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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0053]

RIN 1904–AE17

Energy Conservation Program: Test Procedure for Metal Halide Lamp Fixtures

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

ACTION: Final rule.

SUMMARY: In this final rule, the U.S. Department of Energy (''DOE'') is adopting amendments to its test procedure for metal halide lamp fixtures (''MHLFs'') to incorporate by reference new relevant industry standards as well as update to latest versions of existing references; clarify the selection of reference lamps used for testing; specify the light output level at which to test dimming ballasts; revise definitions and reorganize the content of the test procedure for better readability and clarity; and revise the standby mode test method for MHLFs.

DATES: The effective date of this rule is July 25, 2022. The final rule changes will be mandatory for product testing starting December 21, 2022. The incorporation by reference of certain material listed in this rule is approved by the Director of the Federal Register on July 25, 2022.

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

A link to the docket web page can be found at *www.regulations.gov/docket/EERE–2017–BT–TP–0053.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

DOE maintains previously approved incorporations by reference and incorporates by reference the following industry standards into 10 CFR part 431:

American National Standards Institute (''ANSI'') C78.43 (ANSI C78.43–2017), ''American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps,'' approved December 21, 2017.

ANSI C78.44 (ANSI C78.44–2016), ''American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps,'' approved July 1, 2016.

ANSI C82.6–2015 (R2020) (ANSI C82.6–2015 (R2020)), ''American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement,'' approved March 30, 2020.

ANSI C82.9 (ANSI C82.9–2016), ''American National Standard for Lamp Ballasts— High-Intensity Discharge and Low-Pressure Sodium Lamps—Definitions,'' approved July 12, 2016.

International Electrotechnical Commission (''IEC'') 63103 (IEC 63103), ''Lighting Equipment—Non-Active Mode Power Measurement'' (Edition 1.0, 2020–07).

Copies of ANSI C78.43–2017, ANSI C78.44–2016, ANSI C82.6–2015 (R2020), and ANSI C82.9–2016 are available at *www.ansi.org* or *www.nema.org.* Copies of IEC 63103:2020 are available on IEC's website at *http://webstore.ansi.org.*

For a further discussion of these standards, see section IV.N of this document.

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I. Authority and Background

MHLFs are included in the list of ''covered products'' for which the U.S. Department of Energy (''DOE'') is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6295(a)(19)) DOE's energy conservation standards and test procedures for MHLFs are currently prescribed at 10 CFR 431.326 and 10 CFR 431.324, respectively. The

following sections discuss DOE's authority to establish test procedures for MHLFs and relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include MHLFs, the subject of this document.[3] (42 U.S.C. 6292(a)(19) MHLFs contain metal halide lamp ballasts. Because the MHLF energy conservation standards in EPCA established a minimum efficiency for the ballasts incorporated into those fixtures, the test procedure requires measurement of metal halide lamp ballast efficiency. (42 U.S.C. 6295(hh)(1)(A))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA (42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle (as determined by the Secretary) or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

EPCA sets forth that test procedures for metal halide lamp ballasts shall be based on ANSI C82.6–2005.[4] (42 U.S.C. 6293(b)(18))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including MHLFs, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)). If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures.

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor, unless the current test procedure already incorporates the standby mode and off mode energy consumption, or if such integration is technically infeasible. (42 U.S.C. 6295(gg)(2)(A)) If an integrated test procedure is technically infeasible, DOE must prescribe separate standby mode and off mode energy use test procedures for the covered product, if a separate test is technically feasible. (*Id.*) Any such amendment must consider the most current versions of the International Electrotechnical Commission (''IEC'') Standard 62301 [5] and IEC Standard 62087 [6] as applicable. (42 U.S.C. 6295(gg)(2)(A))

DOE is publishing this final rule in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

B. Background

DOE's existing test procedure for MHLFs is codified at Title 10 of the Code of Federal Regulations (''CFR'') part 431, subpart S, § 431.324 (''Uniform test method for the measurement of energy efficiency and standby mode energy consumption of metal halide lamp ballasts'').

The Energy Independence and Security Act of 2007 (Pub. L. 110–140; EISA 2007) amended EPCA, requiring DOE to establish test procedures for metal halide lamp ballasts based on the industry standard ANSI C82.6–2005. (42 U.S.C. 6293(b)(18)) On March 9, 2010, DOE published a final rule establishing active mode and standby mode test

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Pub. L. 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

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

[3] Because of its placement in Part A of Title III of EPCA, the rulemaking for MHLFs is bound by the requirements of 42 U.S.C. 6292. However, because MHLFs are generally considered commercial equipment, as a matter of administrative convenience and to minimize confusion among interested parties, DOE adopted MHLF provisions into subpart S of 10 CFR part 431. 74 FR 12058, 12062 (March 23, 2009). Therefore, DOE will refer to MHLFs as ''equipment'' throughout the notice because of their placement in 10 CFR part 431. When the notice refers to specific provisions in Part A of EPCA, the term ''product'' is used. The location of provisions within the CFR does not affect either their substance or applicable procedure.

[4] American National Standards Institute. *ANSI C82.6–2005, American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement.* Approved February 14, 2005.

[5] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

[6] IEC 62087, *Audio, video and related equipment—Methods of measurement for power consumption* (Edition 1.0, Parts 1–6: 2015, Part 7: 2018).

methods for MHLFs based on measuring ballast efficiency in accordance with ANSI C82.6–2005 (''March 2010 Final Rule''). 75 FR 10950. In the March 2010 Final Rule, DOE determined that ''off mode'' as defined by EPCA is not applicable to MHLFs because there is no condition in which the components of a MHLF are connected to the main power source and are not already in a mode accounted for in either active or standby mode. *Id.* at 10954–10955.

On May 30, 2018, DOE published in the **Federal Register** a request for information seeking comments on the current test procedure for MHLFs. 83 FR 24680 (''May 2018 RFI''). On July 14, 2021, DOE published in the **Federal Register** a notice of proposed rulemaking (''NOPR'') proposing amendments to the current test procedure for MHLFs. 86 FR 37069 (''July 2021 NOPR''). DOE held a public meeting related to the July 2021 NOPR on August 5, 2021.

DOE received comments in response to the July 2021 NOPR from the interested parties listed in Table I.1.

TABLE I.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE JULY 2021 NOPR

Commenter(s)	Reference in this Final Rule	Commenter type
People's Republic of China	China	Nation.
Signify North America Corporation	Signify	Manufacturer.

This document addresses information and comments received in response to the July 2021 NOPR. A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[7]

II. Synopsis of the Final Rule

In this final rule, DOE amends 10 CFR 431.324, ''Uniform test method for the measurement of energy efficiency and standby mode energy consumption of metal halide lamp ballasts,'' as follows: (1) incorporating by reference new relevant industry standards as well as updating to latest versions of existing references; (2) revising definitions and reorganizing the content of the test procedure for better readability and clarity; (3) clarifying the selection of reference lamps to be tested with metal halide lamp ballasts; (4) specifying the light output level at which to test dimming ballasts in active mode; and (5) referencing IEC 63103:2020 and clarifying instructions for measuring the standby mode energy consumption of metal halide lamp ballasts.

The adopted amendments are summarized in Table II.1 compared to the test procedure provision prior to the amendment, as well as the reason for the adopted change.

TABLE II.1—SUMMARY OF CHANGES IN THE AMENDED TEST PROCEDURE

DOE test procedure prior to amendment	Amended test procedure	Attribution
References ANSI C82.6–2005, which describes methods of measurement for ballasts that operate high intensity discharge (''HID'') lamps.	References the updated version ANSI C82.6–2015 (R2020), which clarifies test requirements and incorporates new sections that specify instrumentation and measurement methods.	Harmonize with updated industry standard.
References ANSI C78.43–2004, which describes characteristics of single-ended metal halide lamps.	References the updated version ANSI C78.43–2017, which incorporates new data sheets for additional lamps and updates ballast design information in certain data sheets.	Harmonize with updated industry standard.
Does not reference an industry standard for double-ended metal halide lamps.	References ANSI C78.44–2016 to specify physical and electrical characteristics for double-ended metal halide lamps, consistent with the procedure for single-ended metal halide lamps.	Reference industry standard.
To define ''ballast efficiency,'' references the term ''nominal system'' in ANSI C78.43–2004, but that term does not appear in the ANSI standard.	Revises the definition of ''ballast efficiency'' to remove the term ''nominal system'' and moves testing instructions from the definition to the test procedure.	Improve readability.
Does not explicitly define ''reference lamp''	States that metal halide lamps used for testing must meet the definition of a reference lamp found in ANSI C82.9–2016.	Reference industry standard.
Does not provide direction for which lamp to use for testing ballasts that can operate lamps of more than one wattage, or that can operate both quartz and ceramic metal halide lamps.	Directs that ballasts designated with ANSI codes corresponding to more than one lamp must be tested with the lamp having the highest nominal lamp wattage as specified in ANSI C78.43–2017 or ANSI C78.44–2016, as applicable, and that ballasts designated with ANSI codes corresponding to both ceramic metal halide lamps (code beginning with ''C'') and quartz metal halide lamps (code beginning with ''M'') of the same nominal lamp wattage must be tested with the quartz metal halide lamp. Adds supporting definitions for ''quartz metal halide lamp'' and ''ceramic metal halide lamp''.	Ensure representativeness, repeatability, and reproducibility of test results for new products on the market.
Does not provide direction for the light output level at which to test dimming ballasts in active mode.	Directs dimming ballasts to be tested at the maximum input power in active mode.	Improve reproducibility of test results.

[7] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for MHLFs. (Docket No. EERE–2017–BT–TP–0053, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number at page of that document).

TABLE II.1—SUMMARY OF CHANGES IN THE AMENDED TEST PROCEDURE—Continued

DOE test procedure prior to amendment	Amended test procedure	Attribution
Incorporates by reference ANSI C82.6–2005 for the measurement of standby mode energy consumption.	Incorporates by reference IEC 63103:2020 for the measurement of standby mode energy consumption and references active mode test method for test conditions and setup.	Reference more applicable industry standard.

DOE has determined that the amendments described in section III and adopted in this document will not alter the measured efficiency of MHLFs, or require retesting or recertification solely as a result of DOE's adoption of the amendments to the test procedures. Additionally, DOE has determined that the amendments will not increase the cost of testing. Discussion of DOE's actions are addressed in detail in section III of this document.

The effective date for the amended test procedures adopted in this final rule is 30 days after publication of this document in the **Federal Register**. Representations of energy use or energy efficiency must be based on testing in accordance with the amended test procedures beginning 180 days after the publication of this final rule.

III. Discussion

In response to the July 2021 NOPR, DOE received general comments regarding amended test procedures for MHLFs as well as more specific comments regarding proposed updates to industry standards and clarifications of test methods. The amendments being adopted in this final rule and comments are discussed in the following sections.

A. General Topics

In response to the July 2021 NOPR, Signify stated that the test procedure proposed by DOE seems reasonably designed to measure the energy use or efficiency of MHLFs during a representative average use cycle or period of use. (Signify, No. 10 at p. 11) Signify also recommended, however, that DOE not change the test procedure for MHLFs because the existing one successfully communicates ballast energy efficiency and the accelerated market transition to light-emitting diode (''LED'') technology reduces any potential benefits of improving the test procedure. (Signify, No. 10 at p. 2) NEMA similarly stated that MHLFs are a highly mature technology for which sales are migrating to LED products; and that therefore, sweeping changes to the test procedure were not necessary. (NEMA, Public Meeting Transcript, pp. 27–28)

Regarding impact on measured values, Signify stated that the test procedure updates proposed in the July 2021 NOPR would not have a significant impact on measured values used for certifying compliance, with possible exceptions of proposals regarding standby mode power and ballast efficiency for dimming ballasts. (Signify, No. 10 at p. 9)

DOE is publishing this final rule in satisfaction of the 7-year review requirement specified in EPCA, which requires DOE to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) DOE finds that the adoption of applicable industry standards, updates to existing references of industry standards, and adoption of other clarifying amendments specified in the following sections will result in a more accurate test procedure and one that reflects industry best practices for testing MHLFs. Comments regarding the impacts on measured values resulting from amendments to standby mode testing and testing of dimming ballasts are discussed respectively, in sections III.F.2 and III.E.1.b. of this document.

B. Scope

EPCA and DOE regulations define MHLF as a light fixture for general lighting application designed to be operated with a metal halide lamp and a ballast for a metal halide lamp. (42 U.S.C. 6291(a)(64) and 10 CFR 431.322). Metal halide ballast is defined as a ballast used to start and operate metal halide lamps. (42 U.S.C. 6291(a)(62) and 10 CFR 431.322). Metal halide lamp is defined as a high intensity discharge (''HID'') lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors. (42 U.S.C. 6291(a)(63) and 10 CFR 431.322).

DOE is not changing the scope of equipment covered by its MHLF test procedure, or the relevant definitions, in this final rule.

C. Definitions

DOE provides definitions concerning metal halide lamp ballasts and fixtures at 10 CFR 431.322. In the July 2021 NOPR, DOE proposed to define several terms in 10 CFR 431.322 pertaining to the proposed test specifications for reference lamps used in testing (see section III.E.1 for greater detail). 86 FR 37069, 37079. Specifically, DOE proposed to define the term ''reference lamp'' as a lamp that meets the operating conditions of a reference lamp as defined by ANSI C82.9–2016. *Id.* DOE proposed to define ''quartz metal halide lamp'' as a lamp with an arc tube made of quartz materials, and ''ceramic metal halide lamp'' as a lamp with an arc tube made of ceramic materials. *Id.* Further, DOE proposed to amend the existing definition for the term ''ballast efficiency'' in 10 CFR 431.322 by removing clause 3 in the definition—which references ''nominal system'' and ANSI C78.43—since the test procedure in its entirety outlines the system requirements when testing the ballast efficiency of a metal halide lamp ballast. *Id.* DOE also proposed to remove clauses 4 and 5 in the ''ballast efficiency'' definition, which provide input power and output power specifications for ballasts with a frequency of 60 Hz, and greater than 60 Hz, respectively. DOE proposed to move these requirements to the test procedure found in 10 CFR 431.324 because they describe the test method. *Id.*

DOE received no comments regarding these modifications. For the reasons discussed in the July 2021 NOPR and in this paragraph, DOE is adopting these proposed changes to definitions in this final rule.

D. References to Industry Standards

The MHLF test procedure currently incorporates by reference the 2005 version of ANSI C82.6 (''ANSI C82.6–2005'') and the 2004 version of ANSI C78.43 (''ANSI C78.43–2004'').[8] Industry periodically updates its testing standards to account for changes in technology, developments in test

[8] American National Standards Institute. *ANSI C78.43–2004, American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps.* Approved May 5, 2004.

methodology, developments in test instruments, and/or changes in industry practice. In the July 2021 NOPR, DOE identified updated versions of the industry standards incorporated by reference in the MHLF test procedure as shown in Table III.1 of this document. 86 FR 37069, 37072.

DOE compared these updated versions to those versions currently referenced by DOE's test procedure to determine to what extent, if any, incorporating by reference the latest industry standards would alter the measured energy efficiency or measured energy use, as determined under the existing test procedure, as required by EPCA. (42 U.S.C. 6293(e)(1)) 86 FR 37069, 37073–37075. Specifically, DOE reviewed the 2020 version of ANSI C82.6 (''ANSI C82.6–2015 (R2020)'') [9] and the 2017 version of ANSI C78.43 (''ANSI C78.43–2017'') [10] for this purpose.

ANSI C82.6–2005 is an industry standard that describes the procedures to be followed, and the precautions to be taken, in measuring the performance of ballasts that operate HID lamps. In the July 2021 NOPR, DOE identified the following differences between the 2015 version of ANSI C82.6 and the 2020 version: The 2020 version of ANSI C82.6 includes a requirement that the ballast under test must be operated until it reaches equilibrium, thereby ensuring stable conditions for testing, which is already included in DOE's test procedure; the 2020 version of ANSI C82.6 provides greater flexibility by recommending the use of either a ''make-before-break'' or fast-acting switch for the basic stabilization method when switching a reference lamp from a reference ballast circuit to a test ballast circuit; the 2020 version of ANSI C82.6 clarifies certain headings consistent with specifications in the DOE test procedure; the 2020 version of ANSI C82.6 includes specifications pertaining to stabilization that reflect ''best practices;'' the 2020 version of ANSI C82.6 adds instrumentation requirements to improve consistency and repeatability of measured values, and that would not impact measured values; the 2020 version of ANSI C82.6 updates the list of pertinent measurements for electronic and magnetic ballasts; the 2020 version of ANSI C82.6 includes new sections that specify instrumentation to use and how to take certain measurements to improve consistency and repeatability; and reaffirms the equation for calculating ballast efficiency in DOE's regulations. 86 FR 37069, 37073–37074.

ANSI C78.43 is an industry standard that sets forth the physical and electrical characteristics for single-ended metal halide lamps operated on 60 Hertz (''Hz'') ballasts. DOE tentatively determined that the changes in ANSI C78.43–2017 are mainly updates to certain lamp datasheets related to lamp designations, physical descriptions of lamps, and minor changes to test parameters. 86 FR 37069, 37074. The updated datasheets would provide characteristics for additional reference lamps to use for testing, which DOE tentatively determined reflect current industry practice. 86 FR 37069, 37075.

In its review of the updated versions of ANSI C82.6 and ANSI C78.43, DOE tentatively determined that the changes would not result in a change in measured values or test burden. DOE proposed to reference ANSI C82.6–2015 (R2020) and ANSI C78.43–2017 in the DOE test procedure. *Id.*

TABLE III.1—INDUSTRY STANDARDS REFERENCED IN MHLF TEST PROCEDURE WITH UPDATED VERSIONS ADOPTED IN FINAL RULE

Industry standard previously referenced	Updated version adopted in this Final Rule *
ANSI C78.43 version 2004 (10 CFR 431.322)	ANSI C78.43 version 2017
ANSI C82.6 version 2005 (10 CFR 431.324)	ANSI C82.6 version 2015 (R2020)

* Note: Additionally, this final rule incorporates by reference ANSI C78.44–2016, ANSI C82.9–2016, and IEC 63103:2020 in the MHLF test procedure.

In addition to updating existing references to industry standards in DOE's test procedure with the most recent versions, DOE proposed in the July 2021 NOPR to incorporate by reference additional industry standards related to the testing of MHLFs that were not already referenced in the test procedure. 86 FR 37069, 37075–37076. Specifically, DOE proposed to incorporate by reference ANSI C78.44–2016 [11] to provide the physical and electrical characteristics for testing with double-ended metal halide lamps, ANSI C82.9–2016 [12] to provide the definition of a reference lamp and IEC 62301:2011 for the measurement of standby mode energy consumption. *Id.* DOE tentatively determined that the inclusion of ANSI C78.44–2016 would ensure that necessary specifications are being provided for testing metal halide ballasts that operate double-ended metal halide lamps. *Id.* DOE tentatively determined that industry already adheres to stipulations for reference lamps as specified in ANSI C82.9–2016. *Id.* Regarding standby mode, DOE noted that it developed the standby mode test method to be consistent with the industry standard IEC 62301:2005, but also through reference to ANSI C82.6–2005. 86 FR 37069, 37076. DOE tentatively determined to directly incorporate by reference the most recent version, IEC 62301:2011. *Id.*

In the July 2021 NOPR, DOE requested comment on its proposal to incorporate by reference ANSI C82.6–2015 (R2020), ANSI C78.43–2017, ANSI C78.44–2016, ANSI C82.9–2016, and IEC 62301:2011 in the MHLF test procedure. 86 FR 37069, 37085.

Signify expressed support for incorporating by reference ANSI C82.6–2015 (R2020), ANSI C78.43–2017, ANSI C78.44–2016, and ANSI C82.9–2016, stating that the standards are congruent with the latest ANSI C82 committee consensus on the technical requirements and test procedures of metal halide ballasts and lamps. Signify stated that updated versions of ANSI C78.43–2017, ANSI C78.44–2016, and ANSI C82.9–2016 offer more accurate descriptions than previous editions and

[9] American National Standards Institute. *ANSI C82.6–2015 (R2020), American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement.* Approved March 30, 2020.

[10] American National Standards Institute. *ANSI/NEMA C78.43–2017, American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps.* Approved December 21, 2017.

[11] American National Standards Institute. ANSI C78.44–2016, American National Standard for Electric Lamps— Double-Ended Metal Halide Lamps. Approved July 1, 2016.

[12] American National Standards Institute. *ANSI C82.9–2016, American National Standard for Lamp Ballasts— High-Intensity-Discharge and Low-Pressure Sodium Lamps-Definitions.* Approved July 12, 2016.

should not have a major impact on test results. (Signify, No. 10 at p. 2, 3)

In this final rule, as proposed in the July 2021 NOPR and based on the discussion in the preceding paragraphs and in the July 2021 NOPR, DOE incorporates by reference the industry standards ANSI C82.6–2015 (R2020), ANSI C78.43–2017, ANSI C78.44–2016, and ANSI C82.9–2016. In this final rule, DOE is not adopting IEC 62301:2011 for the measurement of standby mode energy consumption as proposed in the July 2021 NOPR. In its place, DOE is adopting IEC 63103:2020 to replace references to ANSI C82.6 in the MHLF standby mode test method (see section III.F.2 of this document for further details). DOE has determined that, because these updates to industry standard references do not involve substantive changes to the test setup and methodology but rather are clarifications that align DOE's test procedures with latest industry best practices, they will not affect measured values.

E. Amendments to Active Mode Test Method

In this final rule, as proposed in the July 2021 NOPR, DOE adopts clarifying modifications to the active mode test method specified in 10 CFR 431.324. Specifically, DOE amends the test conditions and setup, as well as the test method for the measurement of ballast efficiency of MHLFs. DOE also amends the test procedure to specify that the language in 10 CFR 431.324 takes precedence over the industry standard in cases where there is a conflict between any referenced industry standard and the language of the test procedure as revised by this final rule.

DOE has determined that, because the adopted amendments to the active mode test method do not involve substantive changes to the test methodology but rather clarifications, they will not affect measured values. DOE details the amendments to the active mode test method and discussion of comments in the following subsections.

1. Test Conditions and Setup

Paragraph (b)(1)(i) (''Test Conditions'') of 10 CFR 431.324 specifies test conditions and setup requirements applicable to active mode testing. In the July 2021 NOPR, DOE proposed to amend the test conditions and setup paragraph to more accurately reference industry standards and the relevant sections of those standards, provide direction for testing metal halide lamp ballasts that operate lamps of different wattages or lamp types, and specify testing of dimming metal halide lamp ballasts at maximum input power. 86 FR 37069, 37076. DOE also proposed to revise the heading of paragraph (b)(1)(i) from ''Test Conditions'' to ''Test Conditions and Setup'' and to redesignate it as paragraph (b)(2) of the revised 10 CFR 431.324 to align with proposed additions to paragraph (b) pertaining to test setup. *Id.* The specific amendments as proposed and finalized are discussed in further detail in the sections that follow.

a. General Test Conditions

Paragraph (b)(1)(i) of 10 CFR 431.324 references Section 4.0, ''General Conditions for Electrical Performance Tests,'' of ANSI C82.6 for power supply, ballast test conditions, lamp position, lamp stabilization, and test instrumentation. In the July 2021 NOPR, DOE proposed to relocate lamp stabilization requirements from this paragraph to the test method paragraph, newly designated as paragraph (b)(3), because lamp stabilization is part of the test method rather than a test condition, and to better align the test procedure with the organization of the updated ANSI C82.6 standard. 86 FR 37069, 37076. (See section III.E.2.a of this document regarding changes to the stabilization method) Also within the redesignated test conditions paragraph (b)(2), DOE proposed to include specification that the circuits used for testing must be in accordance with the circuit connections set forth in Section 6.3 of ANSI C82.6. *Id.*

DOE received no comments regarding these modifications. In this final rule, for reasons discussed in this section and in the July 2021 NOPR, DOE adopts these changes as proposed.

b. Dimming Ballasts

In the March 2010 Final Rule, DOE determined that active mode applies to a functioning ballast operating with any amount of rated system light output (*i.e.,* greater than zero percent), and noted that if a ballast is dimmed (*i.e.,* operating the light source at more than zero percent, but less than 100 percent), the lamp and the ballast are both still in active mode. 75 FR 10950, 10953. In the July 2021 NOPR, DOE tentatively determined that in the case of dimming ballasts, where input power can vary, a specification regarding how to test these ballasts is necessary. DOE proposed to specify that dimming metal halide lamp ballasts be tested at maximum input power. 86 FR 37069, 37076.

Signify expressed support for DOE's proposal to specify that dimming metal halide lamp ballasts be tested at maximum input power. (Signify, No. 10 at p. 4) Signify commented that magnetic metal halide ballasts should not be dimmed below 50 percent rated power because the lamp operation may become unstable, the lamp color may shift dramatically, and the lamp electrodes' sputtering rate may significantly decrease lamp lifetime. Signify further commented that while electronic metal halide ballasts can dim metal halide lamps below 50 percent rated power, color shift and lifetime issues may remain. For these reasons, Signify stated that the best practical way to test dimming metal halide lamp ballasts is at full power. (Signify, No. 10 at pp. 4–5, 5) Signify further stated that the proposed clarification to test dimming ballasts at maximum power could change measured values if manufacturers had previously tested ballasts at different dimming points. Signify stated, however, that testing at maximum power is appropriate practice. (Signify, No. 10 at p. 10)

DOE appreciates information on the dimming characteristics of metal halide ballasts. In this final rule, DOE is specifying to test dimming ballasts at maximum input power, *i.e.,* at a non-dimmed level. DOE's review of the market indicates that specification sheets for dimming metal halide lamp ballasts provide input power at 100 percent power level as well as at lower power levels. Therefore, DOE does not expect this specification to result in a change in measured values of representations. In this final rule, for reasons specified in preceding paragraphs and in the July 2021 NOPR, DOE amends the test procedure to specify that dimming metal halide lamp ballasts be tested at maximum input power.

c. Reference Lamps

Reference lamps must be used for testing MHLF ballast efficiency. Based on responses on the May 2018 RFI, DOE confirmed that the availability of reference lamps for metal halide ballast testing is sufficient and, in the July 2021 NOPR, proposed several additions to the test conditions and setup paragraph of 10 CFR 431.324 to clarify the selection of metal halide lamps used in testing metal halide lamp ballasts. 86 FR 37069, 37076. ANSI C82.9–2016 provides definitions related to specific terms used in industry standards for HID lamps and ballasts. Thus, in the July 2021 NOPR, DOE proposed to specify that the metal halide lamps used for testing must meet the definition of a reference lamp as defined by ANSI C82.9–2016. In addition, ANSI C78.43–2017 and ANSI C78.44–2016 specify the physical and electrical requirements that single-ended and double-ended

metal halide lamps operated on 60 Hz ballasts must meet to qualify as reference lamps. Therefore, DOE also proposed that the metal halide lamps used for testing must be within the acceptable range for a reference lamp of the rated values specified in ANSI C78.43–2017 and ANSI C78.44–2016 for single-ended metal halide lamps and double-ended metal halide lamps, respectively. *Id.*

The definition of basic model for MHLFs states that basic models are rated to operate a given lamp type and wattage. 10 CFR 431.322. Therefore, as DOE noted in the July 2021 NOPR, metal halide ballasts capable of operating multiple lamp wattages currently fall within multiple basic models. 86 FR 37069, 37077. No specification regarding the reference lamp to be used in testing metal halide lamp ballasts, pertaining to either lamp wattage or lamp type, is provided in 10 CFR 431.324. Thus, DOE proposed revisions to the test procedure to clarify the wattage and type of reference lamp to be used for testing. *Id.*

DOE has identified metal halide lamp ballasts that may be able to operate lamps of different wattages (*e.g.,* a ballast that can operate a 70 W lamp or 100 W lamp). Section 6.18 of ANSI C82.6–2015 (R2020) states that, if a ballast can operate multiple lamp types, some (unspecified) regulations require that a ballast be tested with the highest lamp power specified by the manufacturer. Thus, in the July 2021 NOPR, DOE proposed to add a requirement to 10 CFR 431.324 that metal halide lamp ballasts designated with ANSI codes corresponding to more than one lamp must be tested with the lamp having the highest nominal lamp wattage as specified in ANSI C78.43–2017 or ANSI C78.44–2016, as applicable. 86 FR 37069, 37077.

