and/or system is fit for purpose for the proposed project by the I3P.

Paragraph (d) would clarify that, for any subsequent I3P review of equipment and/or system's technical specification that was previously approved in the operator's New or Unusual Technology Barrier Conceptual Plan, the Regional Supervisor may accept a final report in accordance with § 250.231(c), including the existing certification covered under paragraph (c)(1) of this section, in lieu of reports required in paragraph (b). The I3P would be required to submit an updated certification statement in accordance with § 250.231(c)(2) for the specific project.

This section would require I3P review of all new or unusual technology Category 1 or Category 2 barrier equipment to help minimize the risk of loss of containment on new barrier equipment through reliance on the principle of qualified redundant barrier systems. The concept of using an I3P review process has been used in the regulations for various operations (*e.g.,* §§ 250.914 through 250.918, 250.420, and 250.732). The I3P review process within § 250.231, would be the same process described in NTL 2019–G03 ''*Guidance for Information Submissions Regarding Site Specific and Non-Site Specific HPHT Equipment Design Verification Analysis and Design Validation Testing.*'' The industry is currently using this NTL for the design verification and validation analysis for HPHT barrier equipment that will be used in the Gulf of Mexico. The verification processes in this section would be similar to the basic engineering design and manufacturing methodologies found in many existing engineering standards.

General Requirements for Any I3P Report (§ 250.232)

This proposed section would clarify expectations for the I3P reports. This rulemaking would require that an I3P report must be a standalone document that clearly summarizes the verification work performed and must contain a sufficient level of detail (*i.e.,* quantitative information) and clarity to establish the basis of the I3P's findings and recommendation(s). Each report would be required to identify the OEM or operator documents reviewed, the detailed I3P review, and convey the results of the I3P's review without requiring BSEE to review any other referenced document. This section would establish basic expectations for I3P reports and provide consistency and uniformity for operator submittals and BSEE reviews. These reports are an important tool for BSEE to conduct appropriate reviews and it is imperative to ensure that these reports are comprehensive and clear. These reports also contain information necessary for audit purposes.

DWOP Approval

When and how must I submit the DWOP? (§ 250.235)

The content of this proposed section would be moved from § 250.291, and would be revised to clarify that a DWOP must be submitted to the Regional Supervisor after BSEE has approved the operator's project conceptual plan and the operator has substantially completed system design, and before the operator conducts post-completion installation activities for a deepwater development project, or for any project that will involve the use of subsea tieback development technology in any water depth, which may include new or unusual technology or new or unusual technology barrier equipment. This section would also clarify that operators cannot begin production from the well until BSEE approves the DWOP. The revisions to this section would help ensure that there is enough time for BSEE to review a DWOP, including resolution of any potential issues, prior to DWOP approval. The operator should consider the DWOP requirements when beginning to procure or fabricate the safety and operational systems (other than a tree, because operators may install a tree after Conceptual Plan approval), production platforms, pipelines, or other parts of the production system.

What information must I submit with the DWOP? (§ 250.236)

This proposed section is organizational in nature and would identify the types of information that the operator must submit with the DWOP by adding a table that lists the applicable sections and the information to be included. In this section, BSEE would reorganize and breakout the DWOP requirements by topic, as reflected in paragraphs (a) through (f). These revisions would improve clarity for applicable information requirements.

What general information must my DWOP include? (§ 250.237)

This proposed section identifies the general information that an operator would be required to submit in the DWOP, as applicable. The content of paragraphs (a) and (b) of this proposed section would be moved from current § 250.292(o) and (q). This section would add Paragraph (c) to require the submission of a list of any associated industry standards not incorporated in the regulations that the operator will use for project design or operation.

What well or completions information must my DWOP include? (§ 250.238)

The content of this proposed section would be moved from current § 250.292 and would include a revision to paragraph (c) to clarify that this section requires information in the operator's DWOP about the design and fabrication of each wellbore riser system deployed from a floating production facility or TLP. This revision would clarify that these informational requirements apply to wellbore risers as components of the well and resolve confusion regarding the general term ''riser'' and its applicability of multiple types of risers (*e.g.,* pipeline risers and wellbore risers) used on the OCS.

What structural information must my DWOP include? (§ 250.239)

The content of this proposed section would be moved from current § 250.292 and would include a revision to paragraph (b) to clarify that the design, fabrication, installation, and monitoring information would be required for the tendon or mooring systems, including the turret or buoy system, as applicable. This revision would reflect current equipment and operations common to DWOP approvals.

What production safety system information must my DWOP include? (§ 250.240)

This proposed section identifies the production safety system information that an operator would be required to submit in the DWOP, as applicable, to align with the activities the operator plans to address in the associated production safety systems application. The content of paragraphs (a), (b), (c), (d), (e)(3) of this proposed section would be moved from current § 250.292. The additions to this proposed section would require submission of the following information:

—(In paragraph (e)(1)) Methods, frequency, and acceptance criteria for testing the Underwater Safety Valves (USVs), SCSSVs, and Boarding Shutdown Valves (BSDVs);

—(in paragraph (e)(2)) The function and testing of the host facility Emergency Shutdown Device (ESD) system and its interface to the subsea system; and

—(in paragraph (f)) Information on the design, operation, maintenance, personnel competency, and testing of your subsea leak detection system to protect your subsea field/infrastructure (*e.g.,* trees, manifolds, jumpers). Operators must include procedures for how to operate the system, ensure system functionality, identify a leak, and the actions to be taken when a leak is identified.

The content of this section would codify similar concepts from NTL 2000–N06, *Deepwater Operations Plans (DWOP).* These proposed revisions would also help ensure compliance with the requirements of Subpart H. Subsea leak detection systems are critical for all subsea production systems to minimize discharges of hydrocarbons into the environment due to equipment failure below the waterline.

What subsea systems and pipeline information must my DWOP include? (§ 250.241)

This proposed section would identify the subsea systems and associated pipeline systems information that must be included in the DWOP, as applicable. The content of paragraphs (c)(2)(i), (ii), (iii) of this proposed section would be moved from current § 250.292. Proposed paragraph (a) would require the operator to identify the information common to the subsea system and the associated pipeline system, which constitute all or part of a single project development covered by the DWOP and/or aligns with activities addressed in an associated pipeline application, and would require the submission of the following:

—Subsea field schematic depicting the planned subsea development equipment and infrastructure, including wells/trees, non-pipe subsea equipment, pipeline route(s), pipeline riser systems, umbilical(s), and platform footprint;

—Description of the subsea development project detailing the subsea and pipeline equipment design criteria and analysis procedures (including industry standards, pressure and temperature ratings, materials selection), testing methods, and general operational procedures;

—Description of the fabrication and assembly/testing location of subsea trees, pipelines, and non-pipe subsea equipment (manifold, PLEM, PLET, Subsea Umbilical Termination Assembly (SUTA), subsea pumps, suction piles, etc.);

—Summary of the subsea tieback development technologies' Integrity Management Program, including a plan for inspection and monitoring to support assessment of system condition a minimum of once every 10 years. This should include, but not be limited to, the in-service inspections or surveys of hull and topsides structures, tendons, moorings, and pipelines and/or wellbore riser systems to assess component condition by inspection and analysis after each significant environmental event (*e.g.,* hurricane, earthquake, loop and eddy currents, or mudslide), impacting the system, or once every 10 years, whichever occurs first. The longevity of the activities covered by a DWOP has proven to be greater than was originally conceived in many cases. Subsea tiebacks have become more commonplace since this rule was last revised, and the importance of integrity management for these assets has become apparent. This is evident especially based on time-dependent failure modes like corrosion and fatigue, which can significantly impact an operator's ability to maintain safe operations. Operators are already required to use recognized engineering practices, which are evaluated in a DWOP, to reduce risk in the operation of their assets. Other regulations specify that necessary in-service inspections be completed. Operators should already have integrity management programs in place to address the monitoring, inspection, and condition assessment of their assets. This section would codify similar inspection plans and maintenance language from NTL 2000–N06; and

—Summary of safety and environmental controls.

Paragraph (b) would require submission of the following information about subsea systems that constitute all or part of a single project development covered by the DWOP, as applicable:

—System control type (*i.e.,* direct hydraulic or electro-hydraulic);

—Well tree(s), wellhead, and non-pipe equipment general arrangement drawings and schematics, with size and valve type annotations to illustrate the tree and other equipment in operation;

—Estimated shut-in tubing pressure for the proposed well(s), including the calculations used to arrive at the estimate, specifying TVD, reservoir pressure, and the fluid gradient used, or a brief discussion of the PVT data used for estimation;

—Wellbore static bottomhole temperature and the estimated flowing temperature at the tree, including a description of the method used to calculate this estimate;

—Umbilical(s) and umbilical connection(s), including an umbilical cross-section schematic;

—Chemical or other injection systems and/or enhanced recovery systems to be used;

—Corrosion monitoring and prevention/inhibition provisions;
—Details of any re-furbished and/or re-certified equipment you plan to use; and
—A schedule of development activities, including well completion, facility installation, and anticipated date of first oil.

Paragraph (c) would require an operator to include pipeline information in its DWOP, as applicable, to align with the activities to be addressed in the associated pipeline application(s):

—Design and fabrication information for each pipeline riser system;
—For projects that will use a pipeline free standing hybrid riser (FSHR) on a permanent installation that uses a buoyancy air can suspended from the top of the riser, the operator would be required to provide the following information in its DWOP as part of the discussion required by paragraph (b)(1) and (2) of this section: A detailed description and drawings of the FSHR, buoy, and the associated connection system; detailed information regarding the system used to connect the FSHR to the buoyancy air can, and associated redundancies; and descriptions of the monitoring system and monitoring plan for the pipeline FSHR and the associated connection system for fatigue, stress, and any other abnormal condition (*e.g.,* corrosion), that may negatively impact the riser system's integrity; and
—Pipeline and pipeline riser installation methods.

Submission of this information is consistent with what BSEE presently requires in the DWOP (and has historically required). The proposed requirements would clarify general language in the existing regulation by adding specificity regarding scope.

What new or unusual technology information must my DWOP include? (§ 250.242)

This proposed section would identify the new or unusual technology information that must be included in the DWOP, including the information referenced in the applicable Conceptual Plan. Proposed paragraph (a) would require the submission of a description of any new or unusual technology being used in a development project, including a reference to previously approved New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Conceptual Plans.

Paragraph (b) would require submission of a description of any new or unusual technology not covered under the New or Unusual Technology Conceptual Plan or New or Unusual Technology Barrier Conceptual Plan. It would also require an operator to include the same applicable information as required in §§ 250.228 or 250.229.

This information is consistent with what BSEE historically and presently requires to be included in the DWOP. The requirements clarify general language in the existing regulation by adding specificity to the scope of information required in a DWOP. This would allow for previously reviewed technology to be described and referenced, if applicable. It would also allow for new or unusual technology proposals and approvals at a later stage of project development, provided that enough time is allowed to also comply with §§ 250.228 and/or 250.229.

These revisions would codify current BSEE practices and would provide BSEE with sufficient information for proper new or unusual technology and DWOP review. These revisions would also provide clarity and consistency for operator submittal of the DWOP.