DOE also identified some ballasts that can operate both ceramic metal halide lamps and quartz metal halide lamps. Based on data collected for DOE's HID lamps final rule determination published on December 9, 2015 (80 FR 76355),[13] DOE has determined that quartz metal halide lamps are more popular than ceramic metal halide lamps. In the July 2021 NOPR, DOE proposed to add a requirement to 10 CFR 431.324 that ballasts designated with ANSI codes corresponding to both ceramic metal halide lamps (code beginning with ''C'') and quartz metal halide lamps (code beginning with ''M'') of the same nominal lamp wattage must be tested with the quartz metal halide lamp. 86 FR 37069, 37077.

Signify expressed support for the proposal to test ballasts with lamps at the highest lamp wattage. Signify expressed no preference for testing with a quartz metal halide lamp over a ceramic metal halide lamp. (Signify, No. 10 at p. 5) Signify asserted that using a reference lamp ensures test result repeatability because the ballast load will always be operating at nominal voltage, whereas lamps used in practice undergo voltage variation as they age. (Signify, No. 10 at pp. 5–6)

For the reasons discussed in the preceding paragraphs and in the July 2021 NOPR, in this final rule DOE adopts the proposed requirements that for ballasts capable of operating lamps of different wattages, select the reference lamp with the highest wattage; and for ballasts capable of operating quartz metal halide lamps and ceramic metal halide lamps of the same wattage, select the quartz metal halide lamp for testing.

2. Test Method

In the July 2021 NOPR, DOE proposed to add paragraphs to the test method paragraph describing requirements for lamp stabilization, test measurements, and calculations. DOE also proposed to revise the heading of paragraph (b)(2) of 10 CFR 431.324 from ''Test Measurement'' to ''Test Method'' and redesignate it as paragraph (b)(3) to align with the proposed revisions to paragraph (b). In addition, DOE proposed to add the ballast efficiency calculation contained in paragraph (b)(3) of existing 10 CFR 431.324 to the ''Test Method'' paragraph to further improve organization. 86 FR 37069, 37077. The specific amendments as proposed are discussed in further detail in the sections that follow.

a. Stabilization Criteria

Paragraph (b)(1)(i) (''Test Conditions'') of 10 CFR 431.324 contains instructions for lamp stabilization prior to testing (hereafter referred to as the ''basic stabilization method''). Paragraph (b)(1)(ii) of 10 CFR 431.324 (''Alternative Stabilization Method'') specifies an alternate stabilization method for cases where switching without extinguishing the lamp is impossible, or for low-frequency electronic ballasts.

In the July 2021 NOPR, DOE proposed to replace the explicit instructions for lamp stabilization in 10 CFR 431.324 with direct references to Sections 4.4.2 and 4.4.3 of ANSI C82.6–2015 (R2020) for the basic stabilization method and the alternative stabilization method, respectively. 86 FR 37069, 37077. DOE had adopted the explicit stabilization instructions in the March 2010 Final Rule based on then-anticipated changes to the updated version of ANSI C82.6 provided by NEMA. *Id.* Because the explicit instructions for lamp stabilization in 10 CFR 431.324 are now contained in ANSI C82.6–2015 (R2020), DOE proposed to reference the relevant sections, Sections 4.4.2 and 4.4.3. *Id.* DOE noted one difference in the basic lamp stabilization method in 10 CFR 431.324 compared ANSI C82.6–2015 (R2020) and proposed to keep the specification in 10 CFR 431.324, as it is clearer and more practical to execute. *Id.* Specifically, ANSI C82.6–2015 (R2020) states that stabilization is determined by operating the lamp within 3 percent of its rated wattage in the specified ambient temperature until the electrical parameters ''cease to change.'' In 10 CFR 431.324, stabilization is reached when the lamp's electrical characteristics vary by no more than 3 percent in three consecutive 10- to 15-minute intervals. In the July 2021 NOPR, DOE tentatively determined that the verbiage ''cease to change'' in the updated ANSI stability criteria would be nearly impossible to meet, as electrical parameters are expected to change by a small percentage after each measurement. *Id.*

Signify expressed support for retaining the basic stabilization method and adopting the alternative stabilization method described in ANSI C82.6–2015 (R2020). Signify added that the basic stabilization method has been successfully used to test magnetic metal halide lamp ballasts but cannot be used for electronic metal halide lamp ballasts, as stably transferring a lamp from a warmup (standby) ballast to an electronic ballast is difficult. (Signify, No. 10 at p. 6) Signify explained that when lamps on electronic ballasts are disconnected and transferred, or are in ''no lamp'' condition, they either power off until the power supply comes back on, or they power their lamp ignition circuit on again—neither of which are suitable for a stable transfer. Signify stated that the alternative stabilization method ensures repeatable ballast efficiency test results for electronic ballasts by avoiding multiple lamp reignitions. (Signify, No. 10 at p. 7)

DOE reiterates that replacement of the basic stabilization method instructions with direct references to Section 4.4.2 of ANSI C82.6–2015 (R2020) would maintain the same method as currently specified, as the current instructions are

[13] U.S. Department of Energy–Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Equipment: Final Determination: High-Intensity Discharge Lamps. 2015. Washington, DC Available at *www.regulations.gov/docket?D=EERE–2010–BT–STD–0043.*

consistent with ANSI C82.6–2015 (R2020), with the exception noted above regarding specific intervals for stabilization determination. As described in the preceding paragraphs and in the July 2021 NOPR, in this final rule DOE is replacing the explicit instructions for lamp stabilization in 10 CFR 431.324 with direct references to Sections 4.4.2 and 4.4.3 of ANSI C82.6–2015 (R2020) for the basic stabilization method and the alternative stabilization method, respectively. DOE is also specifying for the basic stabilization method that stabilization is reached when the lamp's electrical characteristics vary by no more than 3-percent in three consecutive 10- to 15-minute intervals measured after the minimum burning time of 30 minutes, consistent with the proposal in the July 2021 NOPR.

b. Test Measurements

Paragraph (b)(2) of 10 CFR 431.324 specifies that the ballast input power and lamp output power during operating conditions must be measured in accordance with the methods specified in Section 6.0 of ANSI C82.6–2005. In ANSI C82.6–2015 (R2020), Sections 6.1 and 6.8 pertain specifically to measuring ballast input power, and Sections 6.2 and 6.10 pertain specifically to measuring lamp output power. In the July 2021 NOPR, DOE proposed to remove the general reference to Section 6 of ANSI C82.6 in 10 CFR 431.324 and to instead specifically reference Sections 6.1 and 6.8 of ANSI C82.6–2015 (R2020) for measuring ballast input power, and sections 6.2 and 6.10 of ANSI C82.6–2015 (R2020) for measuring lamp output power. DOE expected that these updates would further clarify the test procedure and not change measured values. 86 FR 37069, 37077.

DOE received no comments regarding these updates. For the reasons discussed in the July 2021 NOPR and in this paragraph, DOE is adopting these proposed changes in this final rule.

c. Calculations

Paragraph (b)(3) of 10 CFR 431.324 (''Efficiency Calculation'') specifies that the measured lamp output power must be divided by the measured ballast input power to determine the percent efficiency of the ballast under test to three significant figures.

In the July 2021 NOPR, DOE proposed to amend this instruction by referencing the specific sections in the DOE test procedure that specify how to measure ballast input power and ballast output (lamp) power. 86 FR 37069, 37078. Specifically, DOE proposed the amended instruction to state that the measured ballast output (lamp) power, as measured in paragraph (b)(2)(ii)(B), must be divided by the measured ballast input power, as measured in paragraph (b)(2)(ii)(B), to determine the percent efficiency of the ballast under test to three significant figures.

DOE received no comments regarding these proposed amendments to the test procedure. For the reasons discussed in the July 2021 NOPR and in this paragraph, DOE is adopting these proposed changes in this final rule. DOE notes that in the amended test procedure, this instruction is specified in paragraph (b)(3)(iii)(A) of 10 CFR 431.324.

F. Amendments to Standby Mode Test Method

Paragraph (c) of 10 CFR 431.324 (''Testing and Calculations-Standby Mode) specifies the procedure for measuring standby mode energy consumption. This paragraph explicitly states that the measurement of standby mode need not be performed to determine compliance with energy conservation standards for metal halide lamp fixtures at this time. 10 CFR 431.324(c). That paragraph further states that this statement will be removed as part of the rulemaking to amend the energy conservation standards for metal halide lamp fixtures to account for standby mode energy consumption, and the specified procedure shall apply on the compliance date for such requirements. *Id.* However, all representations related to standby mode energy consumption of MHLFs made after September 7, 2010, must be based upon results generated under this test procedure. *Id.*

In this final rule, as proposed in the July 2021 NOPR, DOE adopts clarifying modifications to the standby mode test method specified in 10 CFR 431.324. 86 FR 37069, 37079. DOE has determined that, because the adopted amendments to standby mode test procedures do not involve substantive changes to the test methodology, they will not affect measured values. DOE details the amendments to the standby mode test method and discussion of comments in the following subsections.

1. Test Conditions and Setup

In the July 2021 NOPR, DOE proposed to modify the general instructions of the standby mode test method found in existing paragraph (c) to clarify that standby mode energy consumption need only be measured for ballasts capable of operating in standby mode. DOE also proposed to state that the language in 10 CFR 431.324 would take precedence if there is a conflict between the industry standard, IEC 62301:2011, proposed to be adopted through reference, and the language in the revised DOE test procedure. 86 FR 37069, 37079.

DOE received no comments regarding these proposed amendments to the test procedure. For the reasons discussed in the July 2021 NOPR and in the preceding paragraph, DOE is adopting the changes to the test conditions and setup instructions as proposed.

Both the active mode and standby mode test methods measure input power of the ballast. As such, for consistency within the test procedure and to reduce the test burden, in the July 2021 NOPR, DOE proposed to modify the test conditions and setup paragraph in the standby mode test method with the following directions: (1) test conditions and setup must be in accordance with the active mode test method, and (2) each ballast must be operated with a lamp as specified in the active mode test method, except that the use of a reference lamp is not required. 86 FR 37069, 37079. Because lamps are not turned on during the measurement of standby mode energy consumption, DOE tentatively determined that whether the lamp to which the ballast is connected is a reference lamp does not impact standby mode energy consumption measurements. In addition, DOE proposed to revise the heading ''Test Conditions'' of paragraph (c)(1) of existing 10 CFR 431.324 to ''Test Conditions and Setup'', redesignated as paragraph (c)(2), to reflect these changes. *Id.*

Signify expressed support for the proposed amendments with no additional comment. (Signify, No. 10 at p. 7)

For the reasons discussed in the July 2021 NOPR and in preceding paragraphs, DOE adopts its proposal to reference the active mode test method section for the test conditions and setup of the standby mode test method, and to specify that each ballast must be operated with a lamp as specified in the active mode test method, except that the use of a reference lamp is not required.

2. Test Method and Measurement

In the July 2021 NOPR, DOE proposed to add a new paragraph, designated as (c)(3), with the heading ''Test Method and Measurement,'' containing specific instructions related to the measurement of standby mode energy consumption. 86 FR 37069, 37079. DOE proposed to: (1) add instructions to turn on, at full light output, the lamp to which the ballast is connected to ensure the ballast is not defective and (2) require ballast stabilization and subsequent

measurement of standby mode energy consumption to be conducted according to Section 5 of IEC 62301:2011. *Id.*

Signify stated that DOE's proposed instruction to require the lamp be turned on to ensure the ballast is not defective prior to measuring standby mode energy consumption is reasonable. Signify added that since a defective ballast may appear to be operating in standby mode with an unlit lamp, the ballast should be powered on before and after taking standby mode power measurements to verify it is operating properly. (Signify, No. 10 at p. 8)

DOE determined that turning the lamp on prior to measurement is sufficient for verifying that the ballast is not defective—that it is providing the power supply necessary to operate the lamps, and that turning it on after the measurement is not necessary. This also aligns with DOE's standby mode test method for fluorescent lamp ballasts (see appendix Q).

For the reasons discussed in the preceding paragraphs and in the July 2021 NOPR, in this final rule, DOE adopts its proposed instructions requiring the lamp be turned on prior to measurement to ensure the ballast is not defective prior to measuring standby mode energy consumption.

Regarding DOE's proposal to stabilize and measure standby mode energy consumption in accordance with Section 5 of IEC 62301:2011, as discussed, EPCA directs DOE to establish test procedures to include standby mode energy consumption, taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission. (42 U.S.C. 6295(gg)(2)(A)) In establishing the standby test procedure for MHLFs, DOE developed the test procedure to be consistent with IEC Standard 62301. 75 FR 10950, 10959. IEC Standard 62087 applies only to audio, video, and related equipment, and does not apply to lighting products. IEC 62301:2011 does not specifically address lighting products but applies generally to household electrical appliances, which include lighting products. In order to develop a test method that would be familiar to metal halide lamp ballast manufacturers, DOE also referenced language and methodologies presented in ANSI C82.6–2005. *Id.*

In the July 2021 NOPR, DOE proposed a standby mode test procedure that directly references IEC 62301:2011 to replace the test procedure based on IEC 62301 with references to ANSI C82.6. Specifically, DOE proposed to reference Section 5 of IEC 62301:2011 for stabilization and standby mode energy consumption measurements. 86 FR 37069, 37078–37079. DOE noted that ANSI C82.6 does not explicitly address measurements for standby mode, whereas IEC 62301:2011 provides instructions for measuring standby mode energy consumption of household electrical appliances. *Id.* In the May 2019 RFI, DOE requested comment on the potential impact of incorporating IEC 62301:2011. NEMA responded that IEC 62301:2011 is not applicable to high intensity discharge (''HID'') lamp ballasts. In response, in the July 2021 NOPR, DOE referred NEMA to section 1 of IEC 62301:2011 which states the standard is applicable to electrical products with certain rated voltages which would include metal halide lamp ballasts. *Id.* In the July 2021 NOPR, DOE tentatively determined that replacing the currently referenced industry standard (ANSI C82.6–2005) with one that addresses standby mode energy consumption (IEC 62301:2011) would improve clarity, better align with the requirements of EPCA and the standby mode test methods for other lighting products. 86 FR 37069, 37078–37079.

China, Signify, and NEMA recommended that DOE adopt IEC 63103:2020 rather than IEC 62301 for measuring standby mode power. (China, No. 9 at p. 3; Signify, No. 10 at pp. 2–3; NEMA, Public Meeting Transcript, pp. 14–15) China stated that standby power measurements should adhere to IEC 63103:2020, as MHLFs are lighting devices, and asserted that IEC 62301:2011 is for household appliances. (China, No. 9 at p. 3)

Signify stated that MHLFs are not used in household applications and that IEC 63103:2020 has been specifically developed to measure low power modes, such as standby mode, of lighting devices and systems. Signify stated that the definition of standby power in IEC 63103:2020 is ''standby mode [of lighting equipment] when the equipment is connected to a supply voltage with the illumination function off, while capable of being activated by an external trigger not being a trigger from a network,'' which better aligns with DOE's definition. (Signify, No. 10 at p. 3) Signify stated that IEC 63103:2020 includes more specific guidelines and clarifications for stabilizing MHLFs than IEC 62301:2011 does, and that the ANSI C137 Lighting Systems Committee is in the process of adopting IEC 63103:2020 as an ANSI standard for similar reasons. (Signify, No. 10 at pp 3–4; 8–9)

NEMA stated that when IEC 62301:2011 was the only standby mode testing standard, it was acceptable to use for MHLFs; but now that the lighting industry has written a standby testing standard (*i.e.,* IEC 63103:2020), it is more appropriate to use it. (NEMA, Public Meeting Transcript, pp. 14–15)

As noted in the July 2021 NOPR, DOE proposed to reference Section 5 of IEC 62301:2011 for stabilization and standby mode energy consumption measurements. 86 FR 37069, 37079. To evaluate commenters' recommendation to reference IEC 63103:2020 instead of IEC 62301:2011, DOE reviewed the method for stabilization and standby mode energy consumption measurements in the two standards in a line-by-line comparison. The method of stabilization and measurement are specified in Section 5.3 of IEC 62301:2011 and in Section 5.4 of IEC 63103:2020. Instructions in both these sections outline the same three options for stabilization and measurement of standby mode energy consumption: a direct meter reading method, an average reading method, and a sampling method. Sections in both standards describe the direct meter reading method as recording the instrument power reading; the average reading method as averaging power readings over a specified period or alternatively recording the accumulated energy consumption over a specified period and dividing by the period; and the sampling method as recording power measurements at regular intervals throughout the measurement period. Sections in both standards specify that the direct meter reading method shall only be used where the mode does not change and the power reading displayed is stable, and that results from the other two methods have precedence over this method. Both standards do not permit the average reading method for cyclic loads or limited duration modes and specify that the sampling method shall be used for cyclic or unstable modes and where there is doubt regarding the behavior of the test unit. Further, in each method, the steps for stabilizing and taking measurements are laid out in the same manner and use almost identical language. The only differences in the methods described in IEC 62301:2011 and IEC 63103:2020, shown in Table III.2, are the threshold at which the test unit is considered stable.

TABLE III.2—COMPARISON OF STABILIZATION THRESHOLDS IN IEC 62301 AND IEC 63103

Test method	IEC 62301:2011	IEC 63103:2020
Direct meter reading method; average reading method; sampling method (cyclic power consumption).	The difference between two readings (direct method) or the difference between the two comparison periods divided by the time difference of the mid-points of the comparison periods has a slope (average reading method, sampling method) is less than 10 milliwatt per hour ("mW/h") for ≤1 watt ("W") input power or 1% of measured input power per hour for >1W input power.	The difference between two readings (direct method) or the difference between the two comparison periods divided by the time difference of the mid-points of the comparison periods has a slope (average reading method, sampling method) is less than 50 mW/h or 3% of measured input power per hour, whichever is greater, for all input powers.
Sampling method (power consumption within a mode is non-cyclic).	Linear regression through all power readings for the second two thirds of the total period has a slope of less than 10 mW/h for ≤ 1W input power or 1% of measured input power per hour for ≤1W input power.	Linear regression through all power readings for the second two thirds of the total period has a slope of less than 10 mW/h or 1% of measured input power per hour, whichever is greater, for all input powers.
Sampling method (modes that are known to be non-cyclic per specs and varying).	Cumulative average of all data points in the second two thirds of the total time period must fall within a band of ±0.2%.	Cumulative average of all data points in the second two thirds of the total time period must fall within a band of ±1%.

As shown in Table III.2, IEC 63103:2020 specifies slightly less stringent stabilization thresholds than IEC 62301:2011 (*e.g.,* specifying for the sampling method that the cumulative average of all data points in the second two thirds of the total time period must fall within a band of ±1 percent, as opposed to a band of ±0.2 percent). DOE finds that these minor differences in stability criteria would not result in measurably different values of standby power between the two methods. As commenters have noted, IEC 63103:2020 was specifically developed to measure standby mode of lighting devices, and thereby established stabilization thresholds more relevant to such products.

Finally, as noted in preceding paragraphs, DOE requested comment on its consideration of referencing IEC 62301:2011 in the May 2019 RFI and its proposal to reference it in the July 2021 NOPR. 86 FR 37069, 37078–37079. Because IEC 62301:2011 and IEC 63103:2020 provide the same test methods for stabilization and measurement, different only in certain stabilization thresholds, interested parties have had the opportunity to comment on the method of measuring standby mode in accordance with IEC 63103:2020. As commented by interested parties (as summarized in the preceding paragraphs), DOE has determined that the adoption of IEC 63103:2020 better aligns with the lighting industry's best practices for measuring standby mode energy consumption.

As directed by EPCA, DOE has taken into consideration IEC 62301 for the standby mode energy consumption test method (42 U.S.C. 6295(gg)(2)(A)). As stated, the test method provided in IEC 63103:2020 applicable to MHLFs is essentially the same test method as proposed by reference in IEC 62301. DOE has determined that the two test methods would produce equivalent results. As IEC 63103:2020 is specific to lighting, DOE has determined that it is the more appropriate industry standard to reference for measuring standby mode energy consumption of MHLFs. For these reasons, in this final rule DOE amends the MHLF test procedure to reference Section 5.4 of IEC 63103:2020 for stabilizing and measuring the standby mode energy consumption of MHLF ballasts.

Regarding the implications of replacing the reference to ANSI C82.6–2005, Signify stated that the standby power test method specified by ANSI C82.6–2005 is very different from the proposed IEC 62301:2011 method, and thus measured values could change. Signify stated the impact would be minimal, however, as few metal halide lamp ballasts operate in standby mode. Signify also noted that DOE has no efficiency standard for standby mode. (Signify, No. 10 at pp. 10–11)

As noted by Signify and as discussed previously, DOE currently does not prescribe standards that incorporate standby mode energy consumption of MHLFs. Based on a review of MHLFs and metal halide lamp ballasts on the market, DOE has determined that manufacturers are not making representations of standby mode power consumption in public-facing materials; therefore, amending the test procedure to reference IEC 63103:2020 (which, as discussed, produces results equivalent to IEC 62301:2011) rather than ANSI C82.6–2005 will result in no impact for MHLF manufacturers.

G. Compliance Date

The effective date for the adopted test procedure amendment will be 30 days after publication of this final rule in the **Federal Register**. EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of the final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

H. Test Procedure Costs and Impacts

In this document, DOE amends the existing test procedure for MHLFs by (1) incorporating by reference new relevant industry standards as well as updating to latest versions of existing references; (2) revising definitions and reorganizing the content of the test procedure for better readability and clarity; (3) clarifying the selection of reference lamps to be tested with metal halide lamp ballasts; (4) specifying the light output level at which to test dimming ballasts in active mode; and (5) referencing IEC 63103:2020 and clarifying instructions for measuring the standby mode energy consumption of metal halide lamp ballasts. DOE has determined that the test procedure as amended by this final rule would not impact testing costs as discussed in the following paragraphs.

In the July 2021 NOPR, DOE tentatively determined that the proposed amendments to the MHLF test procedure would not be unduly burdensome to conduct and would

result in neither a reduction of nor an increase in future testing costs. 86 FR 37069, 37080. The proposed amendments update industry standard references of ANSI C78.43 from version 2004 to 2017 and ANSI C82.6 from version 2005 to 2020 and references three new standards: ANSI C78.44–2016 to incorporate industry-approved lamp characteristics for double-ended metal halide lamps; ANSI C82.9–2016 to incorporate industry-approved definition for reference lamp; and IEC 62301:2011 to incorporate an industry standard that is specific to standby energy consumption measurement. *Id.* In the July 2021 NOPR, DOE tentatively determined these updates only clarify requirements, and do not add complexity to test conditions/setup or add test steps. *Id.* In this final rule, DOE is adopting IEC 63103:2020 rather than IEC 62301:2011. As discussed in section III.F.2 of this document, these two standards specify slightly different stabilization thresholds but are expected to yield equivalent standby power measurement results. Therefore, DOE finds that its preliminary conclusions pertaining to IEC 62301:2011 also apply to IEC 63103:2020 as adopted in this final rule.

Further, DOE finds that the amendments, aside from updates and addition of industry standards, being adopted in this final rule and proposed in the July 2021 NOPR provide further clarification to DOE's test procedure for MHLF, do not substantively change the existing test methods and therefore do not impact test burden or testing costs. These amendments are clarifications regarding selection of reference lamps (see section III.E.1.c); of definitions (see section III.C); of light output level at which to test dimming ballasts (see section III.E.1.b); and testing standby mode energy consumption (see section III.F).

Signify stated that adopting the test procedure updates will incur approximately $50,000 in additional costs through the need for a new National Voluntary Laboratory Accreditation Program (''NVLAP'') accreditation and to acquire equipment compatible with the proposed IEC standby power test method. Signify added that laboratories conducting the standby power test method will undergo a testing time increase of at least 90 minutes per unit. Signify stated that additional costs and test burden are unnecessary given the market transition to LED technology. (Signify, No. 10 at p. 11–12)

As stated in the July 2021 NOPR, a laboratory gaining accreditation to test MHLFs according to the test procedure in 10 CFR 431.324 would be doing so voluntarily or as required by an entity other than DOE. Accreditation by NVLAP is not required by DOE under 10 CFR part 431 or 10 CFR part 429 for the testing of MHLFs, and therefore does not factor into testing costs associated with DOE's test procedure. 86 FR 37069, 37080. Regarding acquisition of test equipment compatible with the adoption of the IEC standard for standby mode energy consumption, DOE reviewed the instrumentation information provided in the IEC standards and did not identify the need for any equipment for power measurements that laboratories would not already have for taking power measurements of electrical products.

In this final rule, DOE is specifying to stabilize the ballast and measure its standby mode energy consumption in accordance with Section 5.4 of IEC 63103:2020 (see section III.F.2). DOE has determined that this amendment does not add testing time to the standby mode test method. Prior to this amendment the standby mode test method stated ballast test conditions shall be as specified in Section 4.0 of ANSI C82.6 and input power shall be measured as specified in Section 6.0 of ANSI C82.6. However, Section 4.0 of ANSI C82.6 provides specifications for lamp stabilization, not specifications, as provided in Section 5.4 of IEC 63103:2020, for ballast stabilization in standby mode (*i.e.,* lamp is turned off). DOE assumes that when using the previous standby test method any lab or manufacturer would follow best practices and stabilize the unit being tested before taking measurements. Section 5.4 of IEC 63103:2020 provides three different step-by-step methods of determining stabilization and taking the final power measurement (see section III.F.2). These methods are not new and are almost the same ones employed in the industry standard for determining standby mode energy consumption for household electrical appliances, IEC 62301:2011. DOE finds that manufacturers, in accordance with best industry practices, would likely have used a method similar to the ones provided in Section 5.4 of IEC 63103:2020. Hence DOE has determined that referencing Section 5.4 of IEC 63103:2020 for stabilization and measurement of the standby mode energy consumption of the ballast does not result in additional testing time.

In summary, DOE has determined that the amendments adopted in this final rule do not impact test burden or testing costs.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'')12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

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

DOE has recently conducted a focused inquiry into small business manufacturers of the MHLFs covered by this rulemaking. DOE used available public information to identify potential small manufacturers. DOE accessed the Compliance Certification Database [14] to create a list of companies that import or otherwise manufacture the MHLFs covered by this proposal.

The Small Business Administration (''SBA'') considers a business entity to be a small business, if, together, with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes established by the North American Industry Classification System (''NAICS'') and are available at *https://www.sba.gov/document/support—table-size-standards.* Metal halide lamp ballast manufacturing is classified under NAICS 335311, ''Power, Distribution, and Specialty Transformer Manufacturing.'' The SBA sets a threshold of 750 employees or fewer for an entity to be considered as a small business for this category. MHLF manufacturing is classified under NAICS 335122, ''Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.'' The SBA sets a threshold of 500 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small businesses that manufacture these ballasts, DOE conducted a market survey using publicly available information. DOE's research involved reviewing information provided by trade associations (*e.g.,* the National Electrical Manufacturers' Association), information from individual company websites, market research tools (*i.e.,* Hoover's reports) and DOE's certification and compliance database. DOE screened out companies that do not meet the definition of a ''small business'' or are completely foreign owned and operated. DOE identified five small businesses that produce metal halide lamp ballasts sold in the United States and can be considered small business manufacturers. For MHLFs, DOE identified approximately 54 small businesses that produce MHLFs sold in the United States and can be considered small business manufacturers.

In the July 2021 NOPR, DOE tentatively concluded that the proposed amendments would not increase the industry cost of the existing test procedure (see section III.H) and would not have a ''significant economic impact on a substantial number of small entities,'' so the preparation of an IRFA is not warranted. 86 FR 37069, 37082.

DOE received no comments on the impacts of the test procedure amendments proposed in the NOPR on small businesses.

Therefore, DOE concludes that the cost effects accruing from the final rule would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of a FRFA is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of MHLFs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including MHLFs. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. DOE is not amending the certification or reporting requirements for MHLFs in this final rule.

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.

D. Review Under the National Environmental Policy Act of 1969

In this final rule, DOE establishes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for MHLFs. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national

[14] U.S. Department of Energy Compliance Certification Management System, available at: *www.regulations.doe.gov/ccms.*

government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

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

I. Review Under Executive Order 12630

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

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

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

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use

of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The modifications to the test procedure for MHLFs adopted in this final rule incorporates testing methods contained in certain sections of the following commercial standards:

(1) American National Standards Institute (''ANSI'') C78.43 (ANSI C78.43–2017), ''American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps,'' approved December 21, 2017.

(2) ANSI C78.44 (ANSI C78.44–2016), ''American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps,'' approved July 1, 2016.

(3) ANSI C82.6–2015 (R2020) (ANSI C82.6–2015 (R2020)), ''American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement,'' approved March 30, 2020.

(4) ANSI C82.9 (ANSI C82.9–2016), ''American National Standard for Lamp Ballasts—High-Intensity Discharge and Low-Pressure Sodium Lamps—Definitions,'' approved July 12, 2016.

(5) International Electrotechnical Commission (''IEC'') 63103 (IEC 63103), ''Lighting Equipment—Non-Active Mode Power Measurement'' (Edition 1.0, 2020–07).

DOE has evaluated these standards and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

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

N. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference the test standard published by ANSI, titled ''American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps,'' ANSI C78.43–2017. ANSI C78.43–2017 is an industry accepted test standard that specifies the physical and electrical requirements for single-ended metal halide lamps operated on 60 Hz ballasts. Specifically, the test procedure codified by this final rule references ANSI C78.43–2017 for characteristics of reference lamps that must be used when testing metal halide lamp ballasts. ANSI C78.43–2017 is readily available on ANSI's website at *webstore.ansi.org/.*

In this final rule, DOE also incorporates by reference the test standard published by ANSI, titled ''American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps,'' ANSI C78.44–2016. ANSI C78.44–2016 is an industry accepted test standard that sets forth the physical and electrical requirements for double-ended metal halide lamps operated on 60 Hz ballasts. Specifically, the test procedure codified by this final rule references ANSI C78.44–2016 for characteristics of reference lamps that must be used when testing metal halide lamp ballasts. ANSI C78.44–2016 is readily available on ANSI's website at *webstore.ansi.org/.*

In this final rule, DOE also incorporates by reference the test standard published by ANSI, titled ''American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement,'' ANSI C82.6–2015 (R2020). ANSI C82.6–2015 (R2020) is an industry accepted test standard that describes the procedures and the precautions to be taken in measuring performance of low-frequency ballasts (electromagnetic and electronic ballasts that operate at less than 400 Hz) for HID lamps. Specifically, the test procedure codified by this final rule references Sections of ANSI C82.6–2015 (R2020) for general testing conditions and methods for the measurement of ballast operating characteristics. ANSI C82.6–2015 (R2020) is readily available on ANSI's website at *webstore.ansi.org/.*

In this final rule, DOE also incorporates by reference the test standard published by ANSI, titled ''American National Standard for Lamp Ballasts—High-Intensity Discharge and Low-Pressure Sodium Lamps—Definitions,'' ANSI C82.9–2016. ANSI C82.9–2016 is an industry accepted standard that provides definitions related to specific terms related to HID lamps and ballasts. Specifically, the test procedure codified by this final rule references ANSI C82.9–2016 for defining reference lamps which are used when testing metal halide lamp ballasts. ANSI C82.9–2016 is readily available on ANSI's website at *webstore.ansi.org/.*

In this final rule, DOE also incorporates by reference the test standard published by IEC, titled ''Lighting Equipment—Non-Active Mode Power Measurement (Edition 1.0, July 2020),'' IEC 63103:2020. IEC 63103:2020 is an industry accepted standard that describes measurements of electrical power consumption in standby mode, off mode, and networked standby mode for lighting equipment. Specifically, the test procedure codified by this final rule references Section 5.4 of IEC 63103:2020 for testing standby mode energy consumption of metal halide lamp ballasts. IEC 63103:2020 is readily available on IEC's website at *webstore.ansi.org.*

V. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on June 17, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 17, 2022.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE amends part 431 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.322 is amended by:
■ a. Removing the definition for ''AC control signal'';
■ b. Revising the definition for ''Ballast efficiency'';
■ c. Adding in alphabetical order a definition for ''Ceramic metal halide lamp'';
■ d. Removing the definition for ''DC control signal'';
■ e. Adding in alphabetical order definitions for ''Quartz metal halide lamp'' and ''Reference lamp''; and
■ f. Removing the definition for ''Wireless control signal''.

The revision and additions read as follows:

§ 431.322 Definitions concerning metal halide lamp ballasts and fixtures.

* * * * *

Ballast efficiency means, in the case of a high intensity discharge fixture, the efficiency of a lamp and ballast combination, expressed as a percentage, and calculated in accordance with the following formula: Efficiency = P_{out}/P_{in} where:

(1) P_{out} equals the measured operating lamp wattage; and

(2) P_{in} equals the measured operating input wattage.

(3) The lamp, and the capacitor when the capacitor is provided, shall constitute a nominal system in accordance with the ANSI C78.43–2017 (incorporated by reference; see § 431.323);

(4) For ballasts with a frequency of 60 Hz, Pin and Pout shall be measured after lamps have been stabilized according to Section 4.4 of ANSI C82.6–2015 (incorporated by reference; see § 431.323) using a wattmeter with accuracy specified in Section 4.5 of ANSI C82.6–2015; and

(5) For ballasts with a frequency greater than 60 Hz, Pin and Pout shall have a basic accuracy of ±0.5 percent at the higher of either 3 times the output operating frequency of the ballast or 2.4 kHz.

* * * * *

Ceramic metal halide lamp means a metal halide lamp with an arc tube made of ceramic materials.

* * * * *

Quartz metal halide lamp means a metal halide lamp with an arc tube made of quartz materials.

Reference lamp is a metal halide lamp that meets the operating conditions of a reference lamp as defined by ANSI C82.9–2016 (incorporated by reference; see § 431.323).

* * * * *

■ 3. Section 431.323 is amended by:
■ a. Revising paragraphs (a) and (b);
■ b. Redesignating paragraph (c) as paragraph (d); and
■ c. Adding new paragraph (c).

The revisions and addition read as follows:

§ 431.323 Materials incorporated by reference.

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

(b) *ANSI.* American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036; 212–642–4900; *www.ansi.org.*

(1) ANSI C78.43–2017, American National Standard for Electric Lamps—Single-Ended Metal Halide Lamps, approved December 21, 2017; IBR approved for § 431.324.

(2) ANSI C78.44–2016, American National Standard for Electric Lamps—Double-Ended Metal Halide Lamps, approved July 1, 2016; IBR approved for § 431.324.

(3) ANSI C82.6–2015 (R2020), American National Standard for Lamp Ballasts—Ballasts for High-Intensity Discharge Lamps—Methods of Measurement, approved March 30, 2020; IBR approved for §§ 431.322; 431.324.

(4) ANSI C82.9–2016, American National Standard for Lamp Ballasts—High Intensity Discharge and Low-Pressure Sodium Lamps—Definitions, approved July 12, 2016; IBR approved for §§ 431.322; 431.324.

(c) *IEC.* International Electrotechnical Commission, 3 rue de Varembé, 1st Floor, P.O. Box 131, CH—1211 Geneva 20—Switzerland, +41 22 919 02 11, or go to *webstore.iec.ch/home.*

(1) IEC 63103, Lighting Equipment—Non-active Mode Power Measurement, Edition 1.0, dated 2020–07; IBR approved for § 431.324.

(2) [Reserved]

* * * * *

■ 4. Section 431.324 is revised to read as follows:

§ 431.324 Uniform test method for the measurement of energy efficiency and standby mode energy consumption of metal halide lamp ballasts.

(a) *Scope.* This section provides test procedures for measuring, pursuant to EPCA, the energy efficiency of metal halide lamp ballasts. After July 25, 2022, and prior to December 21, 2022, any representations with respect to energy use or efficiency of metal halide lamp fixtures must be in accordance with the results of testing pursuant to this section or the test procedures as they appeared in 10 CFR 431.324 as it appeared in the 10 CFR parts 200–499 edition revised as of January 1, 2022. On or after December 21, 2022, any representations, including certifications of compliance for metal halide lamp fixtures subject to any energy conservation standard, made with respect to the energy use or efficiency of metal halide lamp fixtures must be made in accordance with the results of testing pursuant to this section.

(b) *Active mode procedure*—(1) *General instructions.* Specifications in referenced standards that are recommended, that ''shall'' or ''should'' be met, or that are not otherwise explicitly optional, are mandatory. In cases where there is a conflict between any industry standard(s) and this section, the language of the test procedure in this section takes precedence over the industry standard(s).

(2) *Test conditions and setup.* (i) The power supply, ballast conditions, lamp position, and instrumentation must all conform to the requirements specified in Section 4.0 of ANSI C82.6–2015 (R2020) (incorporated by reference; see § 431.323).

(ii) Airflow in the room for the testing period must be ≤0.5 meters/second.

(iii) Test circuits must be in accordance with the circuit connections specified in Section 6.3 of ANSI C82.6–2015 (R2020).

(iv) For ballasts designed to operate lamps rated less than 150 W that have 120 V as an available input voltage, testing must be performed at 120 V. For ballasts designed to operate lamps rated less than 150 W that do not have 120 V as an available voltage, testing must be performed at the highest available input voltage. For ballasts designed to operate lamps rated greater than or equal to 150 W that have 277 V as an available input voltage, testing must be conducted at 277 V. For ballasts designed to operate lamps rated greater than or equal to 150 W that do not have 277 V as an available input voltage, testing must be conducted at the highest available input voltage.

(v) Operate dimming ballasts at maximum input power.

(vi) Select the metal halide lamp for testing as follows:

(A) The metal halide lamp used for testing must meet the specifications of a reference lamp as defined by ANSI C82.9–2016 and the rated values of the corresponding lamp data sheet as specified in ANSI C78.43–2017 (both incorporated by reference; *see* § 431.323) for single-ended lamps and ANSI C78.44–2016 (incorporated by reference; *see* § 431.323) for double-ended lamps.

(B) Ballasts designated with ANSI codes corresponding to more than one lamp must be tested with the lamp having the highest nominal lamp wattage as specified in ANSI C78.43–2017 or ANSI C78.44–2016, as applicable.

(C) Ballasts designated with ANSI codes corresponding to both ceramic metal halide lamps (code beginning with ''C'') and quartz metal halide lamps (code beginning with ''M'') of the same nominal lamp wattage must be tested with the quartz metal halide lamp.

(3) *Test method*—(i) *Stabilization criteria*—(A) *General instruction.* Lamp must be seasoned as prescribed in Section 4.4.1 of ANSI C82.6–2015 (R2020).

(B) *Basic stabilization method.* Lamps using the basic stabilization method must be stabilized in accordance with Section 4.4.2 of ANSI C82.6–2015 (R2020). Stabilization is reached when the lamp's electrical characteristics vary by no more than 3-percent in three consecutive 10- to 15-minute intervals measured after the minimum burning time of 30 minutes.

(C) *Alternative stabilization method.* In cases where switching from the reference ballast to test ballast without extinguishing the lamp is impossible, such as for low-frequency electronic ballasts, the alternative stabilization method must be used. Lamps using the alternative stabilization method must be stabilized in accordance with Section 4.4.3 of ANSI C82.6–2015 (R2020).

(ii) *Test measurements.* (A) The ballast input power during operating conditions must be measured in accordance with the methods specified in Sections 6.1 and 6.8 of ANSI C82.6–2015 (R2020).

(B) The ballast output (lamp) power during operating conditions must be measured in accordance with the methods specified in Sections 6.2 and 6.10 of ANSI C82.6–2015 (R2020).

(C) For ballasts with a frequency of 60 Hz, the ballast input and output power shall be measured after lamps have been stabilized according to Section 4.4 of ANSI C82.6–2015 (R2020) using a wattmeter with accuracy specified in Section 4.5 of ANSI C82.6–2015 (R2020); and

(D) For ballasts with a frequency greater than 60 Hz, the ballast input and output power shall have a basic accuracy of ±0.5 percent at the higher of either 3 times the output operating frequency of the ballast or 2.4 kHz.

(iii) *Calculations.* (A) To determine the percent efficiency of the ballast under test, divide the measured ballast output (lamp) power, as measured in paragraph (b)(3)(ii) of this section, by the measured ballast input power, as measured in paragraph (b)(3)(ii) of this section. Calculate percent efficiency to three significant figures.

(B) [Reserved]

(c) *Standby mode procedure*—(1) *General instructions.* Measure standby mode energy consumption only for a ballast that is capable of operating in standby mode. Specifications in referenced standards that are recommended, that ''shall'' or ''should'' be met, or that are not otherwise explicitly optional, are mandatory. When there is a conflict, the language of the test procedure in this section takes precedence over IEC 63103 (incorporated by reference; see § 431.323).

(2) *Test conditions and setup.* (i) Establish and maintain test conditions and setup in accordance with paragraph (b)(2) of this section.

(ii) Connect each ballast to a lamp as specified in paragraph (b)(2)(vi) of this section. Note: ballast operation with a reference lamp is not required.

(3) *Test method and measurement.* (i) Turn on all of the lamps at full light output. If any lamp is not functional, replace the lamp and repeat the test procedure. If the ballast will not operate any lamps, replace the unit under test.

(ii) Send a signal to the ballast instructing it to have zero light output using the appropriate ballast communication protocol or system for the ballast being tested.

(iii) Stabilize the ballast prior to measurement using one of the methods as specified in Section 5.4 of IEC 63103.

(iv) Measure the standby mode energy consumption in watts using one of the methods as specified in Section 5.4 of IEC 63103.

[FR Doc. 2022–13459 Filed 6–23–22; 8:45 am]

BILLING CODE 6450–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

[Docket No. CFPB–2022–0023]

RIN 3170–AB12

Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) is amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), to address recent legislation that assists consumers who are victims of trafficking. This final rule establishes a method for a victim of trafficking to submit documentation to consumer reporting agencies, including information identifying any adverse item of information about the consumer that resulted from certain types of human trafficking, and prohibits the consumer reporting agencies from furnishing a consumer report containing the adverse item(s) of information. The Bureau is taking this action as mandated by the National Defense Authorization Act for Fiscal Year 2022 to assist consumers who are victims of trafficking in building or rebuilding financial stability and personal independence.

DATES: This final rule is effective July 25, 2022.

FOR FURTHER INFORMATION CONTACT: Daniel Tingley, Counsel; Lanique Eubanks or Brandy Hood, Senior Counsels, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

The Bureau is adopting several amendments to Regulation V to implement new section 605C of the Fair Credit Reporting Act (FCRA),[1] added by the National Defense Authorization Act for Fiscal Year 2022 (2022 NDAA).[2] In brief, section 605C provides that a consumer reporting agency may not furnish a consumer report containing any adverse item of information concerning a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency.[3] Under section 605C, the Bureau is required to issue implementing regulations within 180 days of the enactment of the 2022 NDAA. Section 605C is effective 30 days after the Bureau issues its final implementing regulations.

The Bureau is amending Regulation V as follows:

- Create new section 1022.142 in subpart O, the subpart on miscellaneous duties of consumer reporting agencies, to add the provisions implementing section 605C;
- Apply the new section to any ''consumer reporting agency'' as defined in section 603(f) of the FCRA, namely nationwide consumer reporting agencies, nationwide specialty consumer reporting agencies, and all other consumer reporting agencies;
- Define terms including, in particular, ''trafficking documentation,'' ''severe forms of trafficking in persons,'' ''sex trafficking,'' and ''victim of trafficking'';
- Clarify that ''trafficking documentation'' includes certain determinations made by a non-governmental organization or member of a human trafficking task force when authorized by a Federal, State, or Tribal governmental entity, and that, for purposes of the new section, documentation by a State governmental entity includes documentation at both the State and local level;
- Permit a consumer to self-attest as a victim of trafficking if the document or an accompanying document is signed or certified by a Federal, State, or Tribal governmental entity, a court of competent jurisdiction, or the representatives of these entities;
- Clarify that a document filed in a court of competent jurisdiction is an acceptable determination that a consumer is a victim of trafficking where: (1) a central issue in the case is whether the consumer is a victim of trafficking; and (2) where the court has conducted an initial review of the victim's claim for purposes of a motion to dismiss or motion for summary judgment and the result is in favor of the victim; and
- Establish procedures explaining how consumers should submit the required documentation to consumer reporting agencies, what actions a consumer reporting agency must perform when it receives that documentation, the limited circumstances under which a consumer reporting agency may ask for additional information, written policies and procedures, and recordkeeping requirements to monitor compliance.

II. Background

A. Trafficking in the United States

According to the United States Department of State (State Department), in the United States human traffickers compel victims to engage in commercial sex and to work in legal and non-legal industries and sectors, including, for example, agriculture, janitorial services, construction, landscaping, restaurants, factories, child care, care for persons with disabilities, domestic work, salon services, massage parlors, peddling and begging, and drug smuggling and distribution.[4] As the State Department has noted, it is difficult to find reliable statistics related to human trafficking for a number of reasons, including the hidden nature of the crime and barriers to identifying victims of trafficking and sharing information about them.[5]

Congress enacted the first significant Federal legislation addressing human trafficking in 2000. The Trafficking Victims Protection Act of 2000[6] (TVPA) established the ''three Ps'' framework for combating human trafficking by providing increased protections for victims, enhanced tools to prosecute perpetrators of trafficking, and additional resources for prevention.[7] Among other things, the TVPA added new criminal provisions prohibiting ''severe forms of trafficking in persons.'' This term includes two components of human trafficking defined to include sex trafficking of children or by force, fraud, or coercion of adults, as well as forced labor trafficking with respect to involuntary servitude, peonage, debt bondage, or slavery, commonly referred to as ''sex trafficking'' and ''labor trafficking,'' respectively.[8] Since 2000, Congress has reauthorized the TVPA on several occasions and continued to dedicate additional tools and resources to the fight against trafficking on a regular basis, including the creation and funding of the National Human Trafficking Hotline.[9]

Efforts by the United States Government to respond to the needs of victims of trafficking recognize that victims have both immediate and longer-term needs, including the need to improve financial stability to support their long-term independence.[10] Adverse consumer report information resulting from having been trafficked can reduce the ability of victims[11] to

[1] Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.* For ease of reference, section 605C of the FCRA is generally referred to as ''section 605C'' throughout this notice.

[2] National Defense Authorization Act for Fiscal Year 2022 (2022 NDAA), Public Law 117–81, section 6102, 135 Stat. 2383–84 (2021) (to be codified at 15 U.S.C. 1681c–3), *https://www.congress.gov/117/plaws/publ81/PLAW-117publ81.pdf.* The sponsors of this section of the 2022 NDAA and some advocates refer to this law as the ''Debt Bondage Repair Act,'' in reference to H.R. 2332 (introduced in the 117th Congress on Apr. 1, 2021).

[3] For purposes of this rule, the terms ''severe forms of trafficking in persons'' and ''sex trafficking'' will be referred to individually (as defined in the section-by-section analysis of § 1022.142(b)) or collectively as ''trafficking.''

[4] U.S. Dep't of State, *About Human Trafficking, https://www.state.gov/humantrafficking-about-human-trafficking* (last visited June 20, 2022).

[5] *Id.*

[6] Publish Law 106–386, 114 Stat. 1464.

[7] U.S. Dep't of Just., *Key Legislation, https://www.justice.gov/humantrafficking/key-legislation* (last visited June 20, 2022).

[8] *Id.; see also* 18 U.S.C. 1589 through 1591.

[9] *See, e.g.,* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, 122 Stat. 5044; Justice for Victims of Trafficking Act of 2015, Public Law 114–22, 129 Stat. 227 (creating the National Human Trafficking Hotline by directing the Secretary of Health and Human Services (HHS) to make grants for a national communication system to assist victims of severe forms of trafficking in persons in communicating with service providers and give priority to grant applicants that have experience in providing telephone services to victims of severe forms of trafficking in persons).

[10] Coordination Collaboration Capacity, *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013–2017* (Jan. 2014), at 9, *https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/FederalHumanTraffickingStrategicPlan.pdf.*

[11] The Bureau recognizes that some individuals and advocates prefer the term ''survivor'' to ''victim.'' As the Department of Justice (DOJ) has explained, ''[b]oth terms are important and have different implications when used in the context of victim advocacy and service provision. For example, the term 'victim' has legal implications within the criminal justice process and refers to an individual who suffered harm as a result of criminal conduct. The laws that give individuals particular rights and legal standing within the criminal justice system use the term 'victim.' . . . 'Survivor' is a term used widely in service providing organizations to recognize the strength and courage it takes to overcome victimization.'' *See* Training & Tech. Assistance Ctr., Off. for Victims of Crime, U.S. Dep't of Just., *Human Trafficking Task Force e-Guide, https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/13-victim-centered-approach/*(last visited June 20, 2022). In this final rule, the Bureau is using the term

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take basic steps to obtain housing and employment and to move toward greater financial stability and independence.

B. The Fair Credit Reporting Act

The FCRA, enacted in 1970 and significantly amended in 1996, 2003, 2010, and 2018, regulates consumer reporting. It was enacted to protect consumers by preventing the transmission of inaccurate information in consumer reports and establishing confidential and responsible credit reporting practices.[12] The FCRA's statutory scheme was designed to ensure that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce in a manner which is fair and equitable to consumers and protects the confidentiality, accuracy, relevancy, and proper utilization of consumer information.[13]

Together with its implementing regulation, Regulation V,[14] the FCRA creates a regulatory framework for furnishing, using, and disclosing information in reports associated with credit, insurance, employment, and other decisions made about consumers. In doing so, the FCRA and Regulation V impose obligations on entities that qualify as ''consumer reporting agencies.'' They also impose obligations on those who use consumer report information or furnish information to consumer reporting agencies (furnishers).

C. The National Defense Authorization Act for Fiscal Year 2022

Section 6102 of the 2022 NDAA amended the FCRA by inserting a new section 605C, based on an earlier bill known as the Debt Bondage Repair Act.[15] Section 605C(b) provides that a consumer reporting agency may not furnish a consumer report containing any adverse item of information concerning a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency. As described in more detail in the section-by-section analysis below, section 605C(a) provides statutory definitions for a number of the terms, including from the TVPA. Section 605C(c)(1) directs the Bureau to issue implementing rules within 180 days of enactment, and section 605C(c)(2) mandates that the rules must establish a method by which consumers must submit trafficking documentation to consumer reporting agencies.

III. Summary of the Rulemaking Process

On April 8, 2022, the Bureau published a proposed rule in the **Federal Register** to implement section 605C.[16] The comment period ended on May 9, 2022. In response to the proposal, the Bureau received over 60 comments from survivors of trafficking, consumers, consumer groups, anti-trafficking advocacy groups, industry trade associations, and others.

Many commenters expressed general support for the proposed rule, discussing, for example, the importance of section 605C's goal of helping victims of trafficking recover financially. Some commenters expressed general support for the proposed rule and stated that they believed the proposal would help victims regain access to credit, employment, housing, bank accounts, utilities, and other services. The Bureau also received requests from commenters to alter, clarify, or remove specific provisions of the proposed rule, with some comments focusing on issues relating to potential fraud or abuse and others focusing on revisions that would permit more consumers to take advantage of the proposed amendments. As discussed in more detail below, the Bureau has considered these comments in adopting this final rule.

IV. Legal Authority

The Bureau is issuing this final rule pursuant to its authority under the FCRA, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[17] and section 6102 of the 2022 NDAA.

A. Dodd-Frank Act Section 1022(b) and the FCRA

Section 1022(b)(1) of the Dodd-Frank Act authorizes the Bureau to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.[18] Effective July 21, 2011, section 1061 of the Dodd-Frank Act transferred to the Bureau the rulemaking and certain other authorities of the Federal Trade Commission (FTC) and the prudential banking regulators (*i.e.,* the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC)) relating to specific ''enumerated consumer laws'' listed in the Dodd-Frank Act, including most rulemaking authority under the FCRA.[19] Likewise, section 1088 of the Dodd-Frank Act made conforming amendments to the FCRA, transferring rulemaking authority under much of the FCRA to the Bureau.[20] As amended by the Dodd-Frank Act, section 621(e) of the FCRA authorizes the Bureau to issue regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of the FCRA, and to prevent evasions thereof or to facilitate compliance therewith.[21] The Bureau is issuing this final rule pursuant to its authority under § 1022(b)(1) of the Dodd-Frank Act and section 621(e) of the FCRA.

B. The National Defense Authorization Act for Fiscal Year 2022

Section 6102(a) of the 2022 NDAA directs the Bureau to issue a rule implementing the new section 605C. Section 6102(c) provides that the rule issued to implement section 605C shall be limited to preventing a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer (as such terms are defined, respectively, in section 603 of the FCRA (15 U.S.C. 1681a)) that resulted from trafficking.

V. Section-by-Section Analysis

Section 1022.142 Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking

142(a) Scope

The Bureau proposed to apply the requirement to prohibit the furnishing of adverse items of information about victims of trafficking to any ''consumer reporting agency'' as defined in section 603(f), as directed by section 6102(c) of the 2022 NDAA. Consistent with section 6102(c) of the 2022 NDAA, the Bureau proposed to apply new § 1022.142 to any ''consumer reporting agency'' as

''victim'' because that is the wording of section 6102 of the 2022 NDAA.

[12] *Guimond* v. *Trans Union Credit Info. Co.,* 45 F.3d 1329, 1333 (9th Cir. 1995).

[13] 15 U.S.C. 1681(b).

[14] 12 CFR part 1022.

[15] *See* note 2 *supra.*

[16] *See* 87 FR 20771 (Apr. 8, 2022).

[17] Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, 124 Stat. 1376 (2010).

[18] *Id.* § 1022(b)(1), 124 Stat. 1980 (codified at 12 U.S.C. 5512(b)(1)).

[19] *Id.* § 1061(b)(5)(A), 124 Stat. 2037 (codified at 12 U.S.C. 5581(b)(5)(A)). Section 1002(12)(F) of the Dodd-Frank Act designates most of the FCRA (codified at 15 U.S.C. 1681 *et seq.*) as an ''enumerated consumer law'' except with respect to sections 615(e) and 628 (codified at 15 U.S.C. 1681m(e), 1681w). Dodd-Frank Act § 1002(12)(F), 124 Stat. 1957 (codified at 12 U.S.C. 5481(12)(F)).

[20] Dodd-Frank Act § 1088, 124 Stat. 2086 (codified at 15 U.S.C. 1681 *et seq.*).

[21] *Id.* § 1088(a)(10)(E), 124 Stat. 2090 (codified at 15 U.S.C. 1681s(e)).

defined in section 603(f) of the FCRA. Thus, consistent with section 603(f), the requirement prohibiting a consumer reporting agency from furnishing any adverse items of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking applies to all consumer reporting agencies, including the nationwide consumer reporting agencies, nationwide specialty consumer reporting agencies, and all other consumer reporting agencies such as those focused on employment screening, tenant screening, check and bank screening, personal property insurance, medical, low-income and subprime, supplementary reports, utilities, retail, and gaming.[22]

A few commenters addressed the proposed scope. Consumer advocate commenters generally supported applying the requirement to all consumer reporting agencies. However, one industry commenter suggested that the final rule should provide an exception for resellers, as defined by section 603(u) of the FCRA, that do not maintain a consumer file, similar to the exception from the requirement to block information resulting from identity theft in section 605B(d) of the FCRA. The commenter reasoned that these resellers do not maintain a file on consumers and, therefore, do not have the means to block such information for use in future consumer reports.

For the reasons discussed below, the Bureau is finalizing § 1022.142(a) as proposed. Section 6102(c) of the NDAA provides that any rule issued by the Bureau to implement section 605C applies to all consumer reporting agencies. Unlike the identity theft provision identified by the commenter,[23] the FCRA does not except or exempt any types of consumer reporting agencies from this prohibition. Even if a reseller does not maintain a file on consumers, if the reseller has received a request to block information from a consumer, the reseller can comply by ensuring that any consumer report it provides does not contain items of adverse information requested by the consumer to be blocked. Thus, the Bureau declines to provide exceptions for any types of consumer reporting agencies.

142(b) Definitions

142(b)(1) Appropriate Proof of Identity

Section 605C is silent regarding whether and how consumers must establish their identity when submitting trafficking documentation to a consumer reporting agency. The Bureau proposed to define ''appropriate proof of identity'' as proof of identity that meets the requirements in § 1022.123.[24] This section, which concerns proof of identify for consumers regarding identity theft, fraud and active duty alerts, consumer report information blocks, and truncation of Social Security numbers, provides that consumer reporting agencies must develop and implement reasonable requirements specifying what information consumers must provide to constitute proof of identity.

The Bureau received several comments supporting the proposed approach. Multiple commenters observed that trafficking survivors often lack documentation that is frequently requested for proof of identity, such as a driver's license, bank account statements, or utility bills. Two commenters observed that many victims of trafficking may make use of State-run address confidentiality programs, which shield the actual addresses of victims of certain offenses in public records.[25] For these reasons, several commenters insisted on the importance of requiring consumer reporting agencies to accept non-documentary means of proof of identity.

A small number of comments recommended alterations to the definition. Some individual consumers and consumer groups called for the Bureau to describe a universal method to ensure all consumer reporting agencies are held to the same standard when identifying victims and proposed that the Bureau mandate the use of alternative methods of identification validation. One commenter stated that the Bureau should clarify Regulation V or provide other guidance to prohibit excessive requirements for identification in order to ensure that Congress's intent to protect trafficking survivors is not undermined. This commenter emphasized that consumer reporting agencies currently demand unnecessary amounts of identification or reject a consumer's proof for minor discrepancies, and that these demands are not commensurate with the risk of harm arising from misidentifying the consumer. Additionally, another consumer group suggested providing consumer reporting agencies with a safe harbor for reasonable proof of identity procedures to offset the adoption of conservative and inflexible procedures to mitigate criticism consumer reporting agencies are not rigorous enough in their proof of identity standards.