May I combine the Conceptual Plan and the DWOP? (§ 250.245)

The content of this proposed section, which addresses when an operator may submit a combined Conceptual Plan and DWOP, would be moved from current § 250.294 and would include the following revisions:

The introductory paragraph would be revised to clarify that, if the operator's development project meets the criteria in proposed paragraphs (a) and (b) of this section, an operator may submit a combined Conceptual Plan/DWOP that complies with all applicable requirements for both, on or before the deadline for submitting the Conceptual Plan, as described in proposed § 250.226. Existing paragraph (a), which allows the operator to submit a combined Conceptual Plan/DWOP if the project is located in water depths of less than 400 meters (1,312 feet), would be removed. In the past, deepwater development projects, including projects in water depths greater than 400 meters, involved the use of systems and technologies that, at the time, were new and complex, and necessitated separate reviews provided through the Conceptual Plan and DWOP process. Over time, however, as deepwater development projects became more common, the knowledge gained and technologies used have matured to such a degree that these projects are now largely standardized and routine. Therefore, BSEE no longer finds the water depth criteria relevant to the allowance to combine a Conceptual Plan and DWOP. The key factor necessary to determine the need for a separate Conceptual Plan and DWOP is whether the project proposes to use new technology, regardless of water depth.

Existing paragraph (a) would be replaced with existing paragraph (b), which allows a combined plan if the project is similar to projects involving subsea tieback development technology for which the operator has obtained approval previously. This rulemaking would add a new paragraph (b) to allow for the submission of a combined Conceptual Plan/DWOP if the project does not involve either new or unusual technology or a new platform. As previously stated at the beginning of the paragraph, the operator must meet the criteria in paragraph (a) and (b) of proposed § 250.245 in order to be able to submit a combined Conceptual Plan/DWOP.

These revisions would provide clarity for operators to streamline the process, when appropriate, and would reflect conforming edits for new or unusual technology. These revisions would reflect current BSEE acceptance of combined submission of the Conceptual Plan and DWOP in certain situations.

When must I revise my DWOP? (§ 250.246)

The content of this proposed section would be moved from current § 250.295 and revised to clarify when revision to an approved Conceptual Plan or DWOP is necessary. Revision is necessary when there are changes in the development project that alter the proposed plan or procedures, but that do not involve a physical alteration of the equipment on the platform or the seabed. As explained below, a supplement is required when changes involve a physical alteration of the equipment on the platform or the seabed. This section and the following section are intended to reduce confusion by helping operators determine when a revision or a supplement to the applicable Conceptual Plan or DWOP is necessary.

When must I supplement my DWOP? (§ 250.247)

This proposed section would identify when an operator must supplement the approved DWOP to reflect additions or changes in the development project.

Proposed paragraph (a) would require the operator to submit a supplement to the DWOP to reflect any additions or changes in the development project that physically alter the platform, process facilities, equipment, or systems approved in the original Conceptual Plan or DWOP. If a Supplemental DWOP proposes the addition of any

wells (*e.g.,* a new subsea field) not approved in the original DWOP, the operator may not complete or produce from the new well(s) until BSEE approves the Supplemental DWOP.

Proposed paragraph (b) would require a supplement to the DWOP for additions or changes that involve the addition of any new or unusual technology to the project that was not previously approved under the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, or DWOP. This proposed paragraph would also clarify that the operator may not install any new or unusual technology until BSEE approves the Supplemental DWOP.

This section would be added to clarify when operators must submit Supplemental DWOPs. This section and the section above are intended to reduce confusion by helping operators determine when a revision or a supplement to the DWOP is necessary.

What information must I include in my Supplemental DWOP? (§ 250.248)

This proposed section would describe the information that must be included in the supplement to the DWOP referenced in proposed § 250.247.

Paragraph (a) would require the same information for the wells or equipment as required in the applicable Conceptual Plan and DWOP requirements in this subpart. This addition would ensure consistency between the initial and supplemental submissions.

Paragraph (b) would describe information for each applicable Conceptual Plan or DWOP section that is being impacted by the addition or change.

Paragraph (c) would require payment of the new service fee for BSEE's review and processing of a supplemental DWOP, as listed in the proposed revisions to § 250.125.

Subpart D—Oil and Gas Drilling Operations

Hydrogen Sulfide (§ 250.490)

This proposed rule would revise paragraph (p) of this section, which addresses metallurgical properties of equipment used in an H_2S environment. The paragraph would be revised to state that if operating in a zone with H_2S present or when the concentration of H_2S in the produced fluid may exceed 0.05 pounds per square inch (psi) partial pressure of H_2S, the operator must use equipment that is constructed of materials with metallurgical properties that resist or prevent sulfide stress cracking (also known as hydrogen embrittlement, stress corrosion cracking, or H_2S embrittlement), chloride-stress cracking, hydrogen-induced cracking, and other failure modes.

This regulation would be revised to be consistent with the requirements of NACE Standard MR0175–2003, ''*Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments,*'' Revised January 17, 2003; incorporated by reference at existing §§ 250.490 and 250.901 and NTL 2009–G31. Section 250.490 paragraph (p) currently requires that the tubing and casing be designed for NACE requirements, but incorrectly refers only to ''H_2S present'' as the concentration necessary to trigger this requirement. ''H_2S present'' is defined in existing § 250.490 paragraph (b) as ''could potentially result in atmospheric concentration of 20 ppm or more of H_2S.'' This proposed rule would clarify that in either ''H_2S present'' conditions or when H_2S concentrations in the produced fluid exceed 0.05 psi partial pressure of H_2S, the operator must use equipment that is constructed of materials with certain metallurgical properties, in accordance with NACE Standard MR0175–2003.

Subpart E—Oil and Gas Well-Completion Operations

Tubing and Wellhead Equipment (§ 250.518)

This proposed rule would revise paragraph (a) of § 250.518 to include the following:

—The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety and design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases.

—The tubing string materials must be appropriate for the environment. The operator must follow NACE Standard MR0175–2003 (as incorporated by reference in § 250.198) when H_2S concentration may equal or exceed 0.05 psi partial pressure.

—The tubing string threaded connectors must be appropriate for the loads identified in proposed paragraph (a)(1).

These revisions would reflect essential well design elements addressed in industry standards. Current regulations discuss well design specific to casing, but little is provided for tubing design, which is equally critical for well integrity. Regulations currently establish H_2S concentrations that constitute a specific threat to personnel and establish concentrations that trigger enactment of H_2S protocols. Additional requirements added to this section would address H_2S impacts to equipment integrity, as these components must function as barriers to personnel and the environment. Section 250.490 paragraph (p) currently requires that the tubing and casing be designed for NACE requirements, but incorrectly refers only to ''H_2S present'' as the concentration necessary to trigger this requirement. ''H_2S present'' is defined in existing § 250.490 paragraph (b) as ''could potentially result in atmospheric concentration of 20 ppm or more of H_2S.'' This proposed rule would clarify that, in either ''H_2S present'' conditions or when H_2S concentrations in the produced fluid exceed 0.05 psi partial pressure of H_2S, the operator must use equipment that is constructed of materials with certain metallurgical properties, in accordance with NACE Standard MR0175–2003.

The proposed rule would also revise paragraph (c) of this section to include the design and testing of the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (as incorporated by reference in § 250.198) or ANSI/API Spec. 17D (as incorporated by reference in § 250.198), as applicable. This rulemaking would also add paragraphs (c)(1), (2), and (3) to clarify that:

—Newly completed dry trees (*e.g.,* fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one surface safety valve (SSV), installed above the master valve, in the vertical run of the tree.

—Newly completed subsea production or injection wells must be equipped with a minimum of one USV installed in the horizontal or vertical run of the tree (*e.g.,* vertical, or horizontal subsea trees).

—Newly completed wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At a minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

Current regulations do not address modern tree design and application. These proposed revisions would better define safety valve requirements based upon modern configuration and tree design. ANSI/API Spec. 6A is referenced extensively in Subpart H for Safety and Pollution Prevention Equipment (SPPE) equipment; by including ANSI/API Spec. 6A in this section, BSEE would reinforce the

importance of its use at the tree installation stage. ANSI/API Spec. 17D is currently applied in regulations to Blowout Preventer (BOP) Systems and Components. However, its relevance extends heavily to tree design. These proposed changes would reduce requests to use alternate procedures or equipment and reflect universal industry accepted practices for tree design and operation.

Proposed paragraph (c)(3) would also be added because ANSI/API Spec. 17D does not address mudline suspension conversion to a subsea tree with more than one casing tieback. These revisions would also codify similar language from NTL 2006 G–20, which would establish a requirement for a minimum of two casing strings tied back and sealed below the tubing head for a mudline suspension conversion to a subsea tree.

Paragraph (d) of this section would also be revised to clarify that both the subsurface safety equipment and surface safety equipment must comply with applicable requirements of Subpart H.

Subpart F—Oil and Gas Well-Workover Operations

Tubing and Wellhead Equipment (§ 250.619)

This proposed rule would revise paragraph (a) of § 250.619 to include the following:

—The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety and design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases.
—The tubing string materials must be appropriate for the environment. The operator must follow NACE Standard MR0175–2003 (as incorporated by reference in § 250.198) when H_2S concentration may equal or exceed 0.05 psi partial pressure.
—The tubing string threaded connectors must be appropriate for the loads identified in proposed paragraph (a)(1).

These revisions would reflect essential well design elements addressed in industry standards. Current regulations discuss well design specific to casing, but little is provided for tubing design, which is equally critical for well integrity. Regulations currently establish H_2S concentrations that constitute a threat to personnel and establish concentrations that trigger enactment of H_2S protocols. Additional requirements added to this section address H_2S impacts to equipment integrity, as these components must function as barriers to personnel and the environment. Section 250.490 paragraph (p) currently requires that the tubing and casing be designed for NACE requirements, but incorrectly refers only to ''H_2S present'' as the concentration necessary to trigger this requirement. ''H_2S present'' is defined in existing § 250.490 paragraph (b) as ''could potentially result in atmospheric concentration of 20 ppm or more of H_2S.'' This proposed rule would clarify that in either ''H_2S present'' conditions or when H_2S concentrations in the produced fluid exceed 0.05 psi partial pressure of H_2S, the operator must use equipment that is constructed of materials with certain metallurgical properties, in accordance with NACE Standard MR0175–2003.

This proposed rule would also revise paragraph (c) to include the design and testing of the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (as incorporated by reference in § 250.198) or ANSI/API Spec. 17D (as incorporated by reference in § 250.198), as applicable. This section would also add paragraphs (c)(1), (2), and (3) to clarify that:

—Newly completed dry trees (*e.g.,* fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one SSV, installed above the master valve, in the vertical run of the tree.
—Newly completed subsea production or injection wells must be equipped with a minimum of one USV installed in the horizontal or vertical run of the tree (for vertical or horizontal subsea trees).
—Newly completed wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At a minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

Paragraph (d) would also be revised to clarify that surface safety equipment must be installed, maintained, and tested in accordance with applicable sections of Subpart H, in addition to the subsurface safety equipment.

Current regulations do not address modern tree design and application. These revisions would better define safety valve requirements based upon configuration and tree design. ANSI/API Spec. 6A is referenced extensively in Subpart H for SPPE equipment. By including ANSI/API Spec. 6A into this section, BSEE would reinforce the importance of its use at the tree installation stage. ANSI/API Spec. 17D is currently applied in regulations related to BOP systems and components; however, its relevance extends heavily to tree design. These changes would reduce requests to use alternate procedures or equipment and reflect industry accepted practices for tree design and operation.