For the reasons discussed below, the final rule adopts § 1022.142(b)(1) as proposed, with additional clarifying text. Given the particular needs and challenges of consumers, a universal, one-size-fits-all standard specified in detail by the Bureau may not be a workable solution. Section 1022.123 of Regulation V requires consumer reporting agencies to develop and implement ''reasonable'' requirements for what information consumers shall provide to constitute proof of identity that are sufficient to enable the consumer reporting agency to match consumers with their files and adjust the information to be commensurate with an identifiable risk of harm arising from misidentifying consumers. Section 1022.123 describes these requirements with respect to section 605A (identity theft prevention and fraud and active duty alerts), section 605B (consumer report information blocks), and section 609(a)(1) (truncation of Social Security numbers) of the FCRA. The final rule clarifies that, as used in § 1022.142, the requirements in § 1022.123 should be applied for purposes of section 605C.

The Bureau recognizes that the reasonableness of proof of identity requirements depends on the context and may differ between consumers trying to resolve problems caused by, for example, identity theft and those who are victims of trafficking. The Bureau also recognizes the importance of matching consumers who are victims of trafficking with their files and adjusting information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer. Accordingly, the Bureau is clarifying that the requirements in § 1022.123 should be used for purposes of section 605C and tailored to the needs of victims of trafficking for purposes of establishing a consumer's identity. The Bureau expects consumer reporting agencies to explore and implement a risk-based approach to verifying a consumer's identity through both ''documentary'' [26] and ''non-

[22] A list of many self-identified consumer reporting companies is available on the Bureau's website at *https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/consumer-reporting-companies/companies-list/* (last visited June 20, 2022).

[23] 15 U.S.C. 1681c–2(d).

[24] *See* 12 CFR 1022.123.

[25] *See, e.g.,* N.Y. Dep't of State, *Address Confidentiality Program, https://dos.ny.gov/address-confidentiality* (last visited June 20, 2022) (explaining that New York's address confidentiality program is available to victims of human trafficking).

[26] Consumer reporting agencies could, for example, require consumers to provide a social security number or card issued by the Social

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documentary'' means.[27] The Bureau will also monitor the identification procedures for victims of trafficking to ensure consumer reporting agencies are not applying excessive requirements for identification and that the standards protect the confidentiality and personal safety of survivors. Moreover, appropriate proof of identity for the purposes of this section requires consumer reporting agencies to develop reasonable requirements for victims of trafficking, recognizing the challenges many victims might face in establishing proof of identity by conventional methods used for other purposes. The Bureau expects consumer reporting agencies to develop standards specific to victims of trafficking such that Congress's intent to protect survivors of trafficking is not undermined.

142(b)(2) Consumer Report

Proposed § 1022.142(b)(2) defined the term ''consumer report'' to have the same meaning as that provided in section 603(d) of the FCRA. The use of this definition is directed by section 6102(c) of the 2022 NDAA which provides that the Bureau's rule shall be limited to preventing a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from trafficking as the terms are defined in section 603 of the FCRA.

The Bureau did not receive any comments on proposed § 1022.142(b)(2) and is finalizing it as proposed.

142(b)(3) Consumer Reporting Agency

Proposed § 1022.142(b)(3) defined ''consumer reporting agency'' to have the meaning provided in section 603(f) of the FCRA. The use of this definition is directed by section 6102(c) of the 2022 NDAA.

The Bureau did not receive any comments on proposed § 1022.142(b)(3) and is finalizing it as proposed.

142(b)(4) Severe Forms of Trafficking in Persons

Proposed § 1022.142(b)(4) adopted the definition of ''severe forms of trafficking in persons'' set forth in section 605C(a)(2) from section 103 of the TVPA.[28] Under that definition, the term ''severe forms of trafficking in persons'' means:

(i) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(ii) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

The language in the first paragraph of this definition is commonly referred to as the ''sex trafficking'' component, and the language in the second paragraph is commonly referred to as the ''labor trafficking'' component.[29]

The Bureau received few comments on this proposed definition.[30] One consumer group stated that there may be circumstances where this definition is overly narrow, arguing that all forms of trafficking in persons or sex trafficking should be included as ''severe forms of trafficking in persons.''

The Bureau is finalizing this definition as proposed. Section 605C(a)(2) provides that the term ''severe forms of trafficking in persons'' has the meaning given in section 103 of the TVPA, which is the definition set out above and in the proposed rule. Consistent with the statute, the Bureau is adopting this definition in the final rule.

142(b)(5) Sex Trafficking

Proposed § 1022.142(b)(5) adopted the definition of ''sex trafficking'' set forth in section 605C(a)(2).[31] Under that definition, the term ''sex trafficking'' means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

The Bureau received one comment on this definition which is discussed in the section-by-section analysis of § 1022.142(b)(7) below.

142(b)(6) Trafficking Documentation

Section 605C(a)(1) defines ''trafficking documentation'' as documentation of—a determination that a consumer is a victim of trafficking, made by a Federal, State, or Tribal governmental entity, or—by a court of competent jurisdiction and documentation that identifies items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking of which the consumer is the victim. The Bureau proposed to incorporate this statutory definition with certain modifications regarding documentation identifying a consumer who is a victim of trafficking involving a ''court of a competent jurisdiction.'' Proposed § 1022.142(b)(6)(i) described documentation requirements for a determination that a consumer is a victim of trafficking (victim determination) and proposed § 1022.142(b)(6)(ii) described documentation requirements for identified adverse items of information. Accordingly, the Bureau is naming § 1022.142(b)(6)(i) as ''victim determination'' and § 1022.142(b)(6)(ii) as ''identified adverse items of information'' to make it clear that ''trafficking documentation'' under section 605C consists of two components: victim determinations and identified adverse items of information. Each component is discussed in the section-by-section analysis below.

142(b)(6)(i) Victim Determination

142(b)(6)(i)(A)

Section 605C(a)(1)(A)(i) provides the term ''trafficking documentation'' means documentation of—a determination that a consumer is a victim of trafficking made by a Federal, State, or Tribal governmental entity. The Bureau proposed to adopt this statutory definition of ''trafficking documentation.'' Under this definition, a determination made by a Federal, State, or Tribal governmental entity in the form of documentation that a consumer is a victim of trafficking

Security Administration, a certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate, or a copy of a driver's license, an identification card issued by the motor vehicle administration, or any other government issued identification.

[27] The Bureau encourages consumer reporting agencies to confer with consumer groups, anti-trafficking advocacy groups and survivors of trafficking for information on the types of identification, including by non-documentary means, and confirmation questions a victim of trafficking could easily answer to prove their identity. Consumer reporting agencies should refer to the customer identification program requirements for banks in 31 CFR 1020.220 for examples.

[28] Section 605C(a)(2) provides that the term ''severe forms of trafficking in persons'' has the same meaning given in section 103 of the TVPA, Pub. L. 106–386, 114 Stat. 1464, 1470, which is currently codified at 22 U.S.C. 7102(11).

[29] Off. on Trafficking in Persons, U.S. Dep't of Health & Human Servs., *Fact Sheet: Human Trafficking, https://www.acf.hhs.gov/otip/fact-sheet/resource/fshumantrafficking* (last visited June 20, 2022).

[30] One commenter argued that the sex trafficking component of the definition of ''severe forms of trafficking in persons'' rendered the separate inclusion of victims of ''sex trafficking'' under this rule redundant and confusing. The Bureau disagrees, for the reasons explained in the section-by-section analysis of § 1022.142(b)(7) below.

[31] Section 605C(a)(2) provides the term ''sex trafficking'' has the same meaning given in section 103 of the TVPA, Public Law 106–386, 114 Stat. 1464, codified at 22 U.S.C. 7102. This definition was amended by section 108 of the Justice for Victims of Trafficking Act of 2015, Public Law 114–22, 129 Stat. 227, 238–39. This definition is currently codified at 22 U.S.C. 7102(12).

would have satisfied the requirements in proposed § 1022.142(b)(6)(i)(A). As noted in the proposed rule, the Bureau found through outreach that documentation directly identifying a person as a victim of trafficking is scarce and is primarily limited to foreign-born persons, a fact echoed by many commenters.[32] The Bureau also learned that victims of trafficking are often not identified and thus many victims will not have documentation directly determining that they are a victim of trafficking. For these reasons, as discussed further below, the Bureau sought comment on multiple possible ways a consumer might be able to document a determination by a governmental entity that a consumer is a victim of trafficking.

The Bureau has considered the comments and is adopting § 1022.142(b)(6)(i)(A), with revisions to provide that victim determinations include those made by certain non-governmental entities and human trafficking task forces authorized by a Federal, State, or Tribal governmental entity to make such determinations and that documentation by a ''State governmental entity'' includes documentation at both the State and local level.

Non-Governmental Organizations and Other Non-Governmental Sources. In the proposed rule, the Bureau noted programs in which government agencies grant money to certain organizations to assist victims of trafficking. The Bureau discussed how, for example, the Office for Victims of Crime (OVC) in the Department of Justice (DOJ) is the largest Federal funder of services for human trafficking victims in the United States.[33] However, the Bureau understands this office does not make or document determinations as to who is a victim of trafficking. Instead, non-governmental organizations that receive grants from the OVC to provide services to clients make determinations that individuals are victims of trafficking, in some cases even when the person does not self-identify as a victim.[34] The Bureau sought comments about whether and how such non-governmental sources of information might be considered in making a determination that a consumer is a victim of trafficking under section 605C. Specifically, the Bureau asked for comments on whether entities that receive funding from a governmental entity, and are subject to the terms and conditions of a government program, may provide documentation in the form of a determination identifying a person as a victim of trafficking that would satisfy section 605C(a)(1)(A).

Commenters were largely in favor of treating determinations that individuals are victims of trafficking made by non-governmental sources receiving government money as determinations made by a governmental entity, with few exceptions. One consumer group commenter suggested that the Bureau should broaden the allowable categories of documentation to show that the consumer is a trafficking survivor. The commenter suggested that the Bureau promulgate a definition that includes documentation from government-funded organizations under section 605C itself, or that the Bureau use its broad general rulemaking authority under section 621(e) to prescribe regulations as may be necessary or appropriate to administer and carry out the purposes and objectives of the FCRA. The commenter observed that trained professionals who work in these organizations are generally in the best position to speak with a client, understand their personal background and history, and assess whether the consumer is a victim of trafficking. An anti-trafficking advocacy group commenter stated that trafficking survivors may have no or extremely limited interactions with government agency personnel since trafficking-specific services are primarily outsourced to non-governmental organizations rather than administered by government agencies in the United States and that social service providers at non-governmental agencies regularly conduct trafficking assessments and are often better positioned to identify trafficking survivors.

An industry group commenter agreed with the Bureau's preliminary assessment discussed in the proposed rule that non-governmental sources might be best suited to provide support for a determination that a consumer is a victim as compared to a government agency or a court. However, the commenter noted the risk for potential fraud and suggested that the Bureau be cognizant of the fraudulent use of identity theft reports under section 605B of the FCRA. The commenter suggested that if the Bureau were to include determinations made by non-governmental entities it should require that the entities be legitimate non-profit organizations supported by government funding subject to the terms and conditions of a government program and that these entities submit trafficking documentation in good faith on behalf of a victim with the permission and knowledge of the victim. The commenter further suggested that consumer reporting agencies should be provided with a way to verify that the entity is a legitimate non-profit organization and has the victim's permission to act on the victim's behalf by, for example, requiring these non-governmental sources to provide notice to the Bureau which could be used by a consumer reporting agency for verification purposes.

An individual commenter who regularly provides legal representation to victims of trafficking encouraged the Bureau to include human trafficking task force members[35] as entities that can provide a determination that a consumer is a victim of trafficking. The commenter stated that governmental entity personnel do not typically work directly with a consumer in the context of their victimization and that task force members—who usually include service providers that regularly screen and work closely with victims to provide housing, medical care, financial assistance, counseling, legal aid, and other recovery services—may be better positioned to attest to a consumer's victim status.

A national membership group representing prosecutors asked the Bureau to provide a broad definition of ''trafficking documentation'' to encompass victims who may not yet have come into contact with the

[32] For example, HHS issues certification letters to foreign national adults who have experienced a severe form of trafficking in persons after receiving notification that the Department of Homeland Security (DHS) has granted the person a continued presence, a T visa, or that a bona fide T visa application has not been denied. This certification letter provides that foreign national adult victims of trafficking are eligible for certain Federal and State benefits (health insurance, housing, food assistance, cash assistance, Federal student financial aid). United States citizens and lawful permanent residents do not need a Certification Letter to access services and benefits available to victims of trafficking and such as a letter identifying persons as victims of trafficking is generally not provided to United States citizens or permanent residents. This information is available at *https://www.acf.hhs.gov/otip/victim-assistance/certification* (last visited June 20, 2022).

[33] A map and list of OVC-funded human trafficking services and task forces is available on OVC's website at *https://ovc.ojp.gov/program/human-trafficking/map* (last visited June 20, 2022). HHS also provides funding to various organizations offering trafficking assistance to victims. A list of the grantees is available at *https://www.acf.hhs.gov/otip/grants* (last visited June 20, 2022).

[34] Off. for Victims of Crime, U.S. Dept of Just., *OVC Human Trafficking Program FAQs,* at comment 33 ''Can I provide services to a client who does not self-identify as a victim of human trafficking?'', *https://ovc.ojp.gov/program/human-trafficking/ovc-human-trafficking-program-faqs* (last visited June 20, 2022).

[35] As explained in more detail below, multidisciplinary task forces made up of local law enforcement agencies, victim service providers, and Federal and State investigative, enforcement, and regulatory agencies are a common approach to combatting human trafficking in many jurisdictions.

criminal justice system or with an appropriate service provider. The commenter recommended the Bureau allow for documentation that applies to instances when a victim may receive mental or medical care or evidence the person has been identified by law enforcement as a victim of trafficking in an investigation. This commenter noted that the burden of verifying the documented victim determinations should lie with the consumer reporting agency as the entity reviewing the consumer request to ensure that such victim service provider or law enforcement agency was in contact with the individual victim and stated the Bureau or the appropriate consumer reporting agency should ensure the identification of the victim is authentic.

One anti-trafficking advocacy group commenter that receives grants from State and Federal programs suggested that a statement from a grantee organization confirming that a consumer seeking relief under this rule is receiving services as a human trafficking victim should qualify as a determination that the consumer is a victim of trafficking. This commenter also urged the Bureau to provide that documented referrals by a government entity to a program providing specialized services to human trafficking survivors should similarly qualify as documentation of trafficking victimization.

One sex workers and anti-trafficking advocacy group stated that non-governmental organizations should not be required to prepare certifications to be signed by governmental funding entities, because these organizations are not generally required to disclose the identity of victims and this would raise confidentiality concerns. This commenter mentioned that non-governmental organizations may be prohibited from providing a determination that a consumer is a victim of trafficking because of pre-existing statutory language concerning restrictions on certifications of United States citizens or lawful permanent residents who are victims of severe forms of trafficking.[36] A large banking industry trade group did not specifically oppose including documentation from non-governmental entities receiving governmental funding, but recommended the Bureau advocate for the development of a compassionate and reliable means of providing documentation set forth in section 605C.

The Bureau is finalizing § 1022.142(b)(6)(i)(A) with certain modifications. The Bureau finds the definition of ''trafficking documentation'' includes a determination made by a Federal, State, or Tribal governmental entity and is adopting this definition by renumbering § 1022.142(b)(6)(i)(A) to § 1022.142(b)(6)(i)(A)(*1*) for these governmental entities. The reference to a court of competent jurisdiction has been moved to § 1022.142(b)(6)(i)(B), as discussed below in the section-by-section analysis.

The Bureau created new § 1022.142(b)(6)(i)(A)(*2*) to clarify that trafficking documentation includes a determination that a consumer is a victim of trafficking made by a non-governmental organization or member of a human trafficking task force, including victim service providers affiliated with the organization or task force, when authorized by a Federal, State, or Tribal governmental entity to make such a determination.

The Bureau agrees that trained professionals providing services to victims of trafficking, including those affiliated with a trafficking task force, are often best suited to identify and make determinations that a person has been or is being trafficked.[37] The Bureau understands that Federal, State, and Tribal governmental entities often rely on the expertise these non-governmental organizations—including multi-disciplinary human trafficking forces—possess in making victim determinations. For instance, as of fiscal year 2020, there were over 47 multi-disciplinary trafficking task forces using an enhanced collaborative model to combat human trafficking.[38] OVC and the Bureau of Justice Assistance in the DOJ use this model to: (1) employ victim-centered approaches to identifying trafficking survivors; (2) provide services to victims of all forms of human trafficking; and (3) investigate and process all forms of trafficking. These task force stakeholders are usually law enforcement, prosecutors, victim services providers, and others at the local, State, and Federal levels,[39] who work with victim service providers affiliated with the task forces to provide services to victims of trafficking such as counseling, housing, referral to medical services, and financial assistance.[40] Typically, victims of trafficking are referred to victim service providers for services from medical providers, other victim service providers, law enforcement, and community organizations and members. Often these victim service providers will conduct an initial screening and assessment to determine whether the person has experienced human trafficking followed by performing a victim-centered comprehensive assessment used to identify services and assistance programs. Under this model, non-governmental organizations or members in a human trafficking task force could provide an individual with a documented determination after an initial screening and assessment if authorized to do so by a Federal, State, or Tribal governmental entity.

The Bureau concludes that the purpose of section 605C—to help survivors of human trafficking restore their credit and gain access to consumer financial products and services—is better served by providing in the final rule that non-governmental organizations and members in a human trafficking task force, including service providers affiliated with these entities, may make determinations that a consumer is a victim of trafficking if authorized to do so by a Federal, State, or Tribal governmental entity. This means that where a Federal, State, or Tribal governmental entity has authorized non-governmental organizations or members in a human trafficking task force to make a determination that a consumer is a victim of trafficking, documentation of that determination by one of these entities satisfies the trafficking documentation definition under § 1022.142(b)(6)(i)(A). The Bureau interprets the authorization by Federal, State, or Tribal governmental entities as having effectively delegated authority to these non-governmental organizations

[36] 22 U.S.C. 7105(b)(1)(F) (''Nothing in this section may be construed to require United States citizens or lawful permanent residents who are victims of severe forms of trafficking to obtain an official certification from the Secretary of Health and Human Services in order to access any of the specialized services described in this subsection or any other Federal benefits and protections to which they are otherwise entitled.'').

[37] The Bureau notes that the TVPA also recognizes the important role of non-governmental organizations by requiring HHS and DOJ, in establishing a program to assist United States citizens and lawful permanent residents, to consult with non-governmental organizations that provide services to victims of severe forms of trafficking in the United States. *See* 22 U.S.C. 7105(f).

[38] Nat'l Inst. of Just, Off. of Just. Programs, U.S. Dep't of Just., *Federally Backed Human Trafficking Task Force Model Yields Progress, and Opportunities for Continued Growth, https://nij.ojp.gov/topics/articles/federally-backed-human-trafficking-task-force-model-yields-progress* (last visited June 20, 2022).

[39] Off. of Just. Programs, U.S. Dep't of Just., *National Criminal Justice Reference Sheet* (May 2021), at 15, *https://www.ojp.gov/pdffiles1/nij/grants/300863.pdf.* Other participants involved in task forces and viewed as integral to anti-trafficking work are non-government and non-profit organizations, coalition and community awareness groups, healthcare agencies, child welfare and family services, and housing and homeless agencies.

[40] *Id.* at 21.

and human trafficking task forces along with service providers affiliated with these entities. The Bureau concludes that victim determinations made by a non-governmental organization, human trafficking task force, or a non-governmental-affiliated victim service provider in the form of identifying an individual as a victim of trafficking must be accepted by consumer reporting agencies if authorized to make such a determination by a Federal, State, or Tribal governmental entity.

The final rule does not limit Federal, State, and Tribal governmental entities to authorizing only those non-governmental entities and human trafficking task forces that receive funding from these governmental entities. Nor does the final rule prescribe how a Federal, State, or Tribal governmental entity may authorize non-governmental organizations to make victim determinations, but certain factors such as whether non-governmental organizations and human trafficking task forces receive government funding and are subject to the terms and conditions of a government program could be a factor evaluated by a governmental entity. To clarify, the final rule does not permit a non-governmental entity or human trafficking task force to provide an authorization to make a victim determination under this section for itself or another entity. Instead, the authorization must be made by a Federal, State, or Tribal governmental entity, and each governmental entity may establish their own criteria for making such authorizations. The Bureau has concluded that victim determinations made by a non-governmental organization, human trafficking task force, or victim service provider affiliated with an organization or task force must be accepted by consumer reporting agencies if the entity has been authorized to make such a determination by a Federal, State, or Tribal governmental entity.

The Bureau understands there may be concerns with non-governmental organizations or members of human trafficking task forces, including affiliated victim service providers, providing attestations or certifications to be signed by these entities because doing so may raise confidentiality concerns and these entities are not generally required to disclose the identity of victims. The final rule does not require governmental entities or non-governmental organizations to submit such documentation. Rather, the final rule permits a consumer to submit a victim determination from a governmental entity or a non-governmental organization or human trafficking task force authorized by a governmental entity in order to block adverse items of information that resulted from a severe form of trafficking in persons or sex trafficking. Moreover, under the final rule the decision to obtain a victim determination is with the victim and the final rule does not require or permit anyone to submit a victim determination to a consumer reporting agency without the permission of the victim.

One commenter questioned whether non-governmental organizations may be prohibited from providing a determination that a consumer is a victim of trafficking because of pre-existing statutory language concerning restrictions on certifications of United States citizens or lawful permanent residents who are victims of a severe form of trafficking in persons.[41] The Bureau does not believe that this provision of the TVPA conflicts with section 605C or the final rule since section 605C, among other things, does not require an official certification from the Department of Health and Human Services (HHS) in order to block adverse items of information from a consumer report that resulted from having been trafficked.

The Bureau is adopting § 1022.142(b)(6)(i)(A) under section 605(c) as well as under its authority under section 621(e) of the FCRA, which authorizes the Bureau to prescribe regulations that promote accuracy and fairness in credit reporting, and under the general rulemaking authority granted the Bureau under § 1022(b)(1) of the Dodd-Frank Act.

State governmental entity. The Bureau proposed treating documentation of a determination that a consumer is a victim of trafficking by a ''State governmental entity'' as including documentation created at either the State or local level. The Bureau noted that local law enforcement, as part of a local government, may have documentation of a determination identifying victims of trafficking, including, but not limited to, items in a police report. The Bureau noted that there are Federal and State victims' rights acts in addition to Tribal codes that depend on a determination that a victim has been identified as such, including by Federal, State, Tribal, or local jurisdictions.[42] The Bureau also noted that some State laws explicitly contemplate local entities making this determination for victims of sex trafficking which triggers various rights for the victim and obligations for the government under State and Federal law.[43] The Bureau further noted, however, that the local entity may not always share that determination with State, Federal, or Tribal governmental entities and thus that some victims of trafficking would not be able to utilize such documentation.

The Bureau solicited comments on whether it should interpret the phrase ''a determination that a consumer is a victim of trafficking made by a Federal, State, or Tribal governmental entity'' to mean any determination, including those made by local government officials, where a Federal, State or Tribal governmental entity could reasonably be construed as making a determination that a consumer is a victim of trafficking. The Bureau also sought comments concerning the nature of information on trafficking in the possession of local governments, the extent to which such information is or might usefully be shared with Federal, State, and Tribal governmental entities, and the sort of documentation generated by these governmental entities.

Commenters were largely in favor of including documentation generated by local governmental entities. Specifically, one commenter stated that local governmental entities at all levels, including county and municipal law enforcement and prosecutors, are in as much of a position to identify victims of trafficking as State and Federal government entities. Another commenter agreed with the Bureau's proposed treatment of local governmental entities and stated their belief that a police report could serve as an example of documentation establishing a person as a victim of trafficking. One association of State attorneys general expressed support for the Bureau's proposed interpretation to include both State and local law enforcement agencies as entities that can make determinations of a victim's status under State law because of their

[41] 22 U.S.C. 7105(b)(1)(F).

[42] *See, e.g.,* Victims' Rights & Restitution Act of 1990, 42 U.S.C. 10607; Crime Victims' Rights Act, 18 U.S.C. 3771. In these Federal statutes and in some State laws, victims' rights attach during an investigation (and independent of trial) and therefore rely on a law-enforcement determination, which is quite often made by a local governmental entity.

[43] *See, e.g.,* 23 Pa. Cons. Stat. sec. 5702(a) (requiring county agencies to report to law enforcement children whom they ''identif[y] as being a sex trafficking victim'' within 24 hours); Va. Code Ann. sec. 9.1–116.5 (creating a statewide Sex Trafficking Response Coordinator who is responsible for ''creat[ing] a statewide plan for local and State agencies to identify and respond to victims of sex trafficking'').

collaboration on victim advocacy and enforcement work.

A commenter representing banks expressed concern with treating a local governmental entity as ''State governmental entity.'' This commenter contended that the Bureau's reference to treating documentation from local law enforcement, such as police reports, as a determination identifying victims of trafficking undermines and is contrary to the intent of the statute providing that consumer reports be accurate and reliable.

The Bureau is finalizing its proposal that documentation of a determination that a consumer is a victim of trafficking made by a ''State governmental entity'' includes documentation created at either the State or local level. The Bureau finds that local law enforcement, as part of a local government, may have documentation of a determination identifying victims of trafficking, including, but not limited to, items in a police report. This is particularly relevant since there is not a uniform mechanism in place within most governmental entities to provide lawful permanent residents and United States citizens with a certification that a person is a victim of trafficking. In furtherance of assisting survivors of human trafficking in restoring their credit and obtaining access to consumer financial products, and the integral role of local law enforcement in the identification and investigation of sex trafficking, the Bureau concludes that it is imperative for local governments, including local law enforcement, to possess the ability to make documented victim determinations for purposes of this rule.[44] This means victim determinations made by local governmental entities could include victim advocates within local prosecutorial or local law enforcement agencies and offices administering specific services for victims of trafficking, such as address confidentiality programs within State attorney general offices.

The Bureau is concerned that a narrower definition could substantially limit the availability of documentation for victims of trafficking to submit to consumer reporting agencies. Interpreting documentation of a determination that a consumer is a victim of trafficking by a ''State governmental entity'' to include local government entities will further the statutory goal of preventing consumer reporting agencies from furnishing consumer reports containing adverse items of information about a consumer that resulted from trafficking.

The Bureau agrees with commenters that local law enforcement, as typically the lead investigative agency, is often in the best position to identify victims of sex trafficking. In response to comments and to facilitate compliance, the Bureau interprets final § 1022.142(b)(6)(i)(A)(*1*) as providing that documented victim determinations made by a local governmental entity must be treated as made by a State governmental entity for purposes of this rule.

In adopting this interpretation, the Bureau concludes that the final rule will promote the purposes of section 605C by ensuring victims are able to block adverse items of information resulting from trafficking and further promote the accuracy and reliability of consumer reports. The Bureau foresees victim determinations made by local governments as likely being initiated by local law enforcement after having interviewed victims of trafficking when receiving referrals (from hotlines, tip lines, other law enforcement agencies, victim service providers, other government agencies), performing sting operations, or conducting routine traffic stops. The Bureau's adoption of this interpretation is further supported by its regulatory authority under section 621(e) of the FCRA, which authorizes the Bureau to prescribe regulations that promote accuracy and fairness in credit reporting, and the general rulemaking authority granted under section 1022(b)(1) of the Dodd-Frank Act.

142(b)(6)(i)(B)

Section 605C(a)(1)(A)(ii) provides the term ''trafficking documentation'' means documentation of—by a court of competent jurisdiction. The Bureau stated in the proposal it was incorporating this statutory definition of ''trafficking documentation'' with certain clarifying interpretations regarding documentation identifying a consumer who is a victim of trafficking involving a ''court of competent jurisdiction,'' and to clarify that the documentation may consist of one or more documents as long as the collective documentation satisfies the definition. To implement this, the Bureau proposed to include two categories of documentation involving a ''court of competent jurisdiction'' in the definition of ''trafficking documentation.'' The first category of documents concerning a ''court of competent jurisdiction'' is documentation, in the form of a determination, that the consumer is a victim of trafficking made by a court of competent jurisdiction in proposed § 1022.142(b)(6)(i)(A).[45] The second category is documentation consisting of documents filed in a court of competent jurisdiction indicating that a consumer is a victim of trafficking in proposed § 1022.142(b)(6)(i)(B).[46] The Bureau sought comments on whether it should clarify in the regulation what documents filed in a court of competent jurisdiction indicating that a consumer is a victim of trafficking means. For example, the Bureau asked if a filing in a court or a court opinion in which a consumer's status as a victim of trafficking is an accepted fact, but not the central issue in the case, could be considered a ''determination'' sufficient to satisfy section 605C(a)(1)(A)(ii) and whether such an interpretation would allow more victims of trafficking to make use of the procedure created by section 605C.