Subpart G—Well Operations and Equipment

What information must I submit for BOP systems and system components? (§ 250.731)

This proposed rule would revise existing paragraph (c)(4) of this section to update a cross-reference to the definition of HPHT in accordance with proposed § 250.105. This revision is administrative.

What are the independent third party requirements for BOP systems and system components? (§ 250.732)

This rulemaking would revise existing paragraph (c) of § 250.732 to reflect the addition of the new or unusual technology and new or unusual technology barrier requirements in Subpart B. This rulemaking would delete the third party requirements under existing paragraph (c) because that information would be covered under the new DWOP Process requirements. These revisions would connect the HPHT permitting (*e.g.,* APD) requirements and the DWOP Process requirements and would improve BSEE's review and decision process. These revisions help ensure that the specified equipment is fit for service in the environmental conditions reasonably expected at the operation's site.

The proposed revisions to this section would remove duplicative requirements now covered under the DWOP new or unusual technology barrier requirements and would provide greater detail considering that the Conceptual Plan review occurs before use of HPHT equipment and would occur before application review. This rulemaking would consolidate the language and refer to the applicable new or unusual technology barrier requirements and would specify that BSEE would require Conceptual Plan and appropriate permit approval before equipment installation. This addition would provide clarification to operators unfamiliar with the applicable DWOP requirements.

Subpart H—Oil and Gas Production Safety Systems

Additional Requirements for Subsurface Safety Valves (SSSVs) and Related Equipment Installed in High Pressure High Temperature (HPHT) Environments (§ 250.804)

This rulemaking proposes to remove and reserve this section. The existing requirements from this section would be addressed under proposed §§ 250.105 and 250.204.

III. Additional Comments Solicited

In addition to public comments on the revisions proposed under this rulemaking, BSEE is soliciting comments on the following issues:

A. Additional Industry Standards To Consider for Incorporation

BSEE is seeking information regarding any existing industry standards that address qualification of new technology barrier equipment that should be considered for incorporation into the regulations. Please provide any rationale for BSEE to consider incorporation.

B. Fluid as a Conditional Temporary Barrier

BSEE is considering adding the following into the final rule:

''BSEE may consider wellbore fluids as a temporary barrier if you meet the following criteria:

(1) BOP systems and related equipment are installed in accordance with the approved operation on the well and can be actuated on demand;

(2) The density of the wellbore fluid is known and creates a pressure greater than the source pressure;

(3) The elevation of the wellbore fluid level is known;

(4) The fluid pit volumes are continuously monitored for increases and the well for flow; and

(5) The well must be continuously monitored during well operations and must not be left unattended at any time unless the well is shut in and secured.

Once well bore fluids are isolated below a mechanical barrier, they are no longer considered a barrier.''

BSEE is soliciting comments on the appropriateness of promulgating these provisions in the final rule. Additionally, BSEE is soliciting comments that identify any other conditions that should be considered when determining whether to use fluid as a temporary barrier. Please provide supporting reasons and data for your comments.

C. Economic Data

The compliance costs and savings in the initial regulatory impact analysis (IRIA) are BSEE's best estimates based on experience with the current DWOP process, stakeholder interactions, and communication with industry. BSEE is requesting comments related to the appropriateness and accuracy of the compliance costs and benefits identified in the IRIA. Please provide supporting reasons and data for your comments.

IV. Derivation Table

The following table is intended to provide information about the derivation of proposed requirements in Subparts B. This table provides guidance on the following:

—The destination of various existing requirements.

—The organization and content of the proposed revisions.

This table does not provide definitive or exhaustive guidance and should be used in conjunction with the section-by-section discussion and regulatory text of this proposed rule.

The proposed rule would make changes as outlined in the following table:

Current regulations section	Proposed rule section	Nature of change
Subpart A:		
250.804	250.105	Would move the definition of HPHT to make it applicable to all operations, not just production
Subpart B:		
250.200	250.200	Would add definitions for barrier categorization, primary and secondary barriers, and new or unusual technology.
250.201	250.201	Would add information about the three new conceptual plans and when submittal of each plan is required.
250.204	250.202	Moved without revision.
250.205	250.203	Moved without revision.
New	250.204	Would clarify what information must be submitted to BSEE if an operator plans to install HPHT barrier equipment.
New	250.206	Would codify some of the barrier concepts from existing BSEE guidance.
New	250.207	Would require the installation and maintenance of a primary and secondary barrier system to contain the source.
550.280	250.208	Would include similar content with minor formatting changes to reflect BSEE applicability.
550.281(a) and (b)	250.209	Would include similar content with minor formatting changes to reflect BSEE applicability.
250.282	250.210	Would include similar content with minor formatting changes to reflect BSEE applicability.
New	250.211	Would clarify the new or unusual technology failure reporting requirements.
250.286	250.220	Would clarify the addition of new or unusual technology, and the operations that could be covered under the DWOP Process.
250.287	250.221	Would include similar content and clarify when the DWOP Process is applicable.
New	250.225	This rulemaking would add this section to identify the 3 new proposed conceptual plans.
250.288 and 250.290	250.226	Would include similar content and clarify when to submit the applicable conceptual plans.
250.289	250.227	Would include content from existing paragraphs (a), (b), (c), (i)(1), and specify the content of the Project Conceptual Plan.
New	250.228	Would specify the content of the New or Unusual Technology Conceptual Plan.
New	250.229	Would specify the content of the New or Unusual Technology Barrier Conceptual Plan.
New	250.230	Would specify the I3P nomination requirements.

Current regulations section	Proposed rule section	Nature of change
New	250.231	Would specify the I3P requirements for applicable conceptual plan review.
New	250.232	Would clarify the I3P report expectations.
250.291	250.235	Would include similar content and clarify DWOP submittals to reflect new or unusual technology additions.
New	250.236	Would add a table listing the applicable sections with corresponding information for the DWOP content.
250.292	250.237	Would include content from existing paragraphs (a), (b) and clarify the general DWOP requirements.
250.292	250.238	Would include content from existing paragraphs (a), (b), (c) and clarify the completions information DWOP requirements.
250.292	250.239	Would include content from existing paragraphs (a), (b), (c) and clarify the structural information DWOP requirements.
250.292	250.240	Would include content from existing paragraphs (a), (b), (c), (d), (e)(3) and clarify the production safety system information DWOP requirements.
250.292	250.241	Would include content from existing paragraphs (c)(2)(i), (ii), (iii) and clarify the subsea systems and pipeline information DWOP requirements.
New	250.242	Would clarify the new or unusual technology information DWOP requirements.
250.294	250.245	Would include similar content and clarify when an operator can combine the conceptual plan and the DWOP.
250.295	250.246	Would include similar content and clarify when a revised DWOP is necessary.
New	250.247	Would clarify when a supplemental DWOP is necessary.
New	250.248	Would clarify the content of a supplemental DWOP.

V. Procedural Matters

Regulatory Planning and Review (Executive Orders (E.O.) 12866 and 13563)

E.O. 12866, Regulatory Planning and Review provides that OMB's Office of Information and Regulatory Affairs (OIRA) will review all significant regulatory actions. A significant regulatory action is one that is likely to result in a rule that:

- Has an annual effect on the economy of $100 million or more, or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- Creates serious inconsistency or otherwise interferes with an action taken or planned by another agency;
- Materially alters the budgetary impacts of entitlement grants, user fees, loan programs, or the rights and obligations of recipients thereof; or
- Raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

BSEE has concluded that this proposed rule is not likely to be a significant action under E.O. 12866. In particular, it is estimated that this proposed rule would not have an annual economic impact of $100 million or more and would not have a material adverse effects or raise novel issues.

In support of that conclusion, BSEE prepared an IRIA to assess the anticipated costs and potential benefits of the proposed rulemaking. The IRIA estimates that the increase in annualized costs, compared with the baseline in the absence of the proposed rule, is $2.9 million per year. Over the period 2021–2030, those costs are estimated to have a total present value of $29.0 million undiscounted, $24.7 million discounted at 3 percent, and $20.4 million discounted at 7 percent. The IRIA for this proposed rulemaking can be found in the docket at *https://www.regulations.gov/* (Docket ID: BSEE–2021–0003).

As required by the Independent Offices Appropriation Act (IOAA), as amended (31 U.S.C. 9701), the proposed rule would establish new fees for BSEE's review and processing of several types of operator submissions and reports. This rulemaking would add service fees for processing a Project Conceptual Plan, New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, revised DWOP, Combined Conceptual Plan/DWOP, and Supplemental DWOP. This rulemaking would also revise the cost recovery fee amount for DWOP review. The proposed rule would increase, and not adversely affect, the government's receipt of user fees. BSEE's economic analysis projects that, altogether, the fees anticipated to be collected under the proposal over a 10-year period (2021–2030) would exceed the baseline fees collected by approximately $7.8 million (undiscounted).

The rulemaking would improve operational and environmental safety and human health for deepwater development projects and other projects or systems that use new or unusual technology, not only by providing clarity and regulatory certainty regarding the information submission process, but also by ensuring that additional regulatory requirements and that New or Unusual Technology Barrier Conceptual Plans are reviewed by I3Ps, as well as providing BSEE discretion to require I3P review of New or Unusual Technology Conceptual Plans. In a detailed analysis of the costs and benefits of the proposed regulation, BSEE has estimated the increased costs for industry and government relating to the enhanced plan preparation and submission requirements. Anticipated costs to industry and government were estimated assuming current rules and practices and contrasted with the proposed rule. Combined costs over 2021–2030 totaled $38.1 million with current rules and practices versus $67.1 million with the proposed rule, implying annualized cost increases of $2.9 million discounted at 3% or 7%. BSEE has not quantified the benefits of the new submission process, the new requirements for new or unusual technology projects, including HPHT projects, and I3P reviews. BSEE believes that updating references to industry standards and by giving greater clarity to requirements for submissions for new or unusual technology and HPHT projects and plans, the proposed rule promotes the objectives of E.O. 13563, including a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify).

Executive Order 13563, Improving Regulation and Regulatory Review, reaffirms the principles of E.O. 12866 while calling for improvements in the

Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The *Regulatory Flexibility Act* (RFA), 5 U.S.C. 601–612, requires agencies to analyze the economic impact of regulations when there is likely to be a significant economic impact on a substantial number of small entities, and allows an agency to certify a rule, in lieu of preparing an analysis, if the regulation will not have such an economic impact. Further, the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, (March 29, 1996), as amended, requires agencies to produce compliance guidance for small entities if the rule has a significant economic impact on a substantial number of small entities.

BSEE considers that a rule will have an impact on a ''substantial number of small entities'' when the total number of small entities impacted by the rule is equal to or exceeds 10 percent of the relevant universe of small entities in a given industry. The relevant small-size criteria for affected operators and firms likely to help prepare reports are presented in Table 1 below.

TABLE 1—SMALL-ENTITY CRITERIA FOR AFFECTED FIRMS

Industry sector	Small-entity criteria
211120 Crude petroleum extraction.	1250 employees.
211130 Natural gas extraction.	1250 employees.
213111 Drilling oil and gas wells.	1000 employees.
541330 Engineering services (for the I3P or other reports).	$16.5 million/year revenues.