Many commenters supported including a broad variety of court documents in the definition, including court documents in which a consumer's status as a victim of trafficking is an accepted fact, but not the central issue in the case. Several industry commenters, however, expressed concern that the approach would permit consumers to block adverse items of information based only on unverified allegations. One commenter stated the indicator of reliability would be significantly higher if the document has to be filed under penalty of perjury, such as verified petitions, affidavits, deposition transcripts, and trial transcripts. Other commenters expressed concerns about perpetrators

[44] An evaluation of multi-disciplinary human trafficking task forces identified law enforcement as leading half of the task forces and as the most frequently cited referral stream to victim service providers. William Adams et al., *Evaluation of the Enhanced Collaborative Model to Combat Human Trafficking, Technical Report* (May 2021), at 10, 14, 22, *https://www.ojp.gov/pdffiles1/nij/grants/300863.pdf.*

[45] Examples of court documents made by a court of competent jurisdiction could be a restitution order that provides a victim of trafficking with restitution after a criminal conviction or a criminal record relief court order (such as a vacatur, expungement, or sealing of records) where victims of trafficking may obtain an order to clear convictions of criminal offenses the victims were forced to commit.

[46] In the proposed rule, the Bureau stated an example of a document filed in a court of competent jurisdiction indicating a consumer is a victim of trafficking could be where victims of trafficking file suit against their traffickers where they identify as a victim of trafficking. A prior iteration of section 6102 of the 2022 NDAA in H.R. 2332 (introduced in the 117th Congress) and S. 2040 (introduced in the 117th Congress) provided that ''trafficking documentation'' included ''documentation of . . . a determination by a court of competent jurisdiction that a consumer is a victim of trafficking.'' This language was subsequently changed and enacted into law to instead read ''documentation of . . . by a court of competent jurisdiction.''

of crimes using this provision to block accurate criminal record information relied upon by potential employers and landlords.

The Bureau is finalizing § 1022.142(b)(6)(i)(B) by modifying the regulatory text concerning language associated with a court of competent jurisdiction. First, the category of court documentation, in the form of a determination, that the consumer is a victim of trafficking made by a court of competent jurisdiction in proposed § 1022.142(b)(6)(i)(A) is moved to § 1022.142(b)(6)(i)(B). The Bureau believes these court documents could include criminal record relief orders (sealing, expungement, or vacatur of records), civil suit decisions involving human trafficking, and restitution orders. Due to the sensitive nature involving victims of trafficking and because the Bureau does not believe the details surrounding one's victimization must be provided to consumer reporting agencies, consumer reporting agencies must accept these documents with redactions that omit any details that exceed what is sufficient to confirm an individual has been identified as a victim of trafficking.

The second category of court documentation in proposed § 1022.142(b)(6)(i)(B) consisted of documents filed in a court of competent jurisdiction indicating that a consumer is a victim of trafficking. After reviewing the comments, the Bureau is modifying language in proposed § 1022.142(b)(6)(i)(B) to clarify documents filed in a court of competent jurisdiction where a central issue in the case is whether the consumer is a victim of trafficking and the court has, at a minimum, affirmed the consumer's claim either by accepting certain pieces of evidence which are assumed to be true or finding that there is no genuine dispute as to any material fact supporting a judgment in favor of the victim as a matter of law constitutes an acceptable victim determination under section 605C. The Bureau believes this could include instances where victims of trafficking sue their traffickers using private right of action provisions under Federal or State victim protection laws where the court has conducted an initial review of the victim's claim for purposes of a motion to dismiss or motion for summary judgment and the result is in favor of the victim. This approach could also allow more victims the opportunity to obtain a victim determination even in instances where the civil suit was dismissed without prejudice or not pursued because of intimidation by the trafficker against the victim.

The Bureau is not interpreting documentation filed in a court of competent jurisdiction to include court documents filed where the consumer's status as a victim of trafficking is not a central issue in the case. However, the Bureau believes that in many such cases a consumer would be able to provide documentation obtained by other means. For example, court records where a trafficker is being criminally prosecuted for a crime other than for trafficking, but where the consumer is identified as a victim of trafficking would not meet the definition under § 1022.142(b)(6)(i)(B). However, a consumer often may instead be able to obtain a copy of the law enforcement affidavit or other documented statements from a governmental entity or entity with delegated authority from a governmental entity filed in the criminal court proceedings on behalf of the prosecution which would then constitute a victim determination made by a governmental entity under § 1022.142(b)(6)(i)(A).

One of the primary purposes of section 605C is to assist victims of trafficking by restoring their credit and helping them obtain access to consumer financial products and services which will prevent revictimization and place the victims on a path to financial stability. The Bureau is aware that some victims, given the nature of their victimization and subsequent involvement in crimes they were forced to commit as a result of having been trafficked, are apprehensive to interact with and obtain relief from a governmental entity or a court. The Bureau finds that accepting documents filed in a court of competent jurisdiction where the consumer's status as a victim of trafficking is a central issue and the court's actions after an initial review of the consumer's claim passes a level of verification from the court will prevent a consumer reporting agency from furnishing a consumer report containing adverse information about a consumer that resulted from trafficking. This provision of the rule is also supported by the Bureau's regulatory authority under section 621(e) of the FCRA, which authorizes the Bureau to prescribe regulations that promote accuracy and fairness in credit reporting, and on the general rulemaking authority granted the Bureau under section 1022(b)(1) of the Dodd-Frank Act. Therefore, the Bureau concludes that documentation filed in a court of competent jurisdiction where the consumer's status as a victim of trafficking is a central issue and the court has, at a minimum, affirmed the consumer's claim either by accepting certain pieces of evidence which are assumed to be true or finding that the there is no genuine dispute as to any material fact supporting a judgment in favor of the victim as a matter of law satisfies section 605C.

142(b)(6)(i)(C)

The Bureau is adding § 1022.142(b)(6)(i)(C) to the final rule to provide that a signed statement by the consumer attesting that the consumer is a victim of trafficking is an acceptable victim determination if such statement or an accompanying document is signed or certified by a representative of an entity described in § 1022.142(b)(6)(i)(A) and (B). In the proposed rule, the Bureau did not propose a provision to describe the specific types of documents that could serve as a determination that a consumer is a victim of trafficking. However, the Bureau asked for feedback on whether an attestation or documentation submitted to a Federal, State, or Tribal governmental entity by a person who self-identifies as a victim of trafficking, or by another person or entity acting on that person's behalf, may constitute a documented determination. The Bureau also sought comment on the types of documents that could serve as a ''determination that a consumer is a victim of trafficking.'' The Bureau stated it has not identified any standard ''determination'' procedures or forms in use by any governmental entities or courts concerning human trafficking for persons who are not foreign national adults (*i.e.,* United States citizens or lawful permanent residents).

The Bureau received few comments on whether to include a person's self-attestation as a victim of trafficking or an attestation by another person or entity acting on that person's behalf. One anti-trafficking organization deemed self-attestation the best approach while providing the least restrictions and the most confidentiality. A consumer advocacy group and a group focused on assisting victims of trafficking, domestic violence, and sexual violence requested the Bureau permit self-attestation of trafficking if an authorized third party (such as an employee in a government-funded organization that serves survivors, a government employee, or court personnel) signs off on the self-attestation after performing an interview or assessment. This commenter also suggested that in the alternative, the Bureau could provide that the authorized third party may write a simple attestation/certification identifying the name of the survivor and

that the survivor is a victim of trafficking.

An industry group representing banks urged the Bureau to not permit self-attestations for purposes of establishing a consumer is a victim of trafficking. This commenter stated that Congress did not provide for an attestation in section 605C, unlike section 605B in reporting identity theft, and that the text of section 605C requires the victim determinations to be made by a ''Federal, State, or Tribal governmental entity.'' The commenter also noted that allowing a person to self-attest to being a victim of trafficking or someone acting on their behalf may lead to abuse by permitting persons who fraudulently self-identify as victims of trafficking to block accurate information.

A consumer group and anti-trafficking organization requested the Bureau provide a specific non-exhaustive list of example documents that would prove a consumer is a victim of trafficking. The consumer group stated that if an enumerated list of acceptable documentation is not provided then the rule may not be sufficiently concrete and clear to require the consumer reporting agencies to implement section 605C's protections effectively. The commenter urged the Bureau to clarify that a victim who does not have such documents would still qualify for relief under section 605C by providing alternative forms of documentation. Another commenter recommended the Bureau create a form similar to a declaration of a law enforcement officer used to provide that a person is a victim of trafficking.[47] The commenter also urged the Bureau to create a sample attestation form that can be used by organizations that receive government funding, so that the organizations will have a template document for producing the trafficking documentation required by the rule. An industry group also requested examples of acceptable ''victim determinations'' and recommended the Bureau issue an interim final rule with an open comment period to allow industry members to continue to provide feedback on this point, which will further help victims in identifying appropriate documentation to be provided to consumer reporting agencies. A commenter representing a group of anti-trafficking organizations stated victims of trafficking should be able to obtain documentation through State human trafficking coordinators or by showing that they have sought a benefit or access to a program that they qualify for on the basis of their victimization (*e.g.,* crime victim compensation or address confidentiality programs).

The Bureau has considered the comments and is modifying the final rule by permitting a consumer to self-attest as a victim of trafficking if the statement or an accompanying document is signed or certified by a Federal, State, or Tribal governmental entity or court of competent jurisdiction, or representative of an entity authorized by a Federal, State, or Tribal governmental entity or court of competent jurisdiction to provide victim determinations. Specifically, § 1022.142(b)(6)(i)(C) provides that a victim determination includes documentation of a signed statement by the consumer attesting that the consumer is a victim of trafficking if such statement is also signed by a representative of an entity described in § 1022.142(b)(6)(i)(A) or (B). The Bureau concludes that the statute requires only that the consumer provide documentation of a determination that they are a victim of trafficking made by a Federal, State, or Tribal governmental entity or documentation of or by a court of competent jurisdiction. For purposes of submitting trafficking documentation to consumer reporting agencies, consumers are not required to reveal the details of their trafficking to consumer reporting agencies since doing so may cause some consumers to suffer additional harm. Therefore, the Bureau concludes that so long as a self-attestation made by a consumer is supported by a determination made by a Federal, State, or Tribal governmental entity or a court of competent jurisdiction, as described in § 1022.142(b)(6)(i)(A) or (B), it satisfies the trafficking documentation requirement as provided by § 1022.142(b)(6)(i)(C).

The Bureau is finalizing § 1022.142(b)(6)(i) without adding to the text of the regulation a non-exhaustive list of documents that serve as a ''determination that a consumer is a victim of trafficking'' or a model self-attestation form. However, the Bureau notes that a victim may self-attest by making a statement to the effect that ''I attest that I am a victim of trafficking for purposes of section 605C of the Fair Credit Reporting Act. The signature of [NAME], employee of [ORGANIZATION] certifies this statement.'' The Bureau believes this approach affords the greatest flexibility to victims of trafficking seeking to gather and submit to consumer reporting agencies the documentation of determinations specified in section 605C(a)(1)(A). The Bureau may consider issuing interpretations in the future that provide specific examples to provide clarity on the types of ''determinations'' that establish a consumer is a ''victim of trafficking,'' such as by issuing advisory opinions or consumer education materials. To clarify, the Bureau's decision to not provide an exhaustive list of example documents or a self-attestation form does not mean victims of trafficking should not submit or consumer reporting agencies should not accept certain documents referenced by commenters to establish a victim determination under § 1022.142(b)(6)(i)(A).[48] The Bureau encourages victims of trafficking to utilize pre-existing documentation that may be accessible based on their participation in certain victim assistance programs.

142(b)(6)(ii) Identified Adverse Items of Information

In the proposed rule, the Bureau incorporated section 605(C)(a)(1)(B), the second component of ''trafficking documentation,'' into proposed § 1022.142(b)(6)(ii). Section 605(C)(a)(1)(B) provides that ''trafficking documentation'' is documentation that identifies items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking of which the consumer is a victim.

The Bureau did not propose to prescribe what an ''adverse item of information'' in a consumer report is, because it may vary depending on the weight each individual user of a consumer report gives to certain items of information as well as the consumer's individual circumstances. The Bureau stated this information could include the evaluation of factors enumerated in section 603(d) of the FCRA on consumer

[47] U.S. Customs & Immigr. Servs., Dep't of Homeland Sec., Form I–914 Application for T Nonimmigrant Status, *Supp. B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons* (Dec. 2, 2021), *https://www.uscis.gov/sites/default/files/document/forms/i-914supb.pdf.*

[48] For example, one commenter referenced the following documents as consisting of victim determinations: (1) Certification Letters (issued by HHS); (2) Child Eligibility Letters (issued by HHS)); (3) Continued Presence (issued by DHS); (4) T Visas (issued by United States Citizenship and Immigration Services); (5) Bona fide T Visa application; (6) U Visas with a Form I–918 Supplemental B filled out indicating that the victim experienced human trafficking; (7) Restitution orders; (8) Crime victim compensation; (9) Criminal record relief court orders; (10) Civil suit decisions related to human trafficking (such as suits brought by victims of trafficking through the TVPA's private right of action provisions); and (11) Documents issued by State government agencies (such as a Notice of Confirmation as a Human Trafficking Victim in New York State issued by New York State's Office of Temporary and Disability Assistance).

reports such as: credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. The Bureau also stated that victims of trafficking may wish to have items of information blocked from their consumer report that are the result of trafficking because they do not believe those items accurately reflect them even if the item does not result in, for example, a lower credit score or less favorable evaluation by a user. In the proposed rule, the Bureau provided examples of adverse items of information that include records containing derogatory information, such as payment delinquencies or defaults reported to a consumer reporting agency on a loan or large purchase, records of coerced debt where a loan is taken out by a victim of trafficking under force or threat, records of criminal arrests and convictions, and records of evictions or non-payment of rent.

Consumer and anti-trafficking groups as well as individual commenters largely supported the proposed rule's approach of allowing consumers to determine which items of adverse information resulted from trafficking without requiring further documentation connecting the information to trafficking. Numerous individuals, anti-trafficking, and consumer groups urged the Bureau to permit victims to identify adverse items of information that could have been reported to consumer reporting agencies during and after the period during which a victim was under the control of the trafficker and that resulted from having been trafficked. A consumer group stated that consumer reporting agencies often reject disputes from consumers if a family member, attorney, or third party assists the consumer. This consumer group urged the Bureau to require consumer reporting agencies to accept requests from third parties using a document authorizing the third party to act on a consumer's behalf along with identification of the third party such as a driver's license. An anti-trafficking advocacy group suggested that consumer reporting agencies should be required to identify which information would be deemed adverse and required to block that information since they are likely in a better position to evaluate what is adverse information than the victim of trafficking.

Several industry groups expressed concerns, arguing that a broad, vague definition might lead to inconsistent application by consumer reporting agencies and that certain factual items should not be deemed ''adverse items of information,'' such as non-expunged criminal records. The commenters also urged the Bureau to require consumers to specify the time period during which they were trafficked and state the reason why each item resulted from trafficking. The commenters also stated that allowing consumers to identify items of adverse information and prohibiting consumer reporting agencies from evaluating whether those identified items resulted from trafficking may permit fraud. These commenters asked the Bureau to consider limiting the ability to submit trafficking documentation resulting from trafficking to the victim, an attorney acting in the capacity as attorney for the victim, or an individual employed by a non-profit counseling agency approved by the Bureau and acting under a power of attorney for the victim in order to avoid potential fraud and requests submitted without the victim's authorization or knowledge.

An industry group commented that a consumer who requests criminal records to be blocked should provide a court order consisting of a determination that a consumer was a victim of a severe form of trafficking in persons at the time the crime was committed. This commenter also encouraged the Bureau to exclude from being blocked information that the consumer has identified as resulting from trafficking where the information being reported relates to the revocation or failure to renew a professional license or certification by a State entity and the reason for the revocation or failure to renew will not be evident from the records. A few industry groups asked the Bureau to create a form to include the adverse items of information along with contact information, a description of the trafficking, list of adverse items with a statement on how each item resulted from trafficking, when the trafficking occurred, and a pre-printed statement that the consumer is making the statement under penalty of perjury.

The Bureau is adopting § 1022.142(b)(6)(ii) with revisions to clarify that, in addition to the consumer, a representative designated by the consumer may identify items of adverse information that should not be furnished by a consumer reporting agency and that the consumer must provide a preferred contact method relating to the consumer's request to block adverse information that resulted from trafficking. The text below in this section-by-section analysis also discusses the Bureau's response to comments asking the Bureau to define what an ''adverse item of information'' in a ''consumer report'' is and the request for the Bureau to create a form that a consumer could use to identify adverse information.

The Bureau is revising the text of the rule in § 1022.142(b)(6)(ii) to specifically provide that the documentation, which may consist of a statement prepared by the consumer, identifying adverse items of information may also be prepared by a designated representative on behalf of the consumer. However, the final rule provides that the designated representative cannot be a credit repair organization as defined in section 403(3) of the Credit Repair Organizations Act or an entity that would be a credit repair organization, but for section 403(3)(B)(i) of the Credit Repair Organizations Act.[49] The Bureau notes this approach will reinforce the need for consumer reporting agencies to accept trafficking documentation, as required under § 1022.142(d)(1), from third parties identified as assisting with or acting on behalf of the consumer while acknowledging the concern raised by some commenters of potential abuse and fraud.

New § 1022.142(b)(6)(ii)(A) contains language from the proposed rule providing that the documentation submitted to consumer reporting agencies must include items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking of which the consumer is a victim.

New § 1022.142(b)(6)(ii)(B) provides that documentation identifying the adverse items of information must also contain a preferred method for a consumer reporting agency to contact the consumer. As explained in the section-by-section analysis of § 1022.142(f) below, the final rule requires a consumer reporting agency to provide written or electronic notice to the consumer within five days of reaching a final determination on a submission. Many commenters underscored that victims of trafficking frequently have a heightened need to keep their location confidential as well as to ensure their request to block information is not communicated to a location where their trafficker may be able to receive the information. The Bureau is concerned that fear of a victim's safe address or phone number reaching their trafficker may deter some victims from seeking to block adverse information. For this reason, the final rule provides that victims of trafficking must submit a preferred method of contact for use by the consumer

[49] 15 U.S.C. 1679a(3); 15 U.S.C. 1679a(3)(B)(i).

reporting agency. Consumer reporting agencies are required to use that method of contact and are prohibited from using that information for any purpose other than to communicate about the consumer's request as described in § 1022.142 (d) through (f). The Bureau also understands some consumers who are victims of trafficking may prefer to provide the physical or email address contact information of the consumer's designated representative instead of the consumer's contact information. Accordingly, consumer reporting agencies must use the preferred method of contact identified by consumer pursuant to § 1022.142(b)(6)(ii) for communications under § 1022.142 (d) through (f) even if the preferred contact is the consumer's designated representative and not the consumer.

The Bureau concludes that a victim of trafficking is in the best position to reliably identify which adverse items of information resulted from being trafficked. The Bureau is adopting the proposed rule's approach of not defining what an ''adverse item of information'' in a ''consumer report'' is, because it may vary depending on the weight each individual user of a consumer report gives to certain items of information as well as the consumer's individual circumstances and adding this language to the rule. The Bureau notes this approach will allow a victim of trafficking the opportunity to include adverse items of information that may not affect credit status, but resulted from victimization. As discussed below under § 1022.142(c) of the final rule, the Bureau is not adopting any exceptions to the requirement that consumer reporting agencies block adverse information that resulted from trafficking. Under the final rule, if a consumer has identified information resulting from trafficking as adverse, a consumer reporting agency must block that information. For example, the Bureau is concerned that some trafficking documentation may reference the time period the consumer was trafficked, but the consumer may request to block adverse items of information that arose after the victim was trafficked. A consumer who has been trafficked may have, for example, incurred debt or been evicted as a consequence of financial strain that was the result of having been trafficked. Under the final rule a consumer reporting agency must block adverse items of information that the consumer identifies as having resulted from trafficking and may not choose to only block adverse items of information that are the same or overlap with the time period the consumer was trafficked.

The Bureau received requests from a few commenters to create a form that a consumer could use to identify adverse information. Commenters suggested that the form could include information such as the consumer's personal information, contact information, period of time the consumer was trafficked, items of adverse information with an explanation why the information is the result of trafficking, identification of who is submitting the form, and the signature of the victim subject to penalty of perjury. The Bureau understands the ease of access a form could provide to consumers as well as to consumer reporting agencies and may determine to issue guidance in the future. However, the final rule provides flexibility to consumers by only requiring that consumers identify adverse items of information that resulted from trafficking, and the Bureau has determined that there is no need to include a form in the final rule.

142(b)(7) Victim of Trafficking

Proposed § 1022.142(b)(7) adopted the definition of ''victim of trafficking'' set out in section 605C(a)(3), which defines the term as a person who is a victim of a ''severe form of trafficking in persons'' or ''sex trafficking.'' Several individual commenters recommended that the Bureau use the term ''survivor'' rather than ''victim.'' These commenters observed that many believe that the use of ''survivor'' minimizes any stigma associated with victimhood and empowers individuals who have suffered harm from trafficking.

One advocacy group suggested that the Bureau remove the reference to victims of sex trafficking in this definition, leaving only a victim of ''severe forms of trafficking in persons'' within the definition of a ''victim of trafficking.'' This commenter argued that the reference to ''sex trafficking'' is unneeded and may lead to confusion because ''severe forms of trafficking in persons'' already includes a sex trafficking component. According to the commenter, ''severe forms of trafficking in persons'' is the term generally used in Federal law to define eligibility for services and protections, and there is no Federal offense of ''sex trafficking'' as it is defined in the TVPA, 22 U.S.C. 7102(12), thus there are no ''victims'' of that offense.

The Bureau is finalizing this definition as proposed. First, this rule uses the term ''victim'' primarily because that is the wording of section 6102 of the 2022 NDAA and the TVPA.[50] While the Bureau recognizes that the term ''survivor'' is preferred by many individuals, service providers, and advocacy groups in other contexts, ''victim'' is used more commonly in laws giving individuals rights and formal standing within the justice system.[51] Second, regarding the inclusion of ''sex trafficking'' in the definition of ''victim of trafficking,'' section 605C(a)(3) expressly provides that ''victim of trafficking'' means a person who is a victim of (1) a severe form of trafficking in persons or (2) sex trafficking. As discussed in the section-by-section analysis of § 1022.142(b)(5) above, ''sex trafficking'' means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. Only some kinds of sex trafficking are included within the definition of ''severe forms of trafficking in persons,'' namely sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. The Bureau concludes that the inclusion of a victim of sex trafficking within the definition of ''victim of trafficking'' is not superfluous or likely to lead to confusion. Indeed, the fact that Congress expressly included victims of sex trafficking as victims of trafficking suggests that Congress intended the scope of this rule to apply more broadly than just to victims of severe forms of trafficking in persons.

The Bureau understands that ''severe forms of trafficking in persons,'' as defined in the TVPA, 22 U.S.C. 7102(11), is often the definition used to define trafficking under Federal law.[52] The Bureau expects that many, if not

[50] Consistent with the TVPA, the Bureau is interpreting section 605C to mean that a ''victim'' is a person who was subjected to an act or practice described in the definitions of ''severe forms of trafficking in persons'' and ''sex trafficking.'' A person who engaged in or perpetrated a severe form of trafficking in persons or sex trafficking—but who was not subjected to such an act or practice by another person—is not a ''victim'' of those acts or practices.

[51] *See* note Error! Bookmark not defined. *supra;* Training & Tech. Assistance Ctr., Off. for Victims of Crime, U.S. Dep't of Just., *Human Trafficking Task Force e-Guide, https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/13-victim-centered-approach* (last visited June 20, 2022).

[52] *See, e.g.,* 8 CFR 214.11(b) (explaining that a person must be ''a victim of a severe form of trafficking in persons'' to be eligible for a temporary T–1 immigration benefit); Off. to Monitor & Combat Trafficking in Persons, U.S. Dep't of State, *2021 Trafficking in Persons Report* (Jun. 2021), at 26–27, *https://www.state.gov/reports/2021-trafficking-in-persons-report/* (describing the ''acts,'' ''means,'' and ''purpose'' elements of sex trafficking under Federal law).

most, victims of trafficking seeking to make use of the procedure set out in this section will have documentation identifying them as victims of conduct that qualifies as a ''severe form of trafficking in persons'' which includes components of ''sex trafficking'' and ''labor trafficking,'' as opposed to ''sex trafficking'' as defined in the TVPA, 22 U.S.C. 7102(12). However, the Bureau is concerned that limiting the definition of ''victim of trafficking'' to only victims of sex trafficking as defined in a ''severe form of trafficking in persons'' could potentially limit the scope of the remedy created by this section, in direct contradiction to the plain language of the statute. Additionally, even if there is no Federal criminal offense of ''sex trafficking'' as defined in the TVPA, a person could still be identified as a victim of the conduct meeting that definition.[53] Finally, the Bureau does not believe that the inclusion of victims of sex trafficking in general within this definition is likely to lead to confusion among consumers, even if eligibility for other programs and services is limited to victims of severe forms of trafficking, since all victims who qualify for those other programs and services will also be eligible under this section. For these reasons, the Bureau finalizes this definition as proposed.

142(c) Prohibition on Inclusion of Adverse Information of Trafficking Victims

Section 605C(b) provides that a consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency. Proposed § 1022.142(c) would have adopted this statutory language. The Bureau sought comments on whether this provision warrants further clarification.

The Bureau received several comments on this aspect of the proposal. Consumer and anti-trafficking advocacy groups were largely in favor of blocking all items of adverse information, including criminal convictions and eviction histories. Several individual commenters asked the Bureau to apply the final rule to victims of domestic violence, arguing that there are similarities in financial hardship between victims of domestic violence and human trafficking. An industry commenter asked the Bureau to clarify that the types of adverse information that should be excluded from a consumer report is limited to only those adverse items that were related to the trafficking. Similarly, another industry commenter urged the Bureau to require victims to provide sufficient information to identify the adverse information that must be removed. The commenter also suggested that information on criminal convictions should require additional documentation in the form of a court order showing that the record has been expunged or the conviction underlying the record was reversed. This commenter urged the Bureau to consider including a specific exception permitting a consumer reporting agency to provide a Federal, State, or local law enforcement agency with access to the blocked information as provided for in section 605B(f) of the FCRA concerning identity theft information. Further, this commenter argued that information related to the revocation or non-renewal of required professional licenses or certifications should be excluded from the final rule because it is factual in nature and that the reason for revocation or non-renewal will not be evident from the records. They also asked the Bureau to create an exemption similar to section 605B(f) of the FCRA that would allow consumer reporting agencies to provide blocked information to law enforcement agencies.

After considering the comments, the Bureau is finalizing § 1022.142(c) as proposed with minor technical revisions. The Bureau concludes that the final rule applies to all types of adverse information, including criminal and license records, and should not contain an exception for law enforcement agencies to access such information.[54] The statute does not exclude adverse information about licensure, criminal convictions, or any other type of adverse information from this provision. Excluding these categories of information would contradict the purpose of section 605C and the final rule. The Bureau understands that a large number of victims of trafficking have a criminal record as a result of being trafficked. According to a recent study, a criminal record impacts one's current or prospective employment opportunities because of background checks, family law issues involving visitation and child custody, the ability to obtain safe and affordable housing, medical care in the form of discrimination by healthcare providers, education where college applicants are required to answer criminal history questions as part of the admissions process, student loans as eligibility for Federal aid may be suspended if convicted of a drug offense, and immigration relief.[55] Thus, the Bureau finds that such information is clearly ''adverse,'' and if the criminal history is a result of trafficking the Bureau concludes that it must be blocked. Applying § 1022.142 to all types of adverse information is consistent with section 605C and will provide victims with the best ability to secure financial integration and independence. Similarly, section 605C does not contain an exception for consumer reporting agencies to provide blocked information to law enforcement agencies and the Bureau concludes that such an exception is not warranted because such information would be blocked only after a consumer obtained a victim determination by an entity pursuant to § 1022.142(b)(6)(i).