Using these criteria, BSEE estimates that about 23 companies would be affected by the proposed rule over the next 10 years (2021–2030), of which approximately 12 (52 percent) of the potentially impacted businesses are considered small; the rest are considered large businesses. All of the operating businesses meeting the U.S. Small Business Administration classification are potentially impacted; therefore, BSEE expects that the rule will affect a substantial number of small entities.

As noted in the E.O. 12866 discussion, the amendments will result in increased costs to firms from HPHT and new or unusual technology reporting requirements and increased service fees, including mandatory I3P nominations and reports. The increase in cost borne by industry includes cost of submissions, preparation, and cost recovery fees. BSEE has evaluated quantifiable costs and benefits and has estimated that there are quantified costs to industry from the proposed provisions. BSEE has estimated the annualized industry costs by business size in Table 2. The percent of the total industry cost impacts to small operators was estimated based on their percentage of overall revenues. These revenues were estimated by applying Census Statistics of U.S. Businesses revenue estimates by employment ranges to each impacted operator. Based on historical information, BSEE estimates that small companies will bear 8 percent of the industry costs from this rule and large companies will bear the remaining 92 percent.

TABLE 2—TOTAL 10-YEAR INDUSTRY COSTS ASSOCIATED WITH RULEMAKING

[2021–2030]
[Undiscounted annualized $]

Company size	Percent of revenues	Industry rulemaking costs ($)
Small Companies	8	169,977
Large Companies	92	1,954,737
Total	100	2,124,715

The average industry cost and revenue per firm were derived from data presented in Table 2 and the numbers of firms classified as small or large. This is presented in Table 3, which illustrates that on a per-firm basis the new reporting costs that would be imposed on small firms by the new requirements, at $14,165 per year, would represent approximately 0.005 percent of revenue. That is deemed to be not a significant impact. BSEE therefore projects that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. Although it is not likely required because of this projection, BSEE has conducted an initial regulatory flexibility analysis (IRFA) which provides information on the impact of the proposed rule on small entities; it is contained in the IRIA which can be found in the docket at *https://www.regulations.gov/* (Docket ID: BSEE–2021–0003).

TABLE 3—AVERAGE ANNUAL INDUSTRY COST AND REVENUE PER FIRM

[Undiscounted annualized $]

Company size	Count	Average annualized industry cost per firm	Average annual revenue per firm	Cost as percent of revenue
Small Companies	12	$14,165	$283,524,338	0.005
Large Companies	11	177,703	3,555,005,441	0.005

The proposed rule is not a major rule under the *Small Business Regulatory Enforcement Fairness Act.* To be a major rule for that purpose, it must have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The increase of cost noted earlier, $2.9 million per year, would not have a significant adverse effect in terms of this Act.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this proposed rule does not have significant takings implications. The rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this proposed rule does not have federalism implications. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role. A federalism assessment is not required.

Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of E.O. 12988. Specifically, this rule:

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

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

Consultation With Indian Tribes (E.O. 13175)

BSEE is committed to regular and meaningful consultation and collaboration with tribes on policy decisions that have tribal implications. Under the criteria in E.O. 13175 and DOI's Policy on Consultation with Indian Tribes (Secretarial Order 3317, Amendment 2, dated December 31, 2013), we have evaluated this proposed rule and determined that it has no substantial direct effects on federally recognized Indian tribes.

National Technology Transfer and Advancement Act (NTTAA)

BSEE complies with the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) requirement that an agency ''use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical.'' (OMB Circular A–119 at p. 13). BSEE also complies with the Office of the Federal Register (OFR) regulations governing incorporation by reference. (*See,* 1 CFR part 51.) Those regulations also specify the process for updating an incorporated standard at § 51.11(a), and BSEE complies with those requirements, including seeking approval by OFR for a change to a standard incorporated by reference in a final rule.

Paperwork Reduction Act (PRA) of 1995

This proposed rule contains existing and new information collection (IC) requirements for regulations at 30 CFR part 250, subpart B and submission to the OMB for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is required. Therefore, BSEE will submit an IC request to OMB for review and approval and will request a new OMB control number. Once the 1014–AA49 final rule is effective, we will transfer the hour burden and non-hour costs burden from 1014–NEW to 1014–0024 (44,458 hours, $68,381 non-hour cost burden, expiration October 31, 2021) 30 CFR part 250, subpart B, *Plans and Information,* then discontinue the new number associated with this rulemaking. We may not conduct or sponsor, and you are not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

The proposed regulations would establish new and/or revise current requirements in Subpart B, *Plans and Information,* by revising regulations regarding the Deepwater Operations Plan (DWOP) Process and information submittal and approval process, which includes Conceptual Plans and DWOPs; adding requirements for HPHT barrier equipment and systems and new or unusual technology; and requiring, or providing BSEE with the option to require, independent third party reviews of Conceptual Plans and DWOPs.

The following provides a breakdown of the paperwork hour burdens and non-hour cost burdens for this proposed rule. While some sections are being moved from existing Subpart B requirements, it is noted that the burden in proposed § 250.210 (current § 250.282) is covered under BOEM's 1010–0151. Accordingly, a new burden for BSEE is being added.

As discussed in the Section-by-Section analysis above, and in the supporting statement available at *RegInfo.gov,* this rule proposes to add/revise:

[New requirements due to the proposed rule are shown in **bold**]

§ 250.210—This section would be revised and moved from existing § 250.282. It would include minor revisions to clarify that the Regional Supervisor may direct operators to conduct monitoring programs in association with their approved EP, DPP, DWOP, or DOCD (+ 12 burden hours).

§ 250.211—This section is new and would clarify the new or unusual technology failure reporting requirements and would require notification to BSEE within 30 days of the failure and provision of a written report identifying the root causes of the failure (+ 400 burden hours).

§ 250.221(b)—This section would be revised and moved from existing § 250.287. It would clarify that the DWOP Process is applicable to any project that will include the use of new or unusual technology (+ 6 burden hours).

§ 250.226—This section would be revised and moved from existing §§ 250.288 and 250.290. It would add two new Conceptual Plans: New or Unusual Technology Conceptual Plan and New or Unusual Technology Barrier Conceptual Plan. There are also three new Cost Recovery Fees (250.125—Service Fees) associated with each conceptual plan (+ 39 burden hours and $1,276,600 non-hour costs burden).

§ 250.227—This section would be revised and moved from existing § 250.289. It would list additional information to be submitted with a Project Conceptual Plan and would add new Independent Third Party (I3P) costs for various reviews, certifications, verifications, etc. (+ 320 burden hours and $37,776 non-hour costs burden).

§ 250.228—This section is new and would list the various submissions required with a New or Unusual Technology Conceptual Plan and would add new I3P costs for various reviews, certifications, verifications, etc. (+ 3,600 burden hours and $676,130 non-hour costs burden).

§ 250.229—This section is new and lists the various submissions required with a New or Unusual Technology Barrier Conceptual Plan and would add new I3P costs for various reviews, certifications, verifications, etc. (+ 9,360 burden hours and $2,955,719 non-hour costs burden).

§ 250.230—This section is new and would outline the requirements for the

operator to nominate an I3P to be used in conjunction with applicable conceptual plans, including that the I3P must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications (+ 9 burden hours).

§ 250.231(a)—This section is new and would add the required information that the I3P is to review (+ 16,660 burden hours).

§§ 250.231(b); 250.232—This section is new and would require the I3P to submit a report documenting the review of each item and identify all OEM and operator documents used during the reviews (+ 60 burden hours).

§§ 250.231(c), (d); 250.232—This section is new and would require the I3P to submit a final report that summarizes each review requirement under (a) of this section and would also require the summary report to include the equipment and/or system's technical specifications, including a certification statement that the equipment and/or system is fit for purpose for the technical specification by the I3P, and verification that the equipment's technical specifications meet or exceed the project's functional requirements including a certification statement that the equipment and/or system is fit for purpose (+ 9 burden hours).

§§ 250.235; **250.236;** 250.237; 250.238; 250.239; 250.240; 250.241; **250.242; 250.243; 250.204;** and 732(c)—These sections would be revised and moved from existing §§ 250.291 and 250.292. These would identify when and how to submit a DWOP; and what general information, well or completions information, structural information, Production Safety System information, subsea systems, and pipeline information to submit with DWOPs (+ 1,070 burden hours and $194,655 non-hour costs burden).

§ 250.245—This section would be revised and moved from existing § 250.294. It would be revised to clarify that operators may submit a combined Conceptual Plan/DWOP, with all applicable requirements for both, on or before the deadline for submitting the Conceptual Plan (+ 428 burden hours and $17,918 non-hour costs burden).

§ 250.246—This section would be revised and moved from existing § 250.295. It would be revised to clarify when a revision to a Conceptual Plan or DWOP is necessary (+ 80 burden hours and $1,792 non-hour costs burden).

§§ 250.247; 250.248—This section is new and would identify when an operator must supplement the DWOP to reflect additions or changes in the development project and would add the required information that must be included in the supplement to the DWOP. It would also require a supplement to the DWOP when a project change involves the addition of any new or unusual technology that was not previously covered under the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, or DWOP (+ 3,990 burden hours and $736,200 non-hour costs burden).

Title of Collection: 30 CFR part 250, subpart B, *Plans and Information.*

OMB Control Number: 1014–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 oil and gas drilling and production operators in the OCS. Not all the potential respondents would submit information at any given time, and some may submit multiple times.

Total Estimated Number of Annual Responses: 304.

Estimated Completion Time per Response: Varies from 15 minutes to 980 hours depending on activity.

Total Estimated Number of Annual Burden Hours: 36,043.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Generally, on occasion and as required in the regulations.

Total Estimated Annual Nonhour Burden Cost: $5,944,006.

This rule is also proposing edits and citation updates to §§ 250.731(c) and 250.732(c). No burden changes are being proposed.

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping non-hour cost burden resulting from the collection of information, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) Total capital and startup cost component and (2) annual operation, maintenance, and purchase of service component. Your estimates should consider the cost to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: (1) Before October 1, 1995; (2) to comply with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the Government; or (4) as part of customary and usual business or private practices.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether the collection of information is necessary, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Send your comments and suggestions on this information collection by the date indicated in the **DATES** section to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or via the *RegInfo.gov* portal (online). You may view the information collection request(s) at *https://www.reginfo.gov/public/do/PRAMain.* Please provide a copy of your comments to the BSEE Information Collection Clearance Officer (see the **ADDRESSES** section). You may contact Kye Mason, BSEE Information Collection Clearance Officer at (703) 787–1607 with any questions. Please reference Proposed Rule 1014–AA49, Oil and Gas and Sulfur Operations in the Outer Continental Shelf—30 CFR 250, Subpart B, *Plans and Information* (OMB Control No. 1014–NEW), in your comments.

National Environmental Policy Act of 1969 (NEPA)

BSEE is proposing to cover this action under a National Environmental Policy Act of 1969 (NEPA) categorical exclusion (see 43 CFR 46.205). BSEE believes it meets the criteria set forth at 43 CFR 46.210(i) for a Departmental Categorical Exclusion in that this proposed rule is ''. . . of an administrative, financial, legal, technical, or procedural nature . . . .'' Further, we have preliminarily determined that the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The proposed rule does not authorize any activities on the OCS.

The proposed rule involves the review of concepts and specialized requirements associated with deepwater needs (special moorings, fittings, production equipment, HPHT items, etc.); however, actual approval of Conceptual Plans and DWOPs are for administrative purposes and do not directly lead to OCS activity that can result in environmental impacts. The Conceptual Plans and DWOPs only lead to an action once they are included and addressed in an Exploration Plan (EP), Development Operations Coordination Document (DOCD), or Development and Production Plan (DPP) and subsequent permit applications. EPs, DOCDs, DPPs, as well as the subsequent well and facility permit applications, are reviewed under site-specific NEPA analyses. Only EPs, DOCDs, and DPPs include the detailed regulatory requirements to fully assess environmental impacts. If an operator chooses to modify their Conceptual Plans, DWOPs, or proposed technology or submit a new one for an activity that has already been reviewed and approved under the respective EP, DOCD, or DPP, then the operator must submit a revised EP, DOCD, or DPP as per 30 CFR 550.283, which would undergo additional NEPA analysis.

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C, sec. 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Nation's Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in E.O. 13211. Although the rule is a significant regulatory action under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, or the sections where you feel lists or tables would be useful.

Public Availability of Comments

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. In order for BSEE to withhold from disclosure your personal identifying information, you must identify any information contained in your comment submittal that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence(s) of the disclosure of information, such as embarrassment, injury, or other harm. While you may request that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Oil and gas exploration, Outer Continental Shelf—mineral resources, Outer Continental Shelf—rights-of-way, Penalties, Pipelines, Reporting and recordkeeping requirements, Sulfur.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) is proposing to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

Subpart A—General

■ 2. Amend § 250.105 by adding definitions for ''BOP systems and related equipment'' and ''HPHT environment' in alphabetical order to read as follows:

§ 250.105 Definitions.

* * * * *

BOP systems and related equipment includes all pressure controlling and pressure containing well control equipment that may or will be exposed to the well's MASP during drilling, completion, workover, intervention, or abandonment. Well control equipment includes equipment that is installed for the purpose of pressure control and containment when it becomes necessary to physically enter a well bore during drilling, completion, workover, intervention, or abandonment modes of operation.

* * * * *

HPHT environment means when one or more of the following well conditions exist:

(1) The drilling, completion, workover, intervention, injection, production, or abandonment of the well requires pressure controlling or pressure containing equipment, including well control equipment, assigned a pressure rating greater than 15,000 psia or a temperature rating greater than 350 degrees Fahrenheit;

(2) The MASP or SITP is greater than 15,000 psia on the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead; or

(3) The flowing temperature is greater than 350 degrees Fahrenheit on the seafloor for a well with a subsea wellhead or at the surface for a well with a surface wellhead.

* * * * *

■ 3. Amend § 250.125 by revising paragraph (a)(2) to read as follows:

§ 250.125 Service fees.

(a) * * *

Service—processing of the following	Fee amount	30 CFR citation
* * * * * * *		
(2) Deepwater Operations Plan (DWOP) process:		
(i) Project Conceptual Plan	$2,510	250.226.
(ii) New or Unusual Technology Conceptual Plan	32,611	250.226.
(iii) New or Unusual Technology Barrier Conceptual Plan	71,570	250.226.
(iv) DWOP	13,907	250.235.
(v) Revised DWOP	896	250.246.
(vi) Combined Conceptual Plan/DWOP	8,959	250.245.
(vii) Supplemental DWOP	8,959	250.247.
* * * * * * *		

■ 4. Amend § 250.198 by revising the introductory text and paragraphs (e)(82), (86), (91), and (i)(1) to read as follows:

§ 250.198 Documents incorporated by reference.

Certain material is incorporated by reference into this [chapter/subchapter/part/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. All approved material is available for inspection at BSEE and at the National Archives and Records Administration (NARA). Contact BSEE at: the Houston BSEE office at 1919 Smith Street Suite 14042, Houston, Texas 77002; 1–844–259–4779. 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 following source(s):

* * * * *

(e) * * *

(82) ANSI/API Spec. 6A, Specification for Wellhead and Christmas Tree Equipment, Twentieth Edition, October 2010; Addendum 1, November 2011; Errata 2, November 2011; Addendum 2, November 2012; Addendum 3, March 2013; Errata 3, June 2013; Errata 4, August 2013; Errata 5, November 2013; Errata 6, March 2014; Errata 7, December 2014; Errata 8, February 2016; Addendum 4, June 2016; Errata 9, June 2016; Errata 10, August 2016; incorporated by reference at §§ 250.518(c), 250.619(c), 250.730, 250.802(a), 250.803(a), 250.833, 250.873(b), 250.874(g), and 250.1002(b);

* * * * *

(86) ANSI/API Spec. 11D1, Packers and Bridge Plugs, Third Edition, April 2015; Errata 1, August 2019; incorporated by reference at §§ 250.518(e), 250.619(e), and 250.1703;

* * * * *

(91) ANSI/API Spec. 17D, Design and Operation of Subsea Production Systems—Subsea Wellhead and Tree Equipment, Second Edition, May 2011; incorporated by reference at §§ 250.518(c), 250.619(c), and 250.730;

* * * * *

(i) * * *

(1) NACE Standard MR0175–2003, Standard Material Requirements, Metals for Sulfide Stress Cracking and Stress Corrosion Cracking Resistance in Sour Oilfield Environments, Revised January 17, 2003; incorporated by reference at §§ 250.490, 250.518(a), 250.619(a), and 250.901;

* * * * *

■ 5. Revise Subpart B to read as follows:

Subpart B—Plans and Information

General Information

Sec.
250.200 Definitions.
250.201 What plans and information must I submit before I conduct any activities on my lease or unit?
250.202 How must I protect the rights of the Federal government?
250.203 Are there special requirements if my well affects an adjacent property?
250.204 Requirements for high pressure high temperature (HPHT) barrier equipment.
250.205 [Reserved]

Barrier Equipment and Systems

250.206 What equipment does BSEE consider to be a Barrier?
250.207 How must barrier systems be used?

Activities and Post-Approval Requirements for the EP, DPP, DWOP, and DOCD

250.208 How must I conduct activities under an approved EP, DPP, or DOCD?
250.209 What must I do to conduct activities under the approved EP, DPP, or DOCD?
250.210 Do I have to conduct post-approval monitoring?
250.211 What are my new or unusual technology failure reporting requirements?
250.212–250.219 [Reserved]

Deepwater Operations Plan (DWOP) Process

250.220 What is the DWOP Process?
250.221 When must I use the DWOP Process?
250.222–250.224 [Reserved]

Conceptual Plans

250.225 What are the types of Conceptual Plans that I must submit?
250.226 When and how must I submit each applicable Conceptual Plan?
250.227 What must the Project Conceptual Plan contain?
250.228 What must the New or Unusual Technology Conceptual Plan contain?
250.229 What must the New or Unusual Technology Barrier Conceptual Plan include?
250.230 What are your requirements for the Independent Third Party (I3P) nomination?
250.231 What are the I3P review requirements for Conceptual Plan reviews?
250.232 General requirements for any I3P Report.

DWOP Approval

250.235 When and how must I submit the DWOP?
250.236 What information must I submit with the DWOP?
250.237 What general information must my DWOP include?
250.238 What well or completions information must my DWOP include?
250.239 What structural information must my DWOP include?
250.240 What Production Safety System information must my DWOP include?
250.241 What subsea systems and pipeline information must my DWOP include?
250.242 What new or unusual technology information must my DWOP include?
250.243 and 250.244 [Reserved]
250.245 May I combine the Conceptual Plan and the DWOP?
250.246 When must I revise my DWOP?
250.247 When must I supplement my DWOP?
250.248 What information must I include in my Supplemental DWOP?

Subpart B—Plans and Information

General Information

§ 250.200 Definitions.

Acronyms and terms used in this subpart have the following meanings:

(a) Acronyms used frequently in this subpart are listed alphabetically below:

BOEM means Bureau of Ocean Energy Management of the U.S. Department of the Interior.

BSEE means Bureau of Safety and Environmental Enforcement of the U.S. Department of the Interior.

CID means Conservation Information Document.

CZMA means Coastal Zone Management Act.

DOCD means Development Operations Coordination Document.

DPP means Development and Production Plan.

DWOP means Deepwater Operations Plan.

EIA means Environmental Impact Analysis.

EP means Exploration Plan.

ESA means Endangered Species Act.

HPHT means High Pressure High Temperature

MMPA means Marine Mammal Protection Act.

NPDES means National Pollutant Discharge Elimination System.

NTL means Notice to Lessees and Operators.

OCS means Outer Continental Shelf.

(b) Terms used in this subpart are listed alphabetically below:

Amendment means a change you make to an EP, DPP, or DOCD that is pending before BOEM for a decision (see 30 CFR 550.232(d) and 550.267(d)).

Barrier categorization includes identifying barriers as one of the following two types of categories:

Category 1 Barrier means any equipment, component, or assembly that functions as part of a primary barrier system during any operational phase of its life cycle. The operational phases of the barrier equipment, component, or assembly are drilling, completion, workover, intervention, injection, production, or abandonment.

Category 2 Barrier means any equipment, component, or assembly that normally functions as part of a secondary barrier system in all operational phases of its life cycle, except when a primary barrier fails. The operational phases of the barrier equipment, component, or assembly are drilling, completion, workover, intervention, injection, production, or abandonment. BSEE may consider non-barrier structural components of a barrier system as Category 2 barrier if failure of this structural component could reasonably result in a barrier failure.

Primary Barrier system means the component or group of components that is designated as the principal means of isolating the source of hydrocarbons and/or pressure from people and the environment.

Secondary Barrier system means the component or group of components that is designated as the secondary means of isolating the source of hydrocarbons and/or pressure from people and the environment.

New or unusual technology means equipment or procedures used for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations that meet any of the following criteria:

(1) Have not been approved for use or used extensively in a BSEE OCS Region;

(2) Have not been approved for use or used extensively under the anticipated operating conditions;

(3) Have operating characteristics that are outside the performance parameters established in 30 CFR part 250;

(4) Will operate in an HPHT environment as defined in § 250.105; or

(5) Is part of a primary or secondary barrier system that uses materials, design analysis techniques, validation testing methods, or manufacturing processes not addressed in existing industry standards.

Subsea tieback development technology means, but is not limited to, floating production systems, tension leg platforms, spars, Floating Production Storage and Offloading Vessel (FPSO) systems, guyed towers, compliant towers, subsea manifolds, subsea wells, hybrid wells, and other subsea completion or production components that rely on a remote site or host facility for utility and well control services.

§ 250.201 What plans and information must I submit before I conduct any activities on my lease or unit?

(a) Plans and permits. Before you conduct the activities on your lease or unit listed in the following table, you must submit, and BSEE must approve, the listed plans, and any applicable permits. Your plans and applicable permits may cover one or more leases or units.

You must have BSEE approval of a(n) . . .	Before you . . .	Additional information
(1) New or Unusual Technology Conceptual Plan.	install the new or unusual technology	Must be approved before any associated application or permit (*e.g.,* pipeline, platform, APD, APM) approval.
(2) New or Unusual Technology Barrier Conceptual Plan.	install the new or unusual technology barrier equipment	(i) Is required for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier. (ii) Must be approved before any associated application or permit (*e.g.,* pipeline, platform, APD, APM) approval.
(3) Project Conceptual Plan	conduct post-drilling installation or well completion activities for a deepwater development project, or for any project that will involve the use of a subsea tieback development technology in any water depth.	Must be approved before well completion permit (*e.g.,* APM) approval.
(4) Deepwater Operations Plan (DWOP),.	(i) conduct post-completion installation activities for a deepwater development project, or for any project that will involve the use of a subsea tieback development technology in any water depth, which may include new or unusual technology, or new or unusual technology barrier equipment; and. (ii) initiate production activities.	Must include reference to all applicable, previously approved Conceptual Plans for the associated development project.