The Bureau also declines to expand the final rule to cover victims of domestic violence who have not been victims of ''severe forms of trafficking in persons'' or ''sex trafficking.'' Congress did not apply section 605C to victims of domestic violence. Moreover, section 6102(c) of the 2022 NDAA limits the Bureau's present rulemaking to preventing a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from ''trafficking'' which section 605C defines as ''severe forms of trafficking in persons'' and ''sex trafficking'' under the TVPA. This does not mean, however, that consumers who are victims of domestic violence cannot be victims of trafficking if they otherwise meet the definition.

As explained in the proposal, the Bureau interprets § 1022.142(c) to mean that a consumer reporting agency may not furnish any adverse item of information in a consumer report to the extent such information resulted from the consumer's involvement in a severe

[53] Notably, many States have sex trafficking statutes that deviate from Federal law, such that a person may be legally identified as a perpetrator or victim of conduct that meets the statutory definition of ''sex trafficking'' under Federal law. Training & Tech. Assistance Ctr., Off. for Victims of Crime, Dep't of Just., *Human Trafficking Task Force e-Guide: State Laws, https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/14-human-trafficking-laws/state-laws/* (last visited June 20, 2022).

[54] The Bureau notes, however, that there are limited circumstances in which law enforcement agencies are able to obtain certain consumer report and consumer file information from consumer reporting agencies notwithstanding any other provision of the FCRA. *See* sections 626 and 627 of the FCRA, 15 U.S.C. 1681u, 1681v.

[55] Polaris, *State Report Cards: Grading Criminal Record Relief Laws for Survivors of Human Trafficking* (Mar. 2019), at 6–7, *https://polarisproject.org/wp-content/uploads/2019/03/Grading-Criminal-Record-Relief-Laws-for-Survivors-of-Human-Trafficking.pdf.*

form of trafficking in persons or sex trafficking and the consumer submitted trafficking documentation to the consumer reporting agency. In other words, this provision applies to information contained in the consumer report, and not the furnishing of a consumer report more generally. A consumer reporting agency may furnish a consumer report about a consumer who is a victim of trafficking so long as the report does not contain information that is required to be blocked by § 1022.142. The Bureau concludes that final § 1022.142(c) is sufficiently clear because: (1) section 1022.142(b)(6)(ii)(A) limits the definition of ''trafficking documentation'' to documentation that identifies any items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking of which the consumer is a victim; and (2) section 1022.142(e)(4), described in the section-by-section analysis below, clarifies that a consumer reporting agency may decline to block, or may rescind any block of, adverse information if the consumer reporting agency cannot properly identify the adverse items of information under § 1022.142(b)(6)(ii).

142(d) Method of Submission to Consumer Reporting Agencies

142(d)(1)–(d)(3)

Proposed § 1022.142(d) established a method for consumers to submit trafficking documentation to consumer reporting agencies, as required in section 605C(c)(2). Proposed § 1022.142(d)(1) stated that consumer reporting agencies must provide mailing addresses for a consumer to submit required documentation and may also establish a secure online portal for submissions. The proposed rule specifically required consumer reporting agencies to accept documentation sent to: (1) the mailing, and if applicable, website address used for disputes under section 611 of the FCRA; and (2) the new dedicated mailing address and, if applicable, a website address a consumer reporting agency must maintain to block adverse items of information resulting from trafficking. Proposed § 1022.142(d)(2) provided that a consumer reporting agency must add information on its publicly available website stating how submissions for the blocking of adverse items of information resulting from trafficking can be submitted. Proposed § 1022.142(d)(3) provided that consumer reporting agencies must allocate a reasonable amount of personnel to respond to consumer inquiries about the process for and status of submissions at the existing toll-free number for disputes under section 611 of the FCRA and establish a separate toll-free telephone number dedicated to addressing submissions from consumers seeking to block adverse items of information resulting from trafficking. For the reasons discussed below, the Bureau is finalizing § 1022.142(d) largely as proposed, with revisions to clarify consumer reporting agencies are required to provide and accept submissions at two mailing addresses and these addresses must be provided to a consumer and consumer representative as described in § 1022.142(b)(6)(ii), submissions must consist of an appropriate proof of identification under § 1022.142(b)(1) and trafficking documentation under § 1022.142(b)(6), and to address comments received regarding application of the toll-free telephone number requirement to all consumer reporting agencies.

One consumer group commented in support of the requirement to accept trafficking documentation at both existing addresses used for disputes under section 611 and dedicated addresses established to accept submissions under this section. Comments from industry groups varied. One financial institution recommended that the Bureau require consumer reporting agencies to use *either* the address used for section 611 disputes or a dedicated address for trafficking, while two trade associations recommended that the Bureau require the use of existing channels to limit costs for consumer reporting agencies and complexity for consumers. Another trade association recommended that the Bureau limit the requirement for additional mailing addresses (and web addresses, if applicable) and a toll-free number to only nationwide consumer reporting agencies as defined in section 603(p) of the FCRA.[56] A different trade association stated its opposition to requiring consumer reporting agencies to create a toll-free number for submissions under this section. This commenter argued that since the existing toll-free number requirement for disputes is only applicable to nationwide consumer reporting agencies under section 609(c)(1)(B), requiring a toll-free number for disputes is beyond the scope of this rulemaking and would be an unnecessary, new expense that may lead to consumer confusion.

Several consumer groups urged the Bureau to require consumer reporting agencies to post detailed information about how information submitted by trafficking survivors is accessed, used, stored, and protected on relevant websites. Another consumer group recommended requiring consumer reporting agencies to provide links to other resources, such as information about available civil legal services, confidential mailing addresses, public benefits assistance, and the National Human Trafficking Hotline.

For the reasons discussed below, the Bureau is finalizing § 1022.142(d) with revisions to the proposal. Final § 1022.142(d)(1) clarifies that a consumer reporting agency must provide two mailing addresses for a consumer, or consumer representative as described in § 1022.142(b)(6)(ii), to send a submission consisting of an appropriate proof of identification under § 1022.142(b)(1) and trafficking documentation under § 1022.142(b)(6). The final rule also provides that a consumer reporting agency may establish a secure online website portal for a consumer to upload a submission. This means if a consumer reporting agency intends to accept a submission electronically, it must create a secure online website portal and provide information on its website informing consumers where to upload the submission. New § 1022.142(d)(1) requires consumer reporting agencies to accept a submission sent to: (1) the mailing, and if applicable, website address used for disputes under section 611 of the FCRA; and (2) the mailing address and, if applicable, the website address dedicated to blocking adverse items of information resulting from a severe form of trafficking in persons or sex trafficking under § 1022.142.

The Bureau finds that the small costs related to requiring consumer reporting agencies to establish a mailing address (or website address, if applicable) specifically dedicated to trafficking are justified by the benefits this approach would provide to consumers. Allowing consumer reporting agencies to use either their existing address under

[56] Section 603(p) defines ''consumer reporting agency that compiles and maintains files on consumers on a nationwide basis'' (also known as a ''nationwide consumer reporting agency'') as follows:

''a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

(1) Public record information.

(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.'' 15 U.S.C. 1681a(p). The three consumer reporting agencies that meet that definition are Equifax, TransUnion, and Experian.

section 611 of the FCRA for disputes or a new address to receive documentation from victims of trafficking would add confusion and complexity for consumers, particularly if the consumer reporting agency does not make clear the distinction between disputes and block requests for victims of trafficking under this section. Additionally, the Bureau is concerned about the potential confusion caused by various consumer reporting agencies taking different approaches. These concerns are equally valid for all types of consumer reporting agencies, so the Bureau declines to apply this requirement to only the nationwide consumer reporting agencies under section 603(p) of the FCRA. The Bureau has determined that requiring all consumer reporting agencies to establish dedicated addresses for each procedure will allow consumers to make use of this section most efficiently and effectively at a relatively low cost.

Section 1022.142(d)(2) of the final rule provides that a consumer reporting agency must add information on its publicly available website stating how submissions for the blocking of adverse items of information resulting from a severe form of trafficking in persons or sex trafficking should be provided to a consumer reporting agency.

For § 1022.142(d)(3), the Bureau agrees, however, with comments recommending that the toll-free telephone number requirement be limited to nationwide consumer reporting agencies. As noted by several industry commenters, nationwide consumer reporting agencies are currently required to have toll-free telephone numbers at which personnel are accessible to consumers during normal business hours under section 609(c)(1)(B) of the FCRA,[57] so this requirement adds minimal extra expense for those agencies. Requiring nationwide consumer reporting agencies to make personnel available by phone to answer questions about this process will provide significant benefits to consumers. Providing an avenue for consumers to ask questions before submitting trafficking documentation will make the process more efficient, and allowing consumers to check the status of their submissions will allow them to confirm that the process is working as intended. The Bureau recognizes that the costs associated with staffing a toll-free telephone number are greater for consumer reporting agencies that are not already subject to a similar requirement, and the Bureau anticipates that smaller, non-nationwide consumer reporting agencies are likely to receive less contact from consumers. For those reasons, the Bureau has limited the scope of this requirement to nationwide consumer reporting agencies as provided for in § 1022.142(d)(3).

The Bureau declines to adopt further requirements requiring consumer reporting agencies to post detailed information about how information submitted by victims of trafficking is accessed, used, stored, and protected. The Bureau's primary focus is on ensuring that information on how a consumer may submit documentation to the consumer reporting agency is made publicly available to consumers in a clear, easy-to-understand format. Requiring other information risks making that information more difficult for a consumer to find. If a consumer reporting agency wishes to include information about other resources for victims of trafficking, such as links to the National Human Trafficking Hotline, relevant government agencies, or other service providers, it may do so, but the Bureau declines to impose such a requirement.

142(e)–(h) Overview

In order to fully implement the consumer protection provisions of section 605C, the Bureau looked at pre-existing statutory and regulatory requirements concerning the procedures used by consumers in reporting identity theft and in disputing the accuracy of information in consumer files and consumer reports and the obligations those regulations place on consumer reporting agencies to identify what aspects of those regulations might be useful in helping a consumer seeking to report items of adverse information that result from a severe form of trafficking in persons or sex trafficking of which the consumer is a victim.

Section 1022.142(e) through (h) set forth below describe: (1) provisions to address the blocking of adverse information identified by the consumer, a requirement to notify the consumer and attempt to resolve deficiencies, the timing of the final determination, and limited situations in which the consumer reporting agency may decline or rescind a block; (2) the obligations of consumer reporting agencies to notify the consumer of the outcome with respect to the submission; (3) a record retention requirement of seven years from the date the submission is received by consumer reporting agencies; and (4) a requirement that consumer reporting agencies establish and maintain written policies and procedures to ensure and monitor compliance with section 605C and these implementing regulations. The Bureau proposed these procedural requirements under its authority in section 621(e) of the FCRA to prescribe regulations that are necessary and appropriate to administer and carry out the purposes and objectives of the FCRA, and to prevent evasions or to facilitate compliance.[58]

142(e) Block of Adverse Information Resulting From Trafficking

142(e)(1)–(e)(3)

In the proposed rule, the Bureau acknowledged consumer reporting agencies may encounter difficulty confirming certain information submitted by consumers. Under proposed § 1022.142(e), the Bureau proposed to provide consumer reporting agencies with the authority to decline to act, or to rescind action (if applicable) on a submission. This provision is similar to section 605B(c) of the FCRA, which allows a consumer reporting agency to decline to block information relating to a consumer, or to rescind any block, if the consumer reporting agency makes certain reasonable determinations. The Bureau also sought feedback on the use or adoption of procedures in the existing process in Regulation V for consumer reporting agencies that make reasonable requests for additional information for the purpose of determining the validity of alleged identity theft.[59] As discussed in more detail in the section-by-section analysis of § 1022.142(f) below, the Bureau also proposed in § 1022.142(f)(1) to require a consumer reporting agency to provide written notice to a consumer of the results of a submission within five calendar days of receipt of the submission (or, if rescinding a previously applied block, five calendar days after rescinding). The Bureau requested comment on whether additional clarification on the manner in which a consumer reporting agency must notify the consumer and attempt to resolve any deficiencies in the submission of trafficking documentation is warranted.

The Bureau also sought comment on whether the adverse items of information should simply be blocked from being reported as proposed, or should be deleted from the consumer's file (or the file be modified as appropriate).[60] Additionally, the Bureau

[57] *See* 15 U.S.C. 1681g(c)(1)(B).

[58] Section 605C does not expressly address these issues, but they are addressed in other statutory and regulatory provisions that apply to other processes for identity theft and disputing information in a consumer report.

[59] *See* 12 CFR 1022.3(i)(1)(iii).

[60] Section 611(a)(5) of the FCRA takes the latter approach with respect to successfully disputed information. 15 U.S.C. 1681i(a)(5).

requested comment on whether a consumer reporting agency should be required to notify a furnisher about the consumer's trafficking documentation submission to prevent a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking.

In relation to comments on the proposed five-calendar-day notice period in § 1022.142(f), an industry group stated the timeframe for blocking the adverse information is insufficient and should be separate from the timeframe to notify the victim. This commenter urged the Bureau to adopt timing that mirrors section 605B of the FCRA for ease of implementation and allow at least four business days for blocking and five business days to provide notice to the consumer after the placement or rejection of a requested block to provide notice to a consumer. The commenter also requested that the Bureau modify the timing from calendar days to business days to account for Federal holidays and weekends.

In response to the request for comment on whether information should be blocked from being reported, deleted, or modified as appropriate, a consumer advocate commenter was supportive of deletion of the adverse information to ensure it was not accidentally reinserted or did not reappear after being ''soft deleted'' or suppressed. An industry commenter stated the Bureau should require the consumer reporting agency or furnisher to delete the items of adverse information or modify the credit file with some indication to align with current identity theft disputes procedures instead of suppressing the information. A commenter encouraged the Bureau to require adverse information to be blocked, not deleted, because the blocked information could be useful to law enforcement and prosecutors who are prosecuting traffickers. However, this commenter suggested that the information should be maintained in a secure fashion that can only be accessed through proper legal service. The commenter also suggested that consumer reporting agencies should be required to either flag that information has been suppressed without disclosing the reason for the suppression or suppress the information without any flag. One consumer group suggested that in some cases it may be better for the consumer if the item is not deleted because permanent deletion of consumer information could be detrimental to the consumer's record and the act of deleting the information will likely result in reinsertion because a furnisher is likely to provide it again. This commenter encouraged the Bureau to issue regulations that could require a consumer reporting agency to do what is in the best interest of the consumer on blocking or deletion.

Commenters were divided on whether consumer reporting agencies should be required to notify a furnisher of an item of adverse information when it receives a submission from a consumer. One individual commenter, a financial institution, a consumer group, and an industry group supported notification because it would prevent the furnisher from re-furnishing the information to that consumer reporting agency and from providing the information to other agencies, providing more benefits to consumers. Two other consumer groups and three industry trade associations opposed furnisher notification, citing concerns about the further dissemination of sensitive consumer information and potential compliance obligations that it would place on furnishers that receive this information. Two consumer groups advocated for allowing a consumer to opt in or out of furnisher notification at the time of submission, arguing that this approach would attain many of the benefits of automatic notification while allowing victims to control the dissemination of their personal information.

The Bureau has considered the comments, and for the reasons set forth below, is finalizing § 1022.142(e) with several revisions and is renumbering the section. The Bureau is moving proposed § 1022.142(e), which addresses the authority to decline or rescind a block, to § 1022.142(e)(4) and renaming final § 1022.142(e) to reflect that it addresses the blocking of adverse information resulting from trafficking. The Bureau is further finalizing the rule with new § 1022.142(e)(1) through (e)(3) to cover the block of adverse information identified by the consumer as resulting from a severe form of trafficking in persons or sex trafficking, the requirement to notify the consumer and attempt to resolve deficiencies, and the final determination on blocking the reporting of adverse information identified by the consumer as resulting from a severe form of trafficking in persons or sex trafficking. These new provisions cover timing and procedural questions raised in response to the Bureau's request for feedback on the adoption of procedures used for identity theft in Regulation V for supplemental requests. The Bureau is also finalizing the rule without also requiring the deletion of adverse information in a consumer's file resulting from a severe form of trafficking in persons or sex trafficking or notification to furnishers.

The Bureau is implementing a multi-step process that a consumer reporting agency must follow when it receives a submission under § 1022.142(d)(1). First, § 1022.142(e)(1) provides that a consumer reporting agency has four business days from receipt of the consumer's submission to block items of adverse information identified by the consumer or their representative from appearing in a consumer report. The Bureau concludes that four business days provides consumer reporting agencies with adequate time to institute a block of the items of adverse information identified by the consumer or their representative. Action within this timeframe is important since the Bureau recognizes a consumer may be in urgent need of housing or employment that could be facilitated by the block of the adverse information.

Second, the Bureau is imposing a time period of five business days under which a consumer reporting agency must notify the consumer and attempt to resolve any deficiency in the consumer's submission in new § 1022.142(e)(2)(i). The Bureau recognizes in some cases the submission may not be complete, and the consumer reporting agency may need to obtain additional information from the consumer on a case-by-case basis in order to confirm the submission is complete. Section 1022.142(e)(2)(i) of the final rule provides that a consumer reporting agency is required to notify the consumer and attempt to resolve any deficiencies limited to instances where: (1) the consumer reporting agency cannot reasonably confirm the appropriate proof of identity for the consumer and, if applicable, the consumer's representative under § 1022.142(b)(1); (2) the consumer did not provide documentation consisting of a victim determination under § 1022.142(b)(6)(i); or (3) the consumer reporting agency cannot properly identify the adverse items of information under § 1022.142(b)(6)(ii). The final rule also provides that a consumer reporting agency may not ask for information on the validity of the facts or circumstances detailed in the contents of the submitted trafficking documentation establishing the consumer is a victim of trafficking or whether the identified adverse information resulted from a severe form of trafficking in persons or sex trafficking under § 1022.142(b)(6).

Third, § 1022.142(e)(2)(ii) provides a consumer reporting agency with a maximum of 25 business days after

receiving the consumer's submission under § 1022.142(d)(1) to make a final determination on whether the submission is complete in order to perform the final determination of the block under § 1022.142(e)(3) or decline to block or rescind any block under § 1022.142(e)(4). The Bureau expects consumer reporting agencies to make any requests for clarifying information as expeditiously as possible (and limited to the reasons in § 1022.142(e)(2)(i)) in order to allow consumers with an adequate amount of time to provide the requested information. For example, the Bureau expects a consumer reporting agency to send a request for additional information, if needed to complete the submission, to the preferred method of contact identified by the consumer required by § 1022.142(b)(6)(ii)(B). If the consumer reporting agency does not receive a response from the consumer, the consumer reporting agency must send an additional request to the consumer with sufficient time for a response within the 25-business day limit for a final determination in § 1022.142(e)(2)(ii). The Bureau's timeframe for action by the consumer reporting agency reflects a balance between the four-business-day timeframe for a consumer reporting agency to block the reporting of information in the context of alleged identity theft (under section 605B) and the 30-day timeframe a consumer reporting agency generally has to conduct a reasonable reinvestigation of the completeness or accuracy of a disputed item (under section 611). The Bureau concludes that these timeframes are reasonable and addresses concerns noted by commenters.

Fourth, § 1022.142(e)(3) requires the consumer reporting agency to initiate a block (if the consumer reporting agency lacked enough information to perform a block under § 1022.142(e)(1)) or maintain a block initiated pursuant to § 1022.142(e)(1) upon confirming the completion of the consumer's submission and in accordance with the requirements of § 1022.142(e)(2).

The Bureau is not requiring consumer reporting agencies to notify a furnisher about the consumer's submission in the final rule. The Bureau requested comment on requiring a consumer reporting agency to notify the furnisher of the block in order to give a furnisher the opportunity to cease furnishing the blocked information to the consumer reporting agency that provided the notification. In the proposed rule, the Bureau evaluated whether this could then help ensure that blocked information is not refurnished and reinserted in a consumer report and help prevent the adverse items of information from being furnished by other consumer reporting agencies. However, the Bureau is declining to require notification to furnishers given the serious privacy and data security concerns raised by commenters who noted a risk that information that is passed to a furnisher could more easily reach a trafficker and put the consumer at risk. The Bureau encourages consumer reporting agencies to develop a process to ensure the reinsertion of adverse items resulting from a severe form of trafficking in persons or sex trafficking after being blocked from the consumer's file does not occur. However, the Bureau cautions that consumer reporting agencies should not provide furnishers with information about the consumer's request or the reason for the block.

The final rule also does not require consumer reporting agencies to delete adverse items of information identified by the victim of trafficking from the consumer's credit file. The Bureau has determined that requiring consumer reporting agencies to delete that information would be counterproductive because, as explained above, the final rule does not require a consumer reporting agency to notify the furnisher of adverse information that a consumer has submitted the required documentation. If the information is deleted, but the furnisher is not provided with a reason, there is a substantial risk that the information will be reinserted into the report, whereas a block without deletion makes it more likely that the consumer reporting agency will not include the adverse information in future reports after the information is confirmed to remain blocked in § 1022.142(e)(3).

142(e)(4) Authority To Decline or Rescind a Block

In the proposed rule, the Bureau stated consumer reporting agencies may encounter difficulty confirming certain information submitted by consumers. Under proposed section 1022.142(e), the Bureau proposed to provide consumer reporting agencies with the authority to decline to act, or to rescind action (if applicable) on a submission. The proposed provision was similar to section 605B(c) of the FCRA, which allows a consumer reporting agency to decline to block information relating to a consumer, or to rescind any block, if the consumer reporting agency makes certain reasonable determinations.[61]

[61] 15 U.S.C. 1681c–2(c).

Proposed § 1022.142(e) provided that a consumer reporting agency may decline to block, or may rescind any block, of adverse items of information resulting from a severe form of trafficking in persons or sex trafficking where: (1) the consumer reporting agency requests and cannot reasonably confirm the appropriate proof of identity under § 1022.142(b)(1); (2) the consumer cannot provide documentation under § 1022.142(b)(6)(i); or (3) the consumer reporting agency cannot properly identify the adverse items of information under § 1022.142(b)(6)(ii).

The section-by-section analysis of § 1022.142(e) of the proposed rule discussed how the Bureau is not proposing to interpret section 605C as giving a consumer reporting agency the discretion to contest the merits of the submitted trafficking documentation, if such documentation meets the definition in section 605C(a) and in proposed § 1022.142(b)(6)(i). In the section-by-section analysis of § 1022.142(e) in the proposed rule, the Bureau did not propose to interpret section 605C as giving a consumer reporting agency the discretion to challenge a consumer's determination that an adverse item of information resulted from a severe form of trafficking in persons or sex trafficking under § 1022.142(b)(6)(ii). However, the Bureau sought comments on these approaches.

The Bureau proposed to clarify in § 1022.142(e) that consumer reporting agencies can request appropriate proof of identity of the consumer who is a victim of trafficking as defined in § 1022.142(b)(1) and that consumer reporting agencies can decline or rescind a block if it cannot reasonably confirm the appropriate proof of identity. Proposed § 1022.142(e) also required a consumer reporting agency, prior to exercising its authority to decline or rescind a block, to notify the consumer and attempt to resolve any deficiency in the consumer's submission.

The Bureau received comments from industry and consumer advocates on certain aspects of this provision. Several consumer advocates supported the Bureau's proposed approach and urged the Bureau not to give consumer reporting agencies discretion to decide whether consumers were victims of trafficking beyond confirming that the consumer has provided required trafficking documentation and identified the adverse information that resulted from trafficking. At least one consumer advocate urged the Bureau to provide an enumerated list of acceptable

documentation, prohibit a consumer reporting agency from rejecting that documentation, and expressly state that a consumer reporting agency cannot reject a request for any reason other than those listed in § 1022.142(e). The same commenter also asked that the final rule specifically state that a consumer reporting agency cannot decline to block adverse information because the consumer reporting agency questions the merits of the submitted trafficking documentation or the consumer's determination that an adverse item of information resulted from trafficking. An industry commenter generally supported the proposed provision, but asked that the reasons for rescinding or declining a block be expanded to cover two additional scenarios: (1) a material misrepresentation of fact; and (2) criminal record information if the victim is required to register as a sex offender.

For the reasons discussed below, the Bureau is adopting its proposal by renumbering proposed § 1022.142(e) to § 1022.142(e)(4) and by clarifying the limited circumstances under which a consumer reporting agency may decline or rescind a block. New § 1022.142(e)(4) provides that a consumer reporting agency may only decline or rescind a block only if the consumer reporting agency cannot reasonably confirm the appropriate proof of identity for the consumer and, if applicable, the consumer's representative under § 1022.142(b)(1), the consumer cannot provide documentation consisting of a victim determination under § 1022.142(b)(6)(i), or the consumer reporting agency cannot properly identify the adverse items of information under § 1022.142(b)(6)(ii). This means a consumer reporting agency can request appropriate proof of identity of the consumer who is a victim of trafficking as defined in § 1022.142(b)(1) and, if applicable, the consumer's representative, and that consumer reporting agencies can decline or rescind a block if it cannot reasonably confirm the appropriate proof of identity. Similar to the section-by-section analysis of § 1022.142(e) in the proposed rule, the Bureau does not interpret section 605C as giving the consumer reporting agency the discretion to contest the merits of the submitted trafficking documentation, if it meets the definition in section 605C(a) and in § 1022.142(b)(6)(i), nor does it interpret the statute as giving a consumer reporting agency the discretion to challenge a consumer's determination that an adverse item of information resulted from a severe form of trafficking in persons or sex trafficking under § 1022.142(b)(6)(ii). Accordingly, the Bureau is amending the text of new § 1022.142(e)(4) to provide that a consumer reporting agency may not decline to block or rescind any block of adverse information identified by the consumer or if applicable, the consumer's representative, based on the validity of the facts or circumstances detailed in the contents of the submitted trafficking documentation under § 1022.142(b)(6) of this section.

Section 1022.142(e)(4) also provides that a consumer reporting agency may decline or rescind a block only after the consumer is notified using the method of contact specified by the consumer in § 1022.142(b)(6)(ii)(B) and the consumer reporting agency attempted to resolve any deficiency in the consumer's submission as required in § 1022.142(e)(2). The Bureau believes requiring consumer reporting agencies to notify the consumer and attempt to resolve any deficiencies in the consumer's submission will facilitate compliance and is appropriate to prevent a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from trafficking by providing consumers an opportunity to complete their submission or correct mistakes with respect to information or documentation they provide initially and making it less likely that a consumer reporting agency will decline to block or a rescind a block in error. In doing so, the Bureau is relying on its regulatory authority under section 621(e) of the FCRA, which authorizes the Bureau to prescribe regulations that promote accuracy and fairness in credit reporting, and on the general rulemaking authority granted the Bureau under section 1022(b)(1) of the Dodd-Frank Act.

The Bureau concludes that giving consumer reporting agencies additional discretion to evaluate the validity of the facts or circumstances detailed in the contents of trafficking documentation, as defined in § 1022.142(b)(6), would make it difficult for consumers to understand how to properly submit a request, may decrease the Bureau's ability to monitor for compliance, and could also lead to invalid reasons for declining or rescinding a block. As discussed in more detail above in the section-by-section analysis of § 1022.142(c), Congress did not provide an exception for criminal convictions and the final rule does not provide such an exception. The Bureau also concludes that the final rule should not provide a material misrepresentation of fact as a reason a consumer reporting agency may decline or rescind a block since the Bureau does not interpret section 605C(a)(1) as permitting a consumer reporting agency to make factual determinations on whether a consumer is a victim of trafficking or if adverse items of information identified by the consumer resulted from a severe form of trafficking in persons or sex trafficking. The Bureau also finds doing so could lead to confusion and result in improper denials if the consumer reporting agency inappropriately concludes that a material misrepresentation of fact was made. Accordingly, the Bureau is finalizing the proposed rule, with the clarifications noted above.

142(f) Notification to Consumer of Actions Taken in Response to the Consumer's Submission

The Bureau proposed in § 1022.142(f)(1) to require a consumer reporting agency to provide written notice to a consumer of the results of a submission within five calendar days of receipt of the submission (or, if rescinding a previously applied block, five calendar days after rescinding). As proposed, § 1022.142(f)(2) would have required a consumer reporting agency to provide notice in writing informing the consumer that the review of the submission is completed, a statement explaining the outcome, a consumer report provided at no cost to the consumer that is based upon the consumer's revised file (if applicable), a description of the procedures used to determine the outcome, a method for contacting the consumer reporting agency to appeal the determination or revise the submission to cure any of the noted reasons for declining to block the requested adverse information, and the web page consumers can use to submit complaints to the Bureau.