(b) Submitting additional information. On a case-by-case basis, the Regional Supervisor may require you to submit additional information if the Regional Supervisor determines that it is necessary to evaluate your proposed plan or permit.

(c) Referencing. In preparing your proposed plan or permit, you may reference information and data discussed in other plans or permits you previously submitted or that are otherwise readily available to BSEE.

§ 250.202 How must I protect the rights of the Federal government?

(a) To protect the rights of the Federal government, you must either:

(1) Drill and produce the wells that the Regional Supervisor determines are necessary to protect the Federal government from loss due to production on other leases or units or from adjacent lands under the jurisdiction of other entities (*e.g.,* State and foreign governments); or

(2) Pay a sum that the Regional Supervisor determines as adequate to compensate the Federal government for your failure to drill and produce any well.

(b) Payment under paragraph (a)(2) of this section may constitute production in paying quantities for the purpose of extending the lease term.

(c) You must complete and produce any penetrated hydrocarbon-bearing zone that the Regional Supervisor determines is necessary to conform to sound conservation practices.

§ 250.203 Are there special requirements if my well affects an adjacent property?

For wells that could intersect or drain an adjacent property, the Regional Supervisor may require special measures to protect the rights of the Federal government and objecting lessees or operators of adjacent leases or units.

§ 250.204 Requirements for high pressure high temperature (HPHT) barrier equipment.

If you plan to install HPHT barrier equipment, you must submit information with your applicable permit and/or application, New or Unusual Technology Barrier Conceptual Plan, and/or DWOP that demonstrates the equipment is fit for service in the applicable HPHT environment. You must follow the applicable DWOP Process requirements, including §§ 250.229 and 250.242.

§ 250.205 [Reserved]

Barrier Equipment and Systems

§ 250.206 What equipment does BSEE consider to be a Barrier?

A barrier or barrier system is any engineered equipment, materials, component, or assembly that is installed to contain a hydrocarbon or other pressure source(s) to prevent harm to people or the environment. BSEE only recognizes barriers (non-mechanical or mechanical in nature) that are either permanently or temporarily installed, pressure controlling, and/or pressure containing. Pressure controlling barriers must be able to be activated on demand. You must be able to function and/or pressure test your barriers or barrier systems to a defined acceptance criteria that can be repeated. If the barrier or barrier system is classified as Safety and Pollution Prevention Equipment (SPPE) (as described under § 250.801(a)), then it must also meet the leak test requirements established in Subpart H.

§ 250.207 How must barrier systems be used?

You must install and maintain a primary and a secondary barrier system (redundant barriers) to prevent a loss of containment during any operational phase of a well, flowline, pipeline, production, or riser system.

Activities and Post-Approval Requirements for the EP, DPP, DWOP, and DOCD

§ 250.208 How must I conduct activities under an approved EP, DPP, or DOCD?

(a) *Compliance.* You must conduct all of your lease and unit activities according to your approved EP, DPP, or DOCD and any approval conditions. If you fail to comply with your approved EP, DPP, or DOCD:

(1) You may be subject to BSEE enforcement action, including civil penalties; and

(2) The lease(s) involved in your EP, DPP, or DOCD may be forfeited or cancelled under 43 U.S.C. 1334(c) or (d). If this happens, you will not be entitled to compensation under § 550.185(b) and 30 CFR 556.77.

(b) *Emergencies.* Nothing in this subpart or in your approved EP, DPP, or DOCD relieves you of, or limits your responsibility to take appropriate measures to meet emergency situations. In an emergency situation, the Regional Environmental Officer may approve or require departures from your approved EP, DPP, or DOCD.

§ 250.209 What must I do to conduct activities under the approved EP, DPP, or DOCD?

(a) *Approvals and permits.* Before you conduct activities under your approved EP, DPP, or DOCD you must obtain the following approvals and or permits, as applicable, from the District Manager or BSEE Regional Supervisor:

(1) Approval of Applications for Permits to Drill (APDs) (see 30 CFR 250.410);

(2) Approval of production safety systems (see 30 CFR 250.800);

(3) Approval of new platforms and other structures (or major modifications to platforms and other structures) (see 30 CFR 250.905);

(4) Approval of applications to install lease term pipelines (see 30 CFR 250.1007); and

(5) Other permits, as required by applicable law.

(b) *Conformance.* The activities proposed in these applications and permits must conform to the activities described in detail in your approved EP, DPP, or DOCD.

§ 250.210 Do I have to conduct post-approval monitoring?

The Regional Supervisor may direct you to conduct monitoring programs, including monitoring in accordance with the ESA and the MMPA, in association with your approved EP, DPP, DWOP, or DOCD. You must retain copies of all monitoring data obtained or derived from your monitoring programs and make them available to BSEE upon request. The Regional Supervisor may require you to:

(a) Submit monitoring plans for approval before you begin work; and

(b) Prepare and submit reports that summarize and analyze data and information obtained or derived from your monitoring programs. The Regional Supervisor will specify requirements for preparing and submitting these reports.

§ 250.211 What are my new or unusual technology failure reporting requirements?

If you have an approved new or unusual technology and it experiences a failure during or post-installation, such that the technology is unable to perform its intended function or if it will be recovered and repaired or replaced, you must notify the applicable Regional Supervisor within 30 days of the failure and provide a written report as soon as available. The written report must identify the root cause(s) for the failure. You must also follow all applicable failure or incident reporting requirements associated with the failure (*e.g.,* §§ 250.188, 250.730, and 250.803).

§ 250.212–250.219]Reserved]

Deepwater Operations Plan (DWOP) Process

§ 250.220 What is the DWOP Process?

(a) The DWOP Process consists of providing sufficient information from a total system approach for BSEE to review:

(1) A deepwater development project,

(2) A subsea tieback development technology, or

(3) Any other project or system that uses new or unusual technology during any phase of drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment operations.

(b) The DWOP Process does not replace but complements other submittals required by the regulations, such as BOEM EPs, DPPs, and DOCDs, or BSEE applications and/or permits (*e.g.,* APD, Application for Permit to Modify (APM), pipeline, and platform). BSEE will use the information in your DWOP Process to determine whether the project will be developed in an acceptable manner, particularly with respect to operational safety and environmental protection issues involved with a deepwater development project, subsea tieback development technology, or new or unusual technology.

(c) The DWOP Process consists of two phases:

(1) *The Conceptual Plans.* The Conceptual Plans outline certain equipment and process specifications, operational concepts, and basis of design that you plan to use for project development, and for applicable equipment design, installation and operation. Sections 250.227 through 250.229 prescribe what each of the Conceptual Plans must contain. Each Conceptual Plan may be submitted separately or combined as applicable; and

(2) *The DWOP.* The DWOP identifies specific design, fabrication, installation and operational requirements for equipment, systems, and activities as applicable in §§ 250.236 through 250.242.

§ 250.221 When must I use the DWOP Process?

(a) You must use the DWOP Process for any project that meets any of the following criteria:

(1) Is planned in water depths greater than 1000 ft;

(2) Will include the use of subsea tieback development technology, regardless of water depth; or

(3) Will include the use of any new or unusual technology for any drilling, completion, workover, intervention, injection, production, pipeline, platform, decommissioning, or abandonment project.

(b) If you are unsure if your project contains subsea tieback development technology or new or unusual technology, you must contact the Regional Supervisor for guidance.

§ 250.222–250.224 [Reserved]

Conceptual Plans

§ 250.225 What are the types of Conceptual Plans that I must submit?

There are three types of Conceptual Plans:

(a) *A Project Conceptual Plan*—is required for any project that is planned in water depths greater than 1000 feet or will include the use of subsea tieback development technology, regardless of water depth (see § 250.221 paragraphs (a)(1) and (2))

(b) *A New or Unusual Technology Conceptual Plan*—is required for any project or system that involves equipment or systems that are considered new or unusual technology (see § 250.200 for the definition of new or unusual technology); and

(c) *A New or Unusual Technology Barrier Conceptual Plan*—is required for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier (see § 250.200 for the definition of primary or secondary barriers).

§ 250.226 When and how must I submit each applicable Conceptual Plan?

You must submit each applicable Conceptual Plan to the Regional Supervisor after you have decided on the general concept(s) for a project or system, and before you begin final engineering design of the equipment, well, well safety control system, or subsea production systems. You must submit, for BSEE approval, each Conceptual Plan according to the following table:

Conceptual plan type	Where to find the description	Additional information
(a) Project Conceptual Plan	§ 250.227	You may not complete any production or injection well or install the tree before BSEE has approved the Project Conceptual Plan.
(b) New or Unusual Technology Conceptual Plan.	§ 250.228	(1) You may not install any new or unusual technology until BSEE approves your new or unusual technology Conceptual Plan. (2) Your plan must be approved by BSEE before it can approve any associated application or permit (*e.g.,* pipeline, platform, APD, APM) approval. (3) The Regional Supervisor may require the operator to use an independent third party to perform certain functions and verifications in accordance with § 250.231, as applicable.
(c) A New or Unusual Technology Barrier Conceptual Plan.	§ 250.229	(1) You must submit a new or unusual technology Barrier Conceptual Plan for any project or system involving new or unusual technology that is also identified as a primary or secondary barrier. (2) Your plan must be approved by BSEE prior to new or unusual technology barrier equipment installation. (3) All new or unusual technology barrier equipment must be approved by BSEE before any associated application or permit (*e.g.,* pipeline, platform, APD, APM) approval. (4) All new or unusual technology Barrier Conceptual Plans require the use of an Independent Third Party (I3P) to perform certain functions and verifications in accordance with § 250.231.

§ 250.227 What must the Project Conceptual Plan contain?

In the Project Conceptual Plan, you must explain the basis of design that you will use to develop the field. You must include the following information:

(a) An overview of the development concept(s);

(b) The system control type (*i.e.,* direct hydraulic or electro-hydraulic);

(c) The distance from each of the wells to the host platform, and umbilical length(s);

(d) Confirmation that the subsea production safety system will comply with Subpart H of this part;

(e) For a new facility, a description of the type of facility you plan to install (*e.g.* Spar, tension leg platform (TLP), FPSO, etc.);

(f) For a subsea tieback to an existing facility, a statement identifying whether a minor or major structural modification will be made to the facility and the facility remaining design life. If modifications will be made to the facility, a calculation of the facility's remaining design life and explanation of how the modifications will impact the design life;

(g) A statement regarding whether the host facility will be manned or unmanned;

(h) A schedule of development activities, including well completion, facility installation, and date of first oil;

(i) Schematics, including:

(1) A well location plat,

(2) A subsea field schematic depicting the planned development infrastructure that contains the wells, pipelines, riser systems, umbilical(s), and facility footprint,

(3) The surface or subsea tree,

(4) Wellbore and completion schematic for a typical well (including Surface Controlled Subsurface Safety Valve (SCSSV) location and chemical injection points; and depiction or description of gas zones, if any, behind the production casing or production liner and how those gas zones will be isolated), and

(5) Information concerning the drilling and completion systems.

(j) The estimated shut-in tubing pressure for the proposed well(s), including the calculation used to arrive at the estimate, specifying true vertical depth (TVD), reservoir pressure, and the fluid gradient used, or a brief discussion of the pressure volume temperature (PVT) data used for estimation;

(k) The wellbore static bottomhole temperature and the estimated flowing temperature at the tree;

(l) The pressure and temperature rating of the tree and wellhead;

(m) Identify if there will be corrosive production (*e.g.,* hydrogen sulfide (H_2S), Carbon dioxide (CO_2), Mercury (Hg) or injection fluids (*e.g.,* acid), including concentrations;

(n) Identify whether any of the proposed equipment will be re-furbished and re-certified;

(o) Identify whether enhanced recovery is planned for the early life of the project;

(p) Identify whether any new or unusual technology will be used to develop your project involving the following activities: drilling, completion, injection, production, pipeline, or platform;

(q) Identify whether the well(s) will include smart completion technology; and

(r) Payment of the service fee listed in § 250.125.

§ 250.228 What must the New or Unusual Technology Conceptual Plan contain?

(a) You must include the following information, as applicable, in your New or Unusual Technology Conceptual Plan:

(1) How the New or Unusual Technology Conceptual Plan fits within your overall site specific project, if applicable, including an overview of the project development concepts.

(2) A description of the technology and specific conditions under which it will be used;

(3) Description of shut-in capabilities and procedures;

(4) Description of redundancies of critical components or systems that will be used;

(5) Discussion of how the new or unusual technology could impact the barrier system, if any, including

(i) Detection method for new or unusual technology failure,

(ii) How the barrier functions to a fail-safe state when impacted by new or unusual technology failure;

(6) Information on inspection and testing capabilities;

(7) A risk assessment and failure mode analysis;

(8) Operating procedures;

(9) History of development and application of the technology;

(10) The basis of design, including design verification and validation testing;

(11) Detailed schematics;

(12) Justification for new or unusual technology use, and any additional information required for a complete review;

(13) A list of requests for alternate procedures or equipment in accordance with § 250.141 and request for departures in accordance with § 250.142;

(14) A certification statement that the technology is fit for service in the applicable environment (for the specific project at location); and

(15) Payment of the service fee listed in § 250.125

(b) The Regional Supervisor may require the use of an Independent Third Party (I3P) according to § 250.230 if the system or equipment requires a high degree of specialized or technically complex engineering knowledge, expertise, and experience to evaluate, or is not addressed in existing industry standards.

(1) The Regional Supervisor may also require you to follow the I3P requirements according to § 250.231, as applicable, on a case-by-case basis.

(2) If you have any questions about I3P requirements for the New or Unusual Technology Conceptual Plan, contact the applicable Regional Supervisor.

§ 250.229 What must the New or Unusual Technology Barrier Conceptual Plan include?

Your New or Unusual Technology Barrier Conceptual Plan must include the following information:

(a) How the New or Unusual Technology Barrier Conceptual Plan fits within your overall site specific project, if applicable. You must include an overview of the project development concepts and a proposed schedule for submittal of associated conceptual plans;

(b) A diagram depicting the primary and secondary barriers that includes all components, assemblies, or sub-assemblies, each labeled and categorized as a Category 1 barrier or Category 2 barrier;

(c) A list of the primary and secondary barriers that includes all components, assemblies, or sub-assemblies specifying each assigned barrier as either a Category 1 barrier or Category 2 barrier;

(d) A list of the engineering standards that will be used in the equipment's material selection and qualification, design verification analysis, and design validation testing;

(e) A list of requested alternate procedures or equipment in accordance with § 250.141 and requested departures in accordance with § 250.142;

(f) A list of the functional requirements (*i.e.,* environmental and physical loads (magnitude and frequency)) for which the barrier equipment is being designed;

(g) Description of the equipment's safety critical functions, (*i.e.,* function(s) performed by or inherent to the equipment enabling it to achieve or maintain a safe state);

(h) An I3P nomination, in accordance with § 250.230(a);

(i) An I3P verification plan that includes the following:

(1) A discussion of the equipment's material selection and qualification;

(2) A discussion of the equipment's design verification analyses;

(3) A discussion of the equipment's design validation testing;

(4) An explanation of why the analyses, processes, and procedures ensure that the equipment is fit for service in the applicable environment; and

(5) Details regarding how the I3P will address the additional items listed in § 250.231

(j) I3P reports as required in § 250.232;

(k) Payment of the service fee listed in § 250.125; and

(l) After BSEE receives all of the required I3P reports, a certification statement that the barrier equipment is fit for service in the applicable environment (for the specific project location).

§ 250.230 What are your requirements for the Independent Third Party (I3P) nomination?

When required by BSEE and in accordance with each applicable Conceptual Plan, you must:

(a) Nominate I3P(s) to review the design verification and design validation documentation of the Original Equipment Manufacturer (OEM). Your I3P must be a technical classification society, a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications. You must submit your I3P nomination(s) to BSEE for approval. Your I3P nomination must include the following:

(1) Previous experience in third-party verification or experience in the design, fabrication, or installation of applicable offshore oil and gas equipment.

(2) Technical capabilities of the individual or the primary staff for the specific project;

(3) Size and type of organization or corporation;

(4) In-house availability of, or access to, appropriate technology to review the specific project. This should include computer programs, hardware, and testing materials and equipment as applicable;

(5) Ability to perform the I3P functions for the specific project considering current commitments (*e.g.,* project timelines, schedules, and personnel availability); and

(6) Previous experience with BSEE requirements and procedures;

(b) You must ensure that the I3P has access to all associated documentation and equipment related to items § 250.229(i) to perform the complete reviews in accordance with § 250.231, including OEM documentation and access to the OEM fabrication and manufacturing locations.

§ 250.231 What are the I3P review requirements for Conceptual Plan reviews?

As directed by BSEE, or for all new or unusual technology Barrier review for Equipment categorized as Category 1 or Category 2, the I3P must:

(a) Review the following information regarding the applicable equipment and/or system:

(1) Basis of Design, Technical Specification (if known at this point in the design process) and Functional Requirements (*i.e.,* environmental and physical loads (magnitude and frequency)).

(2) Risk assessment and failure mode analysis

(3) Material specification, selection, qualification, and testing

(4) Design verification analysis, including:

(i) Structural/strength analysis and

(ii) Fatigue assessment and/or analysis;

(5) If fatigue is identified as a potential failure mode, as identified in the fatigue assessment and/or analysis in paragraph (a)(4)(ii) of this section, the plan to record and gather data (load monitoring) in order to conduct a future fatigue analysis;

(6) Design validation testing;

(7) Fabrication, quality management system, and inspection and test plan that identifies the quality control/quality assurance process, and inspection of the final products.

(b) Submit a report to BSEE documenting the review of each item covered under paragraph (a). Each report must clearly identify all OEM and operator documents used during the I3P review;

(c) Submit to BSEE a final report summarizing each of the review requirements covered under paragraph (a) of this section, including:

(1) The equipment and/or system's technical specifications, including a certification statement that the equipment and/or system is fit for purpose for the technical specification by the I3P; and

(2) Verification that the equipment's technical specifications meet or exceed the project's functional requirements, including a certification statement that the equipment and/or system is fit for purpose for the proposed project by the I3P.

(d) For any subsequent I3P review of equipment and/or system's technical specification that was previously approved in your New or Unusual Technology Barrier Conceptual Plan, the Regional Supervisor may accept a final report in accordance with § 250.231(c), including the existing certification covered under paragraph (c)(1) of this section, in lieu of reports required in paragraph (b) of this section. The I3P must also submit an updated certification statement in accordance with § 250.231(c)(2) for the specific project.

§ 250.232 General requirements for any I3P Report.

An I3P report as required in § 250.231 must be a standalone document that clearly summarizes the verification work performed and must contain a sufficient level of detail (*i.e.,* quantitative information) and clarity to establish the basis of the I3P's findings and/or recommendation(s). Each report must identify the OEM or operator documents reviewed, the detailed I3P review, and convey the results of the I3P's review without requiring BSEE to review of any other referenced document.

§ 250.233–250.234 [Reserved]

DWOP Approval

§ 250.235 When and how must I submit the DWOP?

You must submit the DWOP to the Regional Supervisor after BSEE has approved your project conceptual plan and you have substantially completed system design, and before you conduct post-completion installation activities for a deepwater development project, or for any project that will involve the use of subsea tieback development technology in any water depth which may include new or unusual technology or new or unusual technology barrier equipment. You may not begin production from the well until BSEE approves your DWOP.

§ 250.236 What information must I submit with the DWOP?

Your DWOP must contain the following information, as applicable:

Information that you must include with your DWOP	Where to find the description
(a) General information	§ 250.237
(b) Well or completion information	§ 250.238
(c) Structural information	§ 250.239
(d) Production safety system information	§ 250.240
(e) Subsea system and pipeline information	§ 250.241

Information that you must include with your DWOP	Where to find the description
(f) New or unusual technology information	§ 250.242

§ 250.237 What general information must my DWOP include?

You must include the following general information in your DWOP, as applicable:

(a) A list of any alternate compliance procedures or equipment or departures being requested and a list of any for which you anticipate requesting approval in any future applicable permit or application;

(b) Payment of the service fee listed in § 250.125; and

(c) A list of any associated industry standards not incorporated in the regulations that you are using for your project design or operation.

§ 250.238 What well or completions information must my DWOP include?

You must include the following information in your DWOP, as applicable, to align with the activities to be addressed in the associated well permit(s):

(a) A description and schematic of the typical wellbore, casing, and completion;

(b) Information concerning the drilling and completion systems; and

(c) Design and fabrication information for each wellbore riser system (*e.g.,* drilling, completion, workover, intervention, injection, or production) deployed from a floating production facility or TLP.

§ 250.239 What structural information must my DWOP include?

You must include the following information in your DWOP, as applicable, to align with the activities, including any major modifications, to be addressed in the associated platform application:

(a) Structural design, fabrication, and installation information;

(b) Design, fabrication, installation, and monitoring information on the tendon, or mooring systems, including the turret or buoy system, if applicable; and

(c) Information on any active station keeping system(s) involving thrusters or other means of propulsion.

§ 250.240 What Production Safety System information must my DWOP include?

You must include the following information in your DWOP, as applicable, to align with the activities you plan to address in the associated production safety system application:

(a) A general description of the operating procedures, including a table summarizing the curtailment of production and offloading based on operational considerations;

(b) Information about the design, fabrication, and operation of an offtake system for transferring produced hydrocarbons to a transport vessel;

(c) A description of the process facility installation and commissioning procedure;

(d) Safety analysis flow diagram of the production system from the SCSSV downstream to the first item of separation equipment;

(e) A certification statement that the surface and/or subsea safety system and emergency support systems will comply with Subpart H of this part. You must also include:

(1) Methods, frequency, and acceptance criteria for testing the Underwater Safety Valves (USVs), SCSSVs, and Boarding Shutdown Valves (BSDVs);

(2) The function and testing of the host facility Emergency Shutdown Device (ESD) system and its interface to the subsea system;

(3) If applicable, a description of the surface and/or subsea safety system and emergency support systems not covered in Subpart H of this part. For systems not covered in Subpart H, you must request an approval of alternate procedures or equipment according to § 250.141, and you must also include a table that depicts what valves will close, at what times, and for what events or reasons; and

(f) Information on the design, operation, maintenance, personnel competency, and testing of your subsea leak detection system to protect your subsea field/infrastructure (*e.g.,* trees, manifolds, jumpers). You must include procedures for how you will operate the system, ensure system functionality, identify a leak, and the actions you will take when a leak is identified.