The Bureau received mixed comments on the proposed notice requirements. Several individual and consumer group commenters expressed their general support for the proposal. Two industry trade associations objected to the proposed five-calendar-day notice period. One of these commenters specifically urged the Bureau to mirror section 605B of the FCRA for ease of implementation and allow at least four business days for blocking and five business days to provide notice to the consumer. This commenter also argued that the requirement to provide written notice is beyond the scope of the rulemaking directed by section 605C. The other commenter stated five days is an insufficient time to require consumer

reporting agencies to provide a written notice for documents that are submitted, but not rescinded. This commenter also proposed the Bureau change ''provide'' to ''send'' to address the delivery time that is not typically within the control of a consumer reporting agency. One consumer group recommended that the Bureau require consumer reporting agencies to use a preferred mailing address provided by the victim because of safety and privacy concerns. An industry trade association made a similar request, noting that consumer reporting agencies may not have a current address or contact information for the consumer.

Multiple individual commenters and consumer groups supported requiring a consumer reporting agency to automatically send a revised consumer report to the consumer. Other commenters recommended that the Bureau require consumer reporting agencies to provide instructions for obtaining a current copy of their credit report rather than automatically mailing a copy, in accordance with existing procedures to protect the privacy of victims. One industry commenter questioned how this requirement would apply to consumer reporting agencies like background screeners that do not maintain a file from which to draft new reports. The Bureau also received several comments urging the adoption of other requirements not addressed in the proposal. One consumer group commenter urged the Bureau to require a consumer reporting agency to include in the notice details on the appeals process if a request is declined, and another opposed allowing the consumer reporting agency to demand specific additional items of information before it would approve a trafficking block.

For the reasons discussed below, the Bureau is finalizing § 1022.142(f) largely as proposed, with some revisions to address certain comments received regarding timing requirements. As described above, § 1022.142(e) of the final rule adopts certain timeframes for the consumer reporting agency to block the reporting of information after receipt of documentation from the consumer. Final § 1022.142(f) has been modified to account for the timing requirements in new § 1022.142(e) by changing the allotted time for a consumer reporting agency to provide notice to the consumer from five calendar days after receipt of the submission to five business days after a final determination on a consumer's submission under § 1022.142(e)(3) (or, if rescinding a previously applied block, five business days after rescinding under § 1022.142(e)(4)) in order to improve implementation of this section.

The Bureau concludes that the contents of the notice required by § 1022.142(f) are appropriately tailored to providing consumers the information they need to ensure that their submission was handled correctly by the consumer reporting agency. This information ensures that the consumer is provided with a thorough explanation of the outcome and the appeals process, and providing a copy of the revised consumer report allows the consumer to verify that the correct items have been blocked. Moreover, requiring a notice to the consumer on how to submit a complaint to the Bureau will facilitate compliance and is appropriate to prevent a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from trafficking by providing consumers with the information they need to determine if a consumer reporting agency declined to block or a rescind a block in error and with information about how to get any such error corrected.

If the consumer is not notified of the outcome by the consumer reporting agency, the consumer would either have to separately request a copy of their credit report, perhaps incurring a fee, or wait to see if they are subject to an adverse action the next time their consumer report is used, which may mean missing out on credit, employment, or housing opportunities. Many victims of trafficking will be in particularly urgent need of housing, employment, or credit, and knowing within a reasonable time that a consumer reporting agency has blocked adverse items of information may facilitate a victim's ability to obtain these vital services. The Bureau also finds that these requirements in § 1022.142(f) are necessary to prevent a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from trafficking because it provides consumers with the opportunity to review the outcome and, if the consumer reporting agency incorrectly rejected a submission, to dispute that outcome.

The Bureau recognizes that certain consumer reporting agencies may not maintain a file from which they produce reports, including some background screeners. The final text accounts for this situation, as it requires the consumer reporting agency to provide a report ''that is based upon the consumer's revised file (*if applicable*) as a result of the consumer's submission.'' [62] Accordingly, the Bureau declines to adopt a special exception for consumer reporting agencies that do not maintain files on consumers. Finally, the Bureau adopts a minor clarification that the notice must be sent by the preferred communication method specified by the consumer in the submission as provided for in § 1022.142(b)(6)(ii)(B).

142(g) Record Retention

Proposed § 1022.142(g) would have required a consumer reporting agency to retain evidence of submissions under section 605C. The proposal would have also required a consumer reporting agency to maintain documentation concerning the outcome of the submissions, reasons for declining or rescinding to act (if applicable), and compliance with § 1022.142. In the proposed rule, consumer reporting agencies would have needed to retain this information for a period of seven years after the date the submission by the consumer is received. Under section 605 of the FCRA, most adverse information would be excluded from consumer reports after seven years automatically.

The Bureau received comments from individuals, industry, and consumer groups on this proposed provision. While most commenters supported a record retention requirement, all who commented suggested revisions. A few commenters suggested that record retention requirements should be extended to 10 years because certain bankruptcies may be reported for 10 years. Another commenter suggested that consumer reporting agencies should be required to publish their policies on recordkeeping and data collection. Similarly, a consumer advocate urged the Bureau to provide additional information about the data protection obligations of consumer reporting agencies so that survivors understand how their information will be protected. The commenter also suggested that the Bureau communicate any exceptions to the general record retention rule so that survivors can better determine whether they want to submit a request.

Two industry commenters opposed the proposed record retention requirements because they believe that the requirements are antithetical to current data privacy and data security regulation and could increase the scope of, and risk related to, a data breach. They suggested that the requirements are too broad or too long, and one suggested that victims may hesitate to provide information because victims

[62] Emphasis added.

may fear that their information will be shared with others. One commenter argued that submitted information should be destroyed under standard data retention timeframes, which are often much shorter than seven years. The other commenter suggested aligning record retention requirements with the statute of limitations or statute of repose for the FCRA.

For the reasons stated below, the Bureau is finalizing § 1022.142(g) with minor revisions to cross references within the rule. The final rule provides that a consumer reporting agency must retain evidence of submissions and compliance with this section for a period of seven years after the consumer's submission, which the Bureau has determined is an appropriate period of time to require consumer reporting agencies to retain records. The Bureau concludes that it is not appropriate to tie record retention requirements to the statute of limitations or statute of repose because it would unnecessarily complicate the requirements. Those time periods can be difficult to determine and provide less clarity for all involved. While some adverse information remains on a consumer report for longer than seven years, the Bureau has determined that seven years strikes the right balance because most adverse information will be excluded from a consumer report after seven years.

The Bureau finds that requiring consumer reporting agencies to maintain records of compliance will enable the Bureau to assess consumer reporting agencies' compliance with the rules. This requirement will also facilitate compliance by supporting effective and efficient enforcement of the rule in order to prevent a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking.

The final rule contains several clarifying revisions, including one technical correction to clarify that the record retention requirements apply to all submissions sent to the mailing or website address made available under § 1022.142(d)(1). The final rule also clarifies the types of evidence that must be retained under this section by including cross-references to actions taken by a consumer reporting agency under § 1022.142(e)(1) through (e)(3) and (f) as well as the reasons provided under § 1022.142(e)(4) for declining to block or rescinding any block of items of adverse information identified by the consumer.

142(h) Policies and Procedures To Ensure and Maintain Compliance

Proposed § 1022.142(h) required consumer reporting agencies to establish and maintain written policies and procedures reasonably designed to ensure and monitor the compliance of the consumer reporting agency and its employees with the requirements of this section. Rather than proposing a one-size-fits-all approach, proposed § 1022.142(h) specified that these written policies and procedures must be appropriate to the nature, size, complexity, and scope of the activities of the consumer reporting agency and its employees. For example, consumer reporting agencies must develop policies and procedures that address how requests are evaluated and processed, and the limited circumstances a consumer reporting agency may decline or rescind a block under § 1022.142(e).

The Bureau received few comments on this provision. A consumer advocate recommended requiring policies and procedures to detail how trafficking-specific information will be used, shared, and protected and making such policies and procedures available to review before submitting a request. One commenter asked the Bureau to specify penalties for failing to comply with this provision.

The Bureau is finalizing § 1022.142(h) as proposed. The Bureau believes requiring consumer reporting agencies to maintain written policies and procedures is necessary to administer the rule by enabling the Bureau to assess consumer reporting agencies' compliance with the rule and to facilitate compliance in order to prevent a consumer reporting agency from furnishing a consumer report containing any adverse item of information about a consumer that resulted from human trafficking. Written policies and procedures will help consumer reporting agencies ensure they have developed practices that fully implement the requirements of this section that are tailored to the nature, size, complexity, and scope of the activities of the consumer reporting agency and its employees. The Bureau understands that some, if not all, consumer reporting agencies have pre-existing policies and procedures to ensure compliance of the FCRA and Regulation V and these policies and procedures also describe how consumer's information submitted to them will be used, shared, and protected.

The Bureau expects consumer reporting agencies to make information available to consumers who are victims of trafficking information on how their submission of information will be used, shared, and protected. The Bureau believes this is particularly important given the treatment and harm inflicted upon victims of trafficking by their trafficker.

VI. Effective Date

Pursuant to section 6102(c) of the 2022 NDAA, the amendments to the FCRA shall go into effect 30 days after the Bureau issues a final rule. In accordance with procedures for the issuance of Bureau rules, a final Bureau rule is deemed to be issued on the earlier of ''(a) [w]hen the final rule is posted on the Bureau's website; or (b) [w]hen the final rule is published in the **Federal Register**.'' [63] This means the effective date of section 605C could be based on the date the final rule is posted on the Bureau's website instead of the date the final rule is published in the **Federal Register**, if posting on the Bureau's website is first. Under section 553(d) of the Administrative Procedure Act,[64] the required publication or service of a substantive rule must be made not less than 30 days before its effective date, with certain exceptions not applicable here.

In the proposed rule, the Bureau proposed an effective date of 30 days after the date of the final rule's publication in the **Federal Register** so that the final rule would take effect at the same time as section 605C. The Bureau received two comments requesting a later effective date to give the industry more time to implement the rule. One commenter explained that this extra time is needed to allow the consumer reporting agencies to train employees and implement necessary compliance controls.

The Bureau has considered these comments and has determined that, as proposed, the final rule will become effective 30 days after publication in the **Federal Register**. Thus, the final rule will take effect as close to the effective date of section 605C as possible. The Bureau finds that an effective date of a rule that is contemporaneous to the statutory effective date will avoid uncertainty for consumers who are victims of trafficking as well as for consumer reporting agencies. To the extent a consumer reporting agency receives a submission between any time period that section 605C is in effect and the effective date of the rule, the Bureau expects consumer reporting agencies to otherwise comply with section 605C(b)

[63] 12 CFR 1074.1.

[64] 5 U.S.C. 553(d).

by not furnishing a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency.[65]

VII. Dodd-Frank Act Section 1022(b)(2) Analysis

In developing this final rule, the Bureau has considered the rule's potential benefits, costs, and impacts in accordance with section 1022(b)(2)(A) of the Consumer Financial Protection Act of 2010 (CFPA).[66] In developing the final rule, the Bureau has consulted or offered to consult with the prudential banking regulators (the FDIC, FRB, NCUA, and OCC) and the Bureau of Indian Affairs, several offices in the DOJ, the Office on Trafficking in Persons in HHS, Department of Homeland Security (DHS), and the FTC, including regarding consistency of this rule with any prudential, market, or systemic objectives administered by those agencies, in accordance with section 1022(b)(2)(B) of the CFPA. Most commenters did not specifically address the Bureau's proposed section 1022(b) analysis; the Bureau discusses those comments that were relevant to the analysis below.

The Bureau expects that the final rule will benefit consumers who are victims of a severe form of trafficking in persons or sex trafficking and have adverse information on file with a consumer reporting agency as a result of that trafficking. The benefits to individual consumers who are victims of trafficking could be considerable—adverse information from consumer reporting agencies could negatively affect a consumer's ability to obtain housing, employment, credit, or other immediate and longer-term services necessary to support long-term independence and financial stability.

Conversely, the final rule will impose costs on consumer reporting agencies in the form of compliance costs associated with processing requests from consumers to block adverse information and effecting the necessary blocks. While the Bureau does not have data to quantify these costs, the Bureau expects the costs of complying with the requirements of the final rule to be small in magnitude. Consumer reporting agencies are already required by 15 U.S.C. 1681c–2 to have systems in place to accept reports of identity theft, and to respond to those reports by suppressing information on any consumer reports. Consumer reporting agencies also have systems in place to address treatment of inaccurate and unverifiable information as required by 15 U.S.C. 1681i(a)(5) and concerning the notice of results of reinvestigation under 15 U.S.C. 1681i(a)(6). This rule's procedural requirements are modeled on these requirements.

Some industry commenters noted that the proposed requirement to have a dedicated toll-free phone number to receive requests to block adverse information related to trafficking would be particularly burdensome for smaller consumer reporting agencies, as the regime for identity theft block requests only requires the nationwide consumer reporting agencies to maintain a dedicated toll-free phone number. The Bureau has modified this provision in the final rule to only impose this requirement on consumer reporting agencies that already maintain a dedicated toll-free number for identity theft. As a result, the final rule will not impose this cost on covered persons.

Although the Bureau characterizes qualitatively the nature of the benefits to consumers and the costs to firms above, it is not able to quantify the overall magnitude of the likely costs and benefits of the proposed rule. Quantifying these costs and benefits would require an estimate of the number of consumers likely to submit information to support a block under the rule in a typical year. Not all victims of trafficking will necessarily have adverse information with a consumer reporting agency, and among those who do, not all will make a submission or be able to provide the required documentation.[67] For instance, a report by the non-profit Polaris, cited by both industry and consumer advocate commenters, found that 26 percent of trafficking victims had bank accounts or credit cards fraudulently opened in their names.[68] While illustrating the importance of the problem this rule is intended to address, this statistic also indicates that not all victims of trafficking necessarily have adverse information with a consumer reporting agency. The Bureau does not have a way to estimate the number of trafficking victims who will make a request, and according to the State Department, there is no reliable estimate of the annual number of trafficking victims in the United States.

To provide a rough sense of scale, the Bureau compares available statistics on human trafficking in the United States to statistics on identity theft, which have a similar treatment under the FCRA as under the final rule. In 2020, the National Human Trafficking Hotline made 8,701 referrals for potential victims of trafficking.[69] For comparison, the FTC received nearly 1.4 million complaints related to identity theft in 2020.[70] Both the number of referrals from the National Human Trafficking Hotline and the number of identity theft complaints to the FTC likely undercount the true incidence of trafficking and identity theft, respectively. However, given that not all victims of trafficking will have adverse information with a consumer reporting agency, it seems reasonable to assume that the annual number of consumer submissions to consumer reporting agencies under the final rule would be at least two orders of magnitude less than the volume similar requests related to identity theft. As a result, the Bureau expects that although the benefits of the final rule to individual consumers who are victims of trafficking may be considerable, the aggregate benefits to consumers and the aggregate costs to consumer reporting agencies are likely to be small.[71]

[65] Consumer reporting agencies could look to new section 1022.142 on how to handle submissions between the statutory and rule effective date to the extent there is a gap.

[66] 12 U.S.C. 5512(b)(2)(A).

[67] This may occur if the consumer is not aware of the adverse information or is not seeking any product or service that might rely on a consumer report including that information (*e.g.,* if the adverse information relates to credit and the consumer is not currently seeking new credit). In addition, although the proposed rule is intended to make the submission process as straightforward as possible for victims of trafficking and intends to conduct outreach to ensure that victims are aware of their rights, consumers may not utilize the reporting process if they do not know their right to make a request, because they lack the required documentation, or because they believe the process to be more costly in time and effort than the potential benefits of blocking the adverse information.

[68] Polaris Project, *On-Ramps, Intersections, and Exit Routes* (July 2018), at 23, *https://polarisproject.org/wp-content/uploads/2018/08/A-Roadmap-for-Systems-and-Industries-to-Prevent-and-Disrupt-Human-Trafficking-Financial-Industry.pdf.*

[69] Off. to Monitor & Combat Trafficking in Persons, U.S. Dep't of State, *2021 Trafficking in Persons Report* (Jun. 2021), *https://www.state.gov/reports/2021-trafficking-in-persons-report/.*

[70] Fed. Trade Comm'n, *Consumer Sentinel Network Data Book 2020* (Feb. 2021), at 7, *https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf.*

[71] It is possible that consumer reporting agencies may incur some costs associated with submissions from individuals who claim fraudulently that adverse items of information in their consumer reports result from a severe form of trafficking in persons or sex trafficking of which they allege to be a victim. Given the documentation requirements in the proposed rule, the Bureau does not expect this would happen often. One individual

Continued

The final rule may increase consumer access to credit, to the extent that consumers who are victims of trafficking and have adverse information related to that trafficking present on a credit report, and blocking that adverse information makes it easier for those consumers to obtain credit.

The final rule will not have a unique impact on insured depository institutions or insured credit unions with less than $10 billion in assets described in section 1026(a) of the Dodd-Frank Act. Finally, the final rule would not have a unique impact on rural consumers.

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.[72] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[73] The final rule will apply to all consumer reporting agencies, including all those that are small businesses under the RFA. However, it is unlikely that any small business will experience a significant economic impact as a result of the rule. As discussed in section VII above, the number of submissions for blocking adverse information each year are likely to be small, and consumer reporting agencies are already required to have processes in place for processing similar requests due to existing requirements related to identity theft and dispute procedures under section 611 of the FCRA.

Accordingly, the Director certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Thus, a FRFA is not required for this final rule.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[74] Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for data collection, disclosure, and recordkeeping requirements (collectively, information collection requirements) prior to implementation. Under the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid control number assigned by OMB. As part of its continuing effort to reduce paperwork and respondent burden, the Bureau conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on the information collection requirements in accordance with the PRA. This helps ensure that the public understands the Bureau's requirements or instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, information collection instruments are clearly understood, and the Bureau can properly assess the impact of information collection requirements on respondents.

This final rule amends 12 CFR part 1022 (Regulation V). The Bureau's OMB control number for Regulation V is 3170–0002. As described below, the final rule creates the following new information collection requirements in Regulation V:

- The final rule will require consumer reporting agencies to accept trafficking and other documentation from consumers, process the submissions, and block any adverse item of information identified by the consumer that resulted from a severe form of trafficking in persons or sex trafficking under § 1022.142(d)–(e). Consumer reporting agencies will be required to inform consumers of their decision and actions with respect to the submission under § 1022.142(f).
- The final rule requires consumer reporting agencies to retain evidence of all submissions by consumers pursuant to these regulations, including actions taken in response to the submissions, reasons for declining or rescinding the block requests, and compliance with this section for a seven-year period under § 1022.142(g).
- The final rule requires consumer reporting agencies to establish and maintain written policies and procedures reasonably designed to ensure and monitor the compliance of the consumer reporting agency and its employees with the requirements of this rule under § 1022.142(h).

The collections of information contained in this final rule, and identified as such, have been submitted to OMB for review under section 3507(d) of the PRA. A complete description of the information collection requirements (including the burden estimate methods) is provided in the information collection request (ICR) that the Bureau has submitted to OMB under the requirements of the PRA. A separate comment period on the information collections concluded on June 17, 2022. OMB received no comments.

Title of Collection: Regulation V: Fair Credit Reporting Act.

OMB Control Number: 3170–0002.

Type of Review: Revision of a currently approved collection.

Affected Public: Private Sector; Federal, State, and Tribal Governments.

Estimated Number of Respondents: The Bureau does not have enough information to estimate the number of respondents and is assuming de minimis. The Bureau requested comment on this assumption, but received no comments addressing this point.

Estimated Total Annual Burden Hours: The Bureau does not have enough information to know how frequently this collection will occur or the burden it will impose. The Bureau received no comments directly addressing the burden of this collection. Two industry trade associations submitted comments arguing for a shorter record retention period under § 1022.142(g), but neither commenter argued that the proposed requirement was too burdensome or provided an estimate of the burden of the proposed requirement in terms of time or financial resources.

If OMB has not approved the new information collection requirements prior to publication of the final rule in the **Federal Register**, the Bureau will publish a separate notification in the **Federal Register** announcing OMB's approval prior to the effective date of the final rule.

The Bureau has a continuing interest in the public's opinion of its collections of information. At any time, comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, may be sent to the Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552, or by email to *CFPB_PRA@cfpb.gov.*

Where applicable, the Bureau will display the control number assigned by OMB to any documents associated with any information collection requirements adopted in this rule.

commenter specifically supported this assessment, asserting that the documentation requirements in the Proposed Rule would reduce or eliminate the possibility of fraud.

[72] 5 U.S.C. 601 through 612.

[73] 5 U.S.C. 609.

[74] 44 U.S.C. 3501 *et seq.*

X. Congressional Review Act

Pursuant to the Congressional Review Act,[75] the Bureau will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1022

Banks, banking, Consumer protection, Credit unions, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth above, the Bureau amends Regulation V, 12 CFR part 1022, as set forth below:

PART 1022—FAIR CREDIT REPORTING ACT (REGULATION V)

■ 1. Revise the authority citation for part 1022 to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c–1, 1681c–3, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s–2, 1681s–3, and 1681t; Sec. 214, Pub. L. 108–159, 117 Stat. 1952.

Subpart O—Miscellaneous Duties of Consumer Reporting Agencies

■ 2. Add § 1022.142 to read as follows:

§ 1022.142 Prohibition on inclusion of adverse information in consumer reporting in cases of human trafficking.

(a) *Scope.* This section applies to any consumer reporting agency as defined in section 603(f) of the FCRA, 15 U.S.C. 1681a(f).

(b) *Definitions.* For purposes of this section:

(1) *Appropriate proof of identity* means proof of identity that meets the requirements in § 1022.123, for purposes of section 605C of the FCRA.

(2) *Consumer report* has the meaning provided in section 603(d) of the FCRA, 15 U.S.C. 1681a(d).

(3) *Consumer reporting agency* has the meaning provided in section 603(f) of the FCRA, 15 U.S.C. 1681a(f).

(4) *Severe forms of trafficking in persons* has the meaning provided in section 103 of the Trafficking Victims Protection Act of 2000, 22 U.S.C. 7102(11).

(5) *Sex trafficking* has the meaning provided in section 103 of the Trafficking Victims Protection Act of 2000, as amended by section 108 of the Justice for Victims of Trafficking Act of 2015, 22 U.S.C. 7102(12).

(6) *Trafficking documentation* means one or more documents that satisfy paragraphs (b)(6)(i) and (ii) of this section:

(i) *Victim determination.* Documentation that:

(A) Is of a determination that a consumer is a victim of trafficking made by a:

(*1*) Federal, State, or Tribal governmental entity; or

(*2*) Non-governmental organization or members of a human trafficking task force, including victim service providers affiliated with the organization or task force, authorized by a Federal, State, or Tribal governmental entity to make such a determination;

(B) Is of a determination that a consumer is a victim of trafficking made by a court of competent jurisdiction or determination consisting of documents filed in a court of competent jurisdiction where a central issue in the case is whether the consumer is a victim of trafficking and the court has, at a minimum, affirmed the consumer's claim either by accepting certain pieces of evidence which are assumed to be true or finding that the there is no genuine dispute as to any material fact supporting a judgment in favor of the victim as a matter of law; or

(C) Is of a signed statement by the consumer attesting that the consumer is a victim of trafficking if such statement or an accompanying document is signed or certified by a representative of an entity described in paragraph (b)(6)(i)(A) or (B) of this section.

(ii) *Identified adverse items of information.* Documentation, which may consist of a statement prepared by the consumer or by any designated representative on behalf of a consumer (except for a credit repair organization as defined in section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for section 403(3)(B)(i) of the Credit Repair Organizations Act, 15 U.S.C. 1679a(3)(B)(i)), that:

(A) Identifies any items of adverse information that should not be furnished by a consumer reporting agency because the items resulted from a severe form of trafficking in persons or sex trafficking of which the consumer is a victim; and

(B) Must contain a preferred method for a consumer reporting agency to contact the consumer electronically or in writing such as an email address or physical address where mail can be received. A consumer reporting agency shall use only the consumer's preferred method of contact for communications under paragraphs (d), (e), and (f) of this section about the consumer's submission and shall not use the consumer's preferred contact information for any other purpose.

(7) *Victim of trafficking* means a person who is a victim of a severe form of trafficking in persons or sex trafficking.

(c) *Prohibition on inclusion of adverse information of trafficking victims.* A consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation as defined under paragraph (b)(6) of this section to the consumer reporting agency.

(d) *Method of submission to consumer reporting agencies.* (1) *Mailing and website address.* A consumer reporting agency must provide two mailing addresses for a consumer or consumer representative, as described in paragraph (b)(6)(ii) of this section, to send a submission consisting of an appropriate proof of identification under paragraph (b)(1) of this section and trafficking documentation under paragraph (b)(6) of this section. A consumer reporting agency may also establish a secure online website portal for a consumer to upload a submission. A consumer reporting agency must accept a submission sent to the mailing and, if applicable, website address used for disputes under section 611 of the FCRA, and must accept a submission sent to a mailing and, if applicable, website address dedicated to blocking adverse items of information resulting from a severe form of trafficking in persons or sex trafficking under this section.

(2) *Disclosing methods for submission.* A consumer reporting agency must add information on its publicly available website stating how submissions for the blocking of adverse items of information resulting from a severe form of trafficking in persons or sex trafficking should be provided to a consumer reporting agency.

(3) *Toll-free telephone number.* A consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in section 603(p) of the FCRA, 15 U.S.C. 1681a(p), must:

(i) Allocate a reasonable amount of personnel to respond to consumer inquiries about the process for and status of a consumer's submission at the toll-free telephone number used for

[75] 5 U.S.C. 801 *et seq.*

disputes under section 611 of the FCRA; and

(ii) Establish a toll-free telephone number dedicated to addressing submissions from consumers seeking to block adverse items of information resulting from a severe form of trafficking in persons or sex trafficking under this section.

(e) *Block of adverse information resulting from trafficking.* (1) *Block upon receipt of the submission.* Except as otherwise provided in this section, within four business days of receipt of the consumer's submission under paragraph (d)(1) of this section, a consumer reporting agency must block the reporting of any adverse item of information identified by the consumer (or their representative) as resulting from a severe form of trafficking in persons or sex trafficking.

(2) *Requirement to notify the consumer and attempt to resolve deficiencies.* (i) *In general.* Within five business days of receipt of the consumer's submission under paragraph (d) of this section, a consumer reporting agency must notify a consumer if additional information is necessary for the purpose of completing the submission and attempt to resolve any deficiency in the consumer's submission. A consumer reporting agency may only request additional information where the consumer reporting agency cannot reasonably confirm the appropriate proof of identity under paragraph (b)(1) of this section for the consumer or, if applicable, the consumer's representative, the consumer did not provide victim determination documentation under paragraph (b)(6)(i) of this section, or the consumer reporting agency cannot properly identify the adverse items of information under paragraph (b)(6)(ii) of this section. A consumer reporting agency may not, however, ask for information on the validity of the facts or circumstances detailed in the contents of the submitted trafficking documentation establishing the consumer is a victim of trafficking or whether the identified adverse information resulted from a severe form of trafficking in persons or sex trafficking under paragraph (b)(6) of this section.

(ii) *Timing of final determination.* A consumer reporting agency must make a final determination on the consumer's submission no later than 25 business days after receiving the submission provided in paragraph (d)(1) of this section.

(3) *Final determination of the block.* Upon confirming completion of the submission from the consumer under paragraph (d)(1) of this section and in accordance with the requirements under paragraph (e)(2) of this section, the consumer reporting agency must initiate or maintain the action described in paragraph (e)(1) of this section by blocking the reporting of the items of adverse information on the consumer.

(4) *Authority to decline or rescind a block.* A consumer reporting agency may decline to block, or may rescind any block of, adverse items of information resulting from a severe form of trafficking in persons or sex trafficking, in accordance with the timing requirements under paragraph (e)(2)(ii) of this section, only where the consumer reporting agency cannot reasonably confirm the appropriate proof of identity under paragraph (b)(1) of this section for the consumer, and, if applicable, the consumer's representative, the consumer cannot provide documentation consisting of a victim determination under paragraph (b)(6)(i) of this section, or the consumer reporting agency cannot properly identify the adverse items of information under paragraph (b)(6)(ii) of this section. A consumer reporting agency may not, however, decline to block or rescind any block of adverse information identified by the consumer or if applicable, the consumer's representative, based on the validity of the facts or circumstances detailed in the contents of the submitted trafficking documentation as defined in paragraph (b)(6) of this section. A consumer reporting agency may decline or rescind a block only after notifying the consumer using the method of contact specified by the consumer in paragraph (b)(6)(ii)(B) of this section and attempting to resolve any deficiency in the consumer's submission as required in paragraph (e)(2) of this section.