§ 250.241 What subsea systems and pipeline information must my DWOP include?

(a) You must include the following information common to the subsea system and the associated pipeline systems, which constitute all or part of a single project development covered by the DWOP and/or aligns with activities addressed in your associated pipeline application, as applicable:

(1) The subsea field schematic depicting the planned subsea development equipment and infrastructure, including wells/trees, non-pipe subsea equipment, pipeline route(s), pipeline riser systems, umbilical(s), and platform footprint;

(2) Description of the subsea development project detailing the subsea and pipeline equipment design criteria and analysis procedures (including industry standards, pressure and temperature ratings, materials selection), testing methods, and general operational procedures;

(3) Description of the fabrication and assembly/testing location of subsea trees, pipelines, and non-pipe subsea equipment (manifold, Pipeline End Manifold (PLEM), Pipeline End Termination (PLET), Subsea Umbilical Termination Assembly (SUTA), subsea pumps, suction piles, etc.);

(4) Summary of the Integrity Management Program for subsea tieback development technologies, including a plan for inspection and monitoring to support assessment of the condition of the systems a minimum of once every 10 years. This should include, but is not limited to, the in-service inspections or survey of hull and topsides structures, tendons, mooring, and pipeline and/or wellbore riser systems to assess component condition by inspection and analysis after each significant environmental event (*e.g.,* hurricane, earthquake, loop and eddy currents, or mudslide) impacting the system, or once every 10 years, whichever occurs first; and

(5) Summary of safety and environmental controls.

(b) You must include the following information about subsea systems that constitute all or part of a single project development covered by the DWOP, as applicable:

(1) The system control type (*i.e.,* direct hydraulic or electro-hydraulic);

(2) Well tree(s), wellhead, and non-pipe equipment general arrangement drawings and schematics, with size and valve type annotations to illustrate the tree and other equipment in operation;

(3) The estimated shut-in tubing pressure for the proposed well(s), including the calculation used to arrive at the estimate, specifying TVD, reservoir pressure, and the fluid gradient used, or a brief discussion of the pressure volume temperature (PVT) data used for estimation;

(4) The wellbore static bottomhole temperature and the estimated flowing temperature at the tree, including a description of the method used to calculate this estimate;

(5) Umbilical(s) and umbilical connection(s), including an umbilical cross-section schematic;

(6) Chemical or other injection systems and/or enhanced recovery systems to be used;

(7) Corrosion monitoring and prevention/inhibition provisions;

(8) Details of any re-furbished and/or re-certified equipment you plan to use; and

(9) A schedule of development activities, including well completion, facility installation, and anticipated date of first oil.

(c) You must include the following pipeline information in your DWOP, as applicable, to align with the activities to be addressed in your associated pipeline application(s):

(1) Design and fabrication information for each pipeline riser system;

(2) If you propose to use a pipeline free standing hybrid riser (FSHR) on a permanent installation that uses a buoyancy air can suspended from the top of the riser, you must provide the following information in your DWOP as part of the discussions required by paragraphs (b)(1) and (2) of this section:

(i) A detailed description and drawings of the FSHR, buoy, and the associated connection system;

(ii) Detailed information regarding the system used to connect the FSHR to the buoyancy air can, and associated redundancies; and

(iii) Descriptions of your monitoring system and monitoring plan for the pipeline FSHR and the associated connection system for fatigue, stress, and any other abnormal condition (*e.g.,* corrosion), that may negatively impact the riser system's integrity; and

(3) Pipeline and pipeline riser installation methods.

§ 250.242 What new or unusual technology information must my DWOP include?

You must include the following new or unusual technology information in your DWOP, as applicable:

(a) A description of any new or unusual technology being used in your development project, including a reference to previously approved New or Unusual Technology Conceptual Plans or New or Unusual Technology Barrier Conceptual Plans.

(b) A description of any new or unusual technology not covered under the New or Unusual Technology Conceptual Plan or New or Unusual Technology Barrier Conceptual Plan. You must include the same applicable information as required in §§ 250.228 or 250.229.

§§ 250.243 and 250.244 [Reserved]

§ 250.245 May I combine the Conceptual Plan and the DWOP?

If your development project meets the following criteria, you may submit a combined Conceptual Plan/DWOP that complies with all applicable requirements for both, on or before the deadline for submitting the Conceptual Plan, as described in § 250.226:

(a) The project is similar to projects involving subsea tieback development technology for which you have obtained approval previously, and

(b) The project does not involve either new or unusual technology or a new platform.

§ 250.246 When must I revise my DWOP?

You must revise either the Conceptual Plan or your DWOP to reflect any change to the proposed plan or procedures that does not involve a physical alteration of the equipment on the platform or the seabed.

§ 250.247 When must I supplement my DWOP?

You must supplement your DWOP to reflect additions or changes in your development project that:

(a) Physically alter the platform, process facilities, equipment, or systems approved in your original Conceptual Plan or DWOP. If a Supplemental DWOP includes the addition of a well or wells (*e.g.,* a new subsea field) not approved in your original DWOP, you may not complete or produce from the new well(s) until BSEE approves the Supplemental DWOP.

(b) Involves the addition of any new or unusual technology to your project that was not previously covered under the New or Unusual Technology Conceptual Plan, New or Unusual Technology Barrier Conceptual Plan, or DWOP. You cannot install any new or unusual technology until BSEE approves the Supplemental DWOP.

§ 250.248 What information must I include in my Supplemental DWOP?

You must include the following information, as applicable, in your Supplemental DWOP:

(a) The same information for your wells or equipment as required in the applicable Conceptual Plan and DWOP requirements in this subpart;

(b) Information for each applicable Conceptual Plan or DWOP section that is being impacted by the addition or change; and

(c) Payment of the service fee listed in § 250.125.

Subpart D—Oil and Gas Drilling Operations

■ 6. Amend § 250.490 by revising the introductory text to paragraph (p) to read as follows:

§ 250.490 Hydrogen sulfide.

* * * * *

(p) *Metallurgical properties of equipment.* When operating in a zone with H_2S present or when the concentration of H_2S in the produced fluid may exceed 0.05 psi partial pressure of H_2S, you must use equipment that is constructed of materials with metallurgical properties that resist or prevent sulfide stress cracking (also known as hydrogen embrittlement, stress corrosion cracking, or H_2S embrittlement), chloride-stress cracking, hydrogen-induced cracking, and other failure modes. You must do all of the following:

* * * * *

■ 7. Amend § 250.518 by revising paragraphs (a), (c), and (d) to read as follows:

§ 250.518 Tubing and wellhead equipment.

(a) No tubing string can be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

(1) The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety and design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases.

(2) The tubing string materials must be appropriate for the environment. You must follow NACE Standard MR0175–2003 (as incorporated by reference in § 250.198) when H_2S concentration may equal or exceed 0.05 psi partial pressure.

(3) The tubing string threaded connectors must be appropriate for the loads identified in paragraph (a)(1) of this section.

* * * * *

(c) You must design and test the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (as incorporated by reference in § 250.198) or ANSI/API Spec. 17D (as incorporated by reference in § 250.198), as applicable. The wellhead, tree, and related equipment must have a pressure rating greater than the maximum anticipated surface pressure and must be designed, installed, operated, maintained, and tested to achieve and maintain pressure containment and pressure control.

(1) Newly completed dry trees (*e.g.,* fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one surface safety valve (SSV), installed above the master valve, in the vertical run of the tree.

(2) Newly completed subsea production or injection wells must be equipped with a minimum of one underwater safety valve (USV) installed in the horizontal or vertical run of the

tree (*e.g.,* vertical or horizontal subsea trees).

(3) Newly completed wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At a minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

(d) You must install, maintain, and test surface and subsurface safety equipment in accordance with the applicable requirements in Subpart H of this part.

* * * * *

■ 8. Amend § 250.619 by revising paragraphs (a), (c), and (d) to read as follows:

§ 250.619 Tubing and wellhead equipment.

* * * * *

(a) No tubing string can be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

(1) The tubing string must be evaluated for burst, collapse, and axial loads with appropriate safety and design factors for the pressure and temperature environments of the completion, production, shut-in, and injection load cases.

(2) The tubing string materials must be appropriate for the environment. You must follow NACE Standard MR0175–2003 (as incorporated by reference in § 250.198) when H_2S concentration may equal or exceed 0.05 psi partial pressure .

(3) The tubing string threaded connectors must be appropriate for the loading identified in paragraph (a)(1) of this section.

* * * * *

(c) You must design and test the wellhead, tree, and related equipment in accordance with ANSI/API Spec. 6A (as incorporated by reference in § 250.198) or ANSI/API Spec. 17D (as incorporated by reference in § 250.198), as applicable. The wellhead, tree, and related equipment must have a pressure rating greater than the shut-in tubing pressure and must be designed, installed, operated, maintained, and tested so as to achieve and maintain pressure containment and pressure control.

(1) Dry trees (*e.g..,* fixed, hybrid, or mudline suspension) for production or injection wells must be equipped with a minimum of one master valve and one surface safety valve (SSV), installed above the master valve, in the vertical run of the tree.

(2) Subsea production or injection wells must be equipped with a minimum of one underwater safety valve (USV) installed in the horizontal or vertical run of the tree (for vertical or horizontal subsea trees).

(3) Wells with a mudline suspension conversion to a subsea tree must have a minimum of two casing strings tied back and sealed below the tubing head. At minimum, the production casing and the next outer casing must be tied back to the wellhead, to ensure annular isolation.

(d) You must install, maintain, and test surface and subsurface safety equipment in accordance with the applicable requirements in Subpart H of this part.

* * * * *

■ 9. Amend § 250.731 by revising paragraph (c)(4) to read as follows:

§ 250.731 What information must I submit for BOP systems and system components?

You must submit:	Including:
* * *	* * * * * * *
(c) * * *	(4) If using a subsea BOP, a BOP in an HPHT environment, as defined in § 250.105, or a surface BOP on a floating facility, the BOP has not been compromised or damaged from previous service.
* * *	* * * * * * *

■ 10. Amend § 250.732 by revising paragraph (c) to read as follows:

§ 250.732 What are the independent third party requirements for BOP systems and system components?

* * * * *

(c) Before you begin any operations in an HPHT environment, as defined by § 250.105, with the proposed equipment, you must include the following in your applicable permit:

(1) The I3P certification required in § 250.731(c);

(2) A description of any new or unusual technology being used;

(3) A reference to the previously approved associated new or unusual technology Barrier Conceptual Plan;

(4) The final report and certification statements in accordance with § 250.231(c); and

(5) The fit-for-service certification statement required in § 250.229(l).

You may not deploy your proposed HPHT BOP systems and related equipment until BSEE approves the New or Unusual Technology Barrier Equipment Conceptual Plan and appropriate permits (*e.g.,* APD).

* * * * *

§ 250.804 [Removed and Reserved]

■ 11. Remove and reserve § 250.804.

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