(f) *Notification to consumer of actions taken in response to the consumer's submission*—(1) *In general.* A consumer reporting agency must provide written or electronic notice to a consumer of actions performed in response to a consumer's submission no later than five business days after a final determination on a consumer's submission under paragraph (e)(3) of this section (or, if rescinding a previously applied block, five business days after rescinding under paragraph (e)(4) of this section). The consumer reporting agency must use the method of contact specified by the consumer in paragraph (b)(6)(ii)(B) of this section.

(2) *Contents.* The notice must include the following:

(i) A statement that the review of the submission is completed;

(ii) A statement of the outcome of the submission, including the reason(s) if the consumer reporting agency declined to block the adverse information identified by the consumer, or rescinded such a block, under paragraph (e)(4) of this section;

(iii) A consumer report, provided at no cost to the consumer, that is based upon the consumer's revised file (if applicable) as a result of the consumer's submission;

(iv) A description of the procedure used to determine the outcome;

(v) A method for contacting the consumer reporting agency to appeal the determination or revise the submission to cure any of the noted reasons for declining to block the adverse information identified by the consumer; and

(vi) The web page consumers can use to submit complaints to the Consumer Financial Protection Bureau.

(g) *Record retention.* For a period of seven years after the consumer's submission is received at the mailing or website address made available under paragraph (d)(1) of this section, a consumer reporting agency must retain evidence of all such submissions and compliance with this section, including the actions taken by the consumer reporting agency under paragraphs (e)(1) through (e)(3), and (f) of this section and the reasons provided under paragraph (e)(4) of this section for declining to block or rescinding any block of items of adverse information identified by the consumer.

(h) *Policies and procedures to ensure and maintain compliance.* A consumer reporting agency must establish and maintain written policies and procedures reasonably designed to ensure and monitor the compliance of the consumer reporting agency and its employees with the requirements of the paragraphs in this section. These written policies and procedures must be appropriate to the nature, size, complexity, and scope of the activities of the consumer reporting agency and its employees.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–13671 Filed 6–23–22; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31434; Amdt. No. 4014]

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 June 24, 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 June 24, 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 June 10, 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
14–Jul–22	TX	Austin	Austin-Bergstrom Intl	2/1557	4/22/22	This NOTAM, published in Docket No. 31432, Amdt No. 4012, TL 22–15, (87 FR 35646, June 13, 2022) is hereby rescinded in its entirety.
14–Jul–22	TX	Austin	Austin-Bergstrom Intl	2/1558	4/22/22	This NOTAM, published in Docket No. 31432, Amdt No. 4012, TL 22–15, (87 FR 35646, June 13, 2022) is hereby rescinded in its entirety.
14–Jul–22	AR	Ash Flat	Sharp County Rgnl	2/3958	5/19/22	This NOTAM, published in Docket No. 31432, Amdt No. 4012, TL 22–15, (87 FR 35646, June 13, 2022) is hereby rescinded in its entirety.
14–Jul–22	AR	Ash Flat	Sharp County Rgnl	2/4987	5/19/22	This NOTAM, published in Docket No. 31432, Amdt No. 4012, TL 22–15, (87 FR 35646, June 13, 2022) is hereby rescinded in its entirety.
14–Jul–22	AR	Berryville	Carroll County	2/0998	5/24/22	RNAV (GPS) RWY 7, Amdt 1.
14–Jul–22	OH	Toledo	Eugene F Kranz Toledo Express	2/2039	5/31/22	ILS Z OR LOC Z RWY 25, Amdt 9A.
14–Jul–22	CA	Delano	Delano Muni	2/3421	5/25/22	VOR RWY 32, Amdt 8A.
14–Jul–22	TX	Austin	Austin-Bergstrom Intl	2/3669	6/3/22	ILS OR LOC RWY 36R, ILS RWY 36R (SA CAT I & II), Amdt 4B.
14–Jul–22	TX	Austin	Austin-Bergstrom Intl	2/3673	6/3/22	ILS OR LOC RWY 18L, ILS RWY 18L (SA CAT I), ILS RWY 18L (CAT II & III), Amdt 4.
14–Jul–22	MT	Poplar	Poplar Muni	2/3894	5/25/22	RNAV (GPS) RWY 27, Amdt 1A.
14–Jul–22	MT	Poplar	Poplar Muni	2/3896	5/25/22	RNAV (GPS) RWY 9, Orig-A.
14–Jul–22	ID	Grangeville	Idaho County	2/5742	5/24/22	RNAV (GPS) RWY 26, Orig.
14–Jul–22	GA	Butler	Butler Muni	2/6161	5/31/22	RNAV (GPS) RWY 19, Amdt 2A.
14–Jul–22	AK	Clarks Point	Clarks Point	2/6442	5/25/22	RNAV (GPS) RWY 18, Orig-C.
14–Jul–22	WY	Douglas	Converse County	2/7035	5/24/22	VOR RWY 29, Amdt 1A.
14–Jul–22	WY	Douglas	Converse County	2/7204	5/24/22	RNAV (GPS) RWY 29, Amdt 1.
14–Jul–22	AK	Adak Island	Adak	2/8355	5/25/22	NDB/DME RWY 23, Orig-B.
14–Jul–22	OR	Redmond	Roberts Fld	2/8464	5/25/22	ILS OR LOC RWY 23, Amdt 5A.
14–Jul–22	KY	Somerset	Lake Cumberland Rgnl	2/8827	5/27/22	RNAV (GPS) RWY 5, Orig-A.
14–Jul–22	WI	Portage	Portage Muni	2/8974	5/26/22	RNAV (GPS) RWY 18, Orig.
14–Jul–22	MO	Kennett	Kennett Meml	2/9397	5/25/22	RNAV (GPS) RWY 20, Amdt 1A.
14–Jul–22	AL	Tuscaloosa	Tuscaloosa Ntl	2/9903	5/27/22	RNAV (GPS) RWY 4, Orig-A.
14–Jul–22	AL	Tuscaloosa	Tuscaloosa Ntl	2/9904	5/27/22	RNAV (GPS) RWY 22, Amdt 1A.
14–Jul–22	AL	Tuscaloosa	Tuscaloosa Ntl	2/9905	5/27/22	RNAV (GPS) RWY 30, Orig-C.
14–Jul–22	KS	Larned	Larned-Pawnee County	2/9918	5/26/22	RNAV (GPS) RWY 17, Orig-A.
14–Jul–22	KS	Larned	Larned-Pawnee County	2/9920	5/26/22	RNAV (GPS) RWY 35, Orig-B.
14–Jul–22	NE	Albion	Albion Muni	2/9963	5/26/22	RNAV (GPS) RWY 15, Amdt 1.

[FR Doc. 2022–13499 Filed 6–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31433; Amdt. No. 4013]

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 June 24, 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 June 24, 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 June 10, 2022.

Thomas J. Nichols,

Manager, Aviation Safety, Flight Standards Service, 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 CFR 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 14 July 2022

Concord, CA, KCCR, RNAV (GPS) RWY 19R, Amdt 1A
Mojave, CA, KMHV, RNAV (GPS) RWY 30, Orig
Salinas, CA, KSNS, RNAV (GPS) RWY 13, Amdt 1
San Martin, CA, E16, RNAV (GPS) RWY 32, Amdt 2
Limon, CO, KLIC, RNAV (GPS) RWY 16, Orig
Limon, CO, KLIC, RNAV (GPS) RWY 34, Orig
Limon, CO, KLIC, Takeoff Minimums and Obstacle DP, Orig
Fort Lauderdale, FL, KFLL, RNAV (RNP) Y RWY 10L, Amdt 2
Pensacola, FL, KPNS, RNAV (GPS) RWY 35, Amdt 2F
Atlanta, GA, KRYY, ILS OR LOC RWY 27, Amdt 5
Atlanta, GA, KRYY, RNAV (GPS) RWY 9, Amdt 4
Atlanta, GA, KRYY, RNAV (GPS) RWY 27, Amdt 5
Lawrenceville, GA, KLZU, ILS OR LOC RWY 25, Amdt 4
Savannah, GA, KSAV, RNAV (RNP) Y RWY 28, Amdt 2, CANCELLED
Boise, ID, KBOI, ILS Y OR LOC Y RWY 10R, ILS Y RWY 10R (SA CAT I), ILS Y RWY 10R (CAT II), ILS Y RWY 10R (CAT III), Amdt 14
Boise, ID, KBOI, RNAV (GPS) Y RWY 10L, Amdt 4
Boise, ID, KBOI, RNAV (GPS) Y RWY 10R, Amdt 3
Boise, ID, KBOI, RNAV (GPS) Y RWY 28L, Amdt 6
Boise, ID, KBOI, RNAV (RNP) X RWY 28L, Amdt 1
Boise, ID, KBOI, RNAV (RNP) Z RWY 10L, Amdt 2
Boise, ID, KBOI, RNAV (RNP) Z RWY 10R, Amdt 2
Boise, ID, KBOI, RNAV (RNP) Z RWY 28L, Amdt 3
Boise, ID, KBOI, VOR OR TACAN RWY 10L, Amdt 3
Boise, ID, KBOI, VOR Y OR TACAN Y RWY 28L, Amdt 3
Anderson, IN, KAID, ILS OR LOC RWY 30, Amdt 3
Anderson, IN, KAID, NDB RWY 30, Amdt 8B, CANCELLED
Chanute, KS, KCNU, RNAV (GPS) RWY 36, Orig-E
Neodesha, KS, 2K7, RNAV (GPS)-A, Orig
Neodesha, KS, 2K7, VOR OR GPS RWY 2, Amdt 2B, CANCELLED
Joplin, MO, KJLN, ILS OR LOC RWY 13, Amdt 1A
Joplin, MO, KJLN, LOC BC RWY 31, Amdt 22, CANCELLED
Kansas City, MO, KMCI, RNAV (RNP) Z RWY 9, Amdt 2
Kansas City, MO, KMCI, RNAV (RNP) Z RWY 19L, Amdt 2
Fayetteville, NC, KFAY, ILS OR LOC RWY 4, Amdt 18
Fayetteville, NC, KFAY, LOC BC RWY 22, Amdt 9
Fayetteville, NC, KFAY, VOR RWY 4, Amdt 17
Fayetteville, NC, KFAY, VOR RWY 22, Amdt 8
Fayetteville, NC, KFAY, VOR RWY 28, Amdt 9
Silver City, NM, KSVC, LOC RWY 26, Amdt 6
Las Vegas, NV, KVGT, ILS OR LOC RWY 12L, Amdt 1
Las Vegas, NV, KVGT, RNAV (GPS) RWY 12R, Amdt 1
Jackson, OH, KJRO, RNAV (GPS) RWY 1, Amdt 1G
Jackson, OH, James A Rhodes, Takeoff Minimums and Obstacle DP, Amdt 4A
Guymon, OK, KGUY, NDB RWY 18, Amdt 5E
Guymon, OK, KGUY, RNAV (GPS) RWY 36, Orig-C
Millington, TN, KNQA, ILS OR LOC RWY 22, Amdt 6
Amarillo, TX, KAMA, LDA RWY 22, Amdt 1C

RESCINDED: On May 26, 2022 (87 FR 31945), the FAA published an Amendment in Docket No. 31429, Amdt No. 4009, to Part 97 of the Federal Aviation Regulations under section 97.29. The following entry for Auburn/Lewiston, ME, Detroit, MI, effective July 14, 2022, is hereby rescinded in its entirety:

Auburn/Lewiston, ME, KLEW, ILS OR LOC RWY 4, Amdt 12

[FR Doc. 2022–13498 Filed 6–23–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 220621–0139]

RIN 0648–AV85

Amendments to National Marine Sanctuary Regulations; Delay of Effective Date

AGENCY: Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Interim final rule; delay of effective date.

SUMMARY: On May 13, 2022, the National Oceanic and Atmospheric Administration (NOAA) published an interim final rule in the **Federal Register** that amended the Office of National Marine Sanctuaries (ONMS) regulations. That rule was published with a 30-day comment period, which ended on June 13, 2022, and a 45-day delayed effective date of June 27, 2022. This rule delays the effective date of the interim final rule by 90 days, until September 26, 2022.

DATES: As of June 24, 2022, the effective date for the interim final rule published May 13, 2022, at 87 FR 29606, is delayed to September 26, 2022.

FOR FURTHER INFORMATION CONTACT: Vicki Wedell, NOAA Office of National Marine Sanctuaries, (240) 533–0650, *Vicki.Wedell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In response to the interim final rule published on May 13, 2022 (87 FR 29606), which updated and streamlined ONMS regulations, NOAA received eight comments before the end of the comment period on June 13, 2022. The submitted comments are posted at *regulations.gov* under docket NOAA–NOS–2011–0120. Based on issues raised by some of the public comments, NOAA is preparing technical corrections and responses to those comments for the final rule. Therefore, NOAA is delaying the June 27, 2022 effective date of the interim final rule by 90 days, to September 26, 2022. This action does not extend or reopen the comment period for NOAA's previous request for comments on the interim final rule.

National Marine Sanctuaries Act

The National Marine Sanctuaries Act (NMSA) authorizes the Secretary of

Commerce (Secretary) to designate, manage, and protect, as a national marine sanctuary, any area of the marine environment that is of special national significance due to its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities (16 U.S.C. 1431 *et seq.*). NMSA provides the legal basis and serves as the authority under which NOAA issues this action.

Nicole R. LeBoeuf,

Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service.

[FR Doc. 2022–13570 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–NK–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1234

[Docket No. CPSC–2015–0019]

Safety Standard for Infant Bath Tubs

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In March 2017, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for infant bath tubs under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference the 2017 ASTM voluntary standard for infant bath tubs that was in effect at the time. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when the voluntary standards organization revises the standard. Consistent with the CPSIA's update process, the Commission issued a direct final rule in October 2018, that revised the incorporation by reference for the mandatory standard for infant bath tubs to reflect ASTM's revised 2018 voluntary standard. Also consistent with the CPSIA's update process, this direct final rule again updates the mandatory standard for infant bath tubs to incorporate by reference ASTM's 2022 version of the voluntary standard.

DATES: The rule is effective on September 24, 2022, unless CPSC receives a significant adverse comment by July 25, 2022. If CPSC receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of September 24, 2022.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2015–0019, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. CPSC does not accept comments submitted by electronic mail (email), except *as described below.* CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number for this direct final rule. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2015–0019, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Salman Sarwar, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7682; email: *ssarwar@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). A mandatory standard must be ''substantially the same as'' the corresponding voluntary standard, or it may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission's rules when a voluntary standards organization revises a standard that the Commission previously incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

2. Safety Standard for Infant Bath Tubs

Under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for infant bath tubs, codified in 16 CFR part 1234. The rule incorporated by reference ASTM F2670–17, *Standard Consumer Safety Specification for Infant Bath Tubs,* with no modifications. 82 FR 15615 (March 30, 2017). At the time the Commission published the final rule, ASTM F2670–17 was the current version of the voluntary standard.

In July 2018, ASTM notified CPSC that it had issued a revised standard for infant bath tubs, ASTM F2670–18. The Commission concluded that the revisions improved the safety of infant bath tubs. As such, in accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, the revised standard became the new mandatory standard for infant bath tubs. The Commission published a direct final

rule to update 16 CFR part 1234, incorporating by reference ASTM F2670–18, with no modifications. 83 FR 53371 (Oct. 23, 2018).

On March 28, 2022, ASTM notified CPSC that it has again revised the voluntary standard for infant bath tubs, by approving ASTM F2670–22 on March 1, 2022.[1] As discussed in section B. Revisions to ASTM F2670, based on CPSC staff's review of ASTM F2670–22,[2] the Commission will allow the revised voluntary standard to become the mandatory standard because it improves the safety of infant bath tubs.[3] Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F2670–22 will become the mandatory consumer product safety standard for infant bath tubs on September 24, 2022. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1234 to incorporate by reference the revised voluntary standard, ASTM F2670–22.

B. Revisions to ASTM F2670

The ASTM standard for infant bath tubs includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to children associated with infant bath tubs. ASTM F2670–22 contains substantive revisions as well as editorial, non-substantive revisions. Revisions to the standard includes changes to language in the standard describing latching and locking mechanisms (*i.e.,* mechanisms that prevent the product from folding or collapsing in a manner that puts the occupant at risk) and new marking, labeling, warning, and instructional requirements addressing battery-powered infant bath tubs. This section describes the changes in ASTM F2670–22, as compared to ASTM F2670–18, which is the current mandatory standard, and includes an assessment of those changes.

1. Substantive Revisions

a. General Requirements

The general requirement subsection *Resistance to Collapse* has been renamed *Latching and Locking Mechanism(s).* Section 5.4.1 has been edited to state that products that fold must have a latching and locking mechanism(s) or other means to prevent the product from folding or collapsing in a manner that puts the occupant at risk of injury by falling out of the product or being subjected to contact or pressure by product components. The standard states that ''other means'' can include, but are not limited to, designs that utilize the occupant, an added component, or the water that is placed into the product to act in opposition to the folding action or collapse of the product. Latching and locking mechanisms are subject to the same general and performance requirements as required in 16 CFR part 1234 (some non-substantive changes have been made to these requirements).

These changes improve safety, because 16 CFR part 1234 currently does not explicitly require folding infant bath tubs or infant bath tub accessories to have latching and locking mechanisms or ''other means'' of preventing the product from folding or collapsing.

b. Marking and Labeling

Revisions to the 2022 standard include the addition of specific marking requirements for products that are battery-operated. Currently, 16 CFR part 1234 does not contain any marking and labeling requirements specifically addressing battery-powered infant bath tubs. Section 8.4.1 of the 2022 standard states that the product's battery compartment, battery compartment door/cover, or area immediately adjacent to the battery compartment must be marked or labeled permanently and legibly to show the correct battery polarity, size, and voltage. Products utilizing one or more non-replaceable batteries are exempt from this requirement. However, Section 8.4.2 states that products utilizing one or more non-replaceable batteries accessible with the use of a coin, screwdriver, or other common household tool shall be marked or labeled permanently and legibly with a statement that the batteries are not replaceable. If marking or labeling the product is not practicable, then this statement shall be in the instructions.

In addition to on-product marking/labeling requirements, ASTM F2670–22 now includes specific warning requirements for battery-powered infant bath tubs and infant bath tub accessories packaging. Section 8.11 states that packages of infant bath tubs and infant bath tub accessories that use replaceable button or coin cell batteries that are 1.5 V or greater and that are larger than 15 mm in diameter but fit within the small parts cylinder (see 16 CFR 1501) shall include the following warning:

WARNING

Contains button or coin cell battery. Hazardous if swallowed—see instructions. This warning is subject to the formatting requirements found in section 8.5, which contains no substantive changes.

The changes in this section improve safety, as they address battery ingestion hazards, which are not currently addressed by 16 CFR part 1234.

c. Instructional Literature

The requirements for instructional literature in ASTM F2670–22 now include cautionary and warning statements specifically for battery-operated products, which are not addressed in 16 CFR part 1234. Section 9.4 *Cautionary and Warning Statements* now requires that products that operate using replaceable batteries include the following:

CAUTION

To prevent battery leaks, which can burn skin and eyes:

- Remove batteries when storing product for a long time.
- Dispose of used batteries immediately.

Products that use more than one battery in any one circuit must also include the following statements under the same CAUTION header:

- Always replace the entire set of batteries at one time.
- Never mix old and new batteries, or batteries of different brands or types.

These changes improve safety, as they address burn hazards caused by battery leaks, which are not currently addressed by 16 CFR part 1234.

2. Non-Substantive Revisions

ASTM F2670–22 also includes several non-substantive changes, such as spacing and formatting. ASTM also revised the language in the introduction and removed CPSIA from its list of referenced documents to bring the standard into alignment with current Ad Hoc Recommended Language.[4] These changes to the text and formatting do not materially affect the safety of infant bath tubs.

[1] ASTM also published ASTM F2670–22 in March 2022.

[2] CPSC staff's briefing package regarding ASTM F2670–22 is available at: *https://www.cpsc.gov/s3fs-public/ASTMs-Revised-Safety-Standard-for-Infant-Bath-Tubs.pdf?VersionId=xRDuGZaaWMa44CPG5rG2jwa0VdYy5c4M.*

[3] The Commission voted 3–0–1 to approve this notice. Chair Hoehn-Saric, Commissioners Feldman and Trumka voted to approve the notice as drafted. Commissioner Baiocco did not vote.

[4] ASTM convened a task group, ASTM Ad Hoc Wording Task Group (Ad Hoc TG), consisting of members of the various durable nursery products voluntary standards committees, including CPSC staff. The purpose of the Ad Hoc TG is to harmonize the wording, as well as the warning format, across durable infant and toddler product voluntary standards. Ad Hoc TG recommendations were published as a reference document, titled, ''Ad Hoc Wording—May 4, 2016,'' as part of the F15 Committee Documents.

C. Incorporation by Reference

Section 1234.2 of the direct final rule incorporates by reference ASTM F2670–22. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section B. Revisions to ASTM F2670 of this preamble summarizes the major provisions of ASTM F2670–22 that the Commission incorporates by reference into 16 CFR part 1234. The standard is reasonably available to interested parties. Until the direct final rule takes effect, a read-only copy of ASTM F2670–22 is available for viewing, at no cost, on ASTM's website at: *https://www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone: (301) 504–7479; email: *cpsc-os@cpsc.gov.* Interested parties can purchase a copy of ASTM F2670–22 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; telephone: (610) 832–9585; *www.astm.org.*

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because infant bath tubs are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1234 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[5] the tracking label requirements in section 14(a)(5) of the CPSA,[6] and the consumer registration form requirements in section 104(d) of the CPSIA.[7] ASTM F2670–22 makes no changes that would impact any of these existing requirements.

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing infant bath tubs. 82 FR 15615 (March 30, 2017). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing infant bath tubs to 16 CFR part 1234. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies,'' codified in 16 CFR part 1112. *Id.*

ASTM F2670–22 did not change the testing requirements, testing equipment, or testing protocols for infant bath tubs. Accordingly, the revisions do not change the way that third party conformity assessment bodies test these products for compliance with the safety standard for infant bath tubs. Testing laboratories that have demonstrated competence for testing in accordance with ASTM F2670–18 therefore are competent to test in accordance with the revised standard ASTM F2670–22. Laboratories will begin testing to the new standard when ASTM F2670–22 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2670–18 to be capable of testing to ASTM F267–22 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Specifically, under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F2670–22 to become CPSC's new standard because its provisions improve product safety. The purpose of this direct final rule is to update the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2670–22 takes effect as the new CPSC standard for infant bath tubs, even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final

[5] 15 U.S.C. 1278a.

[6] 15 U.S.C. 2063(a)(5).

[7] 15 U.S.C. 2056a(d).

rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on September 24, 2022. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion challenging ''the rule's underlying premise or approach,'' or a claim that the rule ''would be ineffective or unacceptable without a change.'' 60 FR 43108, 43111 (Aug. 18, 1995). As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute, and public comments should address this specific action.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section F. Direct Final Rule Process of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for infant bath tubs includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). While the revised mandatory standard adds additional marking, labeling, and instructional literature language for battery-powered infant bath tubs, the new requirements would not add to the burden hours because the products already require marking, labeling, and instructional literature. The new requirements merely require a small amount of labeling language in addition to that already required by the standard, for infant bath tubs using batteries. Therefore, the new requirements are not measurably more burdensome than the existing requirements. The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1234, and the marking, labeling, and instructional literature for infant bath tubs are currently approved under OMB Control Number 3041–0159. Because the information collection burden is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission timely notifies the standards organization that it has determined that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the standard for infant bath tubs. Therefore, ASTM F2670–22 will take effect as the new mandatory standard for infant bath tubs on September 24, 2022, 180 days after March 28, 2022, when the Commission received notice of the revision.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1234

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1234—SAFETY STANDARD FOR INFANT BATH TUBS

■ 1. The authority citation for part 1234 continues to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. L. 110–314, 104, 122 Stat. 3016 (August 14, 2008); Pub. L. 112–28, 125 Stat. 273 (August 12, 2011).

■ 2. Revise § 1234.2 to read as follows:

§ 1234.2 Requirements for Infant Bath Tubs.

Each infant bath tub must comply with all applicable provisions of ASTM F2670–22, *Standard Consumer Safety Specification for Infant Bath Tubs,* approved on March 1, 2022. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/*

READINGLIBRARY/. You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone (610) 832–9585; *www.astm.org.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email *cpsc-os@cpsc.gov,* or 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: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary Consumer Product Safety Commission.

[FR Doc. 2022–13255 Filed 6–23–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–808]

Schedules of Controlled Substances: Placement of Serdexmethylphenidate in Schedule IV

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule with request for comments published in the **Federal Register** on May 7, 2021, placing serdexmethylphenidate, including its salts, isomers, and salts of isomers, in schedule IV of the Controlled Substances Act.

DATES: Effective July 25, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: This final rule refers to the single entity, serdexmethylphenidate. The chloride salt of serdexmethylphenidate is chemically known as 3-[[[(1*S*)-1-carboxy-2-hydroxyethyl]-amino]carbonyl]-1-[[[[(2*R*)-2-[(1*R*)-2-methoxy-2-oxo-1-phenylethyl]-1-piperidinyl]carbonyl]oxy]methyl]pyridinium chloride. This rule maintains the placement of serdexmethylphenidate, including its salts, isomers, and salts of isomers, in schedule IV of the Controlled Substances Act (CSA), thereby facilitating the commercial distribution of AZSTARYS as a controlled substance.

Background and Legal Authority

Under the CSA, as amended in 2015 by the Improving Regulatory Transparency for New Medical Therapies Act (section 2(b) of Pub. L. 114–89), when the Drug Enforcement Administration (DEA) receives notification from the Department of Health and Human Services (HHS) that the Secretary has approved a certain new drug and HHS recommends control in the CSA schedule II–V, DEA is required to issue an interim final rule (IFR), with opportunity for public comment and to request a hearing, controlling the drug within a specified 90-day timeframe and to subsequently issue a final rule. 21 U.S.C. 811(j). When controlling a drug pursuant to subsection (j), DEA must apply the scheduling criteria of 21 U.S.C. 811(b) through (d) and 812(b). 21 U.S.C. 811(j)(3).

On March 2, 2021, DEA received notification that the United States Food and Drug Administration approved, on that same date, a new drug application for AZSTARYS capsules for oral use, a combination drug product containing serdexmethylphenidate chloride (3-[[[(1*S*)-1-carboxy-2-hydroxyethyl]-amino]carbonyl]-1-[[[[(2*R*)-2-[(1*R*)-2-methoxy-2-oxo-1-phenylethyl]-1-piperidinyl] carbonyl]oxy]methyl]pyridinium chloride) and dexmethylphenidate hydrochloride, for the treatment of Attention Deficit Hyperactivity Disorder in patients six years of age or older. In addition, on that same date, HHS recommended that DEA place serdexmethylphenidate in schedule IV of the CSA. On May 7, 2021, DEA, pursuant to 21 U.S.C. 811(j), published an IFR to place serdexmethylphenidate (including its salts, isomers, and salts of isomers) in schedule IV. 86 FR 24487. The IFR provided an opportunity for interested persons to submit comments, as well as file a request for hearing or waiver of hearing, on or before June 7, 2021. DEA did not receive any requests for hearing or waiver of hearing.

Comments Received

In response to the IFR, DEA received seven comments. The submissions were from individuals or anonymous commenters. Four of the seven commenters were in support of the IFR to place serdexmethylphenidate in schedule IV of the CSA and one commenter was opposed to the placement of serdexmethylphenidate in schedule IV of the CSA. Of the two remaining comments, one had no relevant content and the other was against the scheduling of drugs in general and did not specifically comment on serdexmethylphenidate. This latter commenter associated the scheduling of substances with the ''war on drugs,'' which according to the commenter ''has failed.'' No response is necessary for the former comment and the latter comment is outside the scope of this current scheduling action and, therefore, these comments will not be addressed.

Support of the Interim Final Rule

Four commenters supported controlling serdexmethylphenidate as a schedule IV controlled substance. These commenters indicated support for scheduling serdexmethylphenidate under the CSA due to its similarity to phentermine, a schedule IV substance. Three of the commenters also recommended monitoring serdexmethylphenidate for increased public health risk or undertaking more clinical research to determine its long-term effects, but did not specify who should perform this monitoring or research. One of these commenters expressed concern about the misuse, including overprescribing, and abuse of stimulant medications in general, and believes that additional prevention measures are needed besides just placing the drug in schedule IV.

DEA Response. DEA appreciates the support for this rulemaking. The requests for additional research or prevention measures suggested by the commenters are outside of DEA's purview. Therefore, DEA has no response to these requests.

Opposition to the Interim Final Rule

One commenter opposed the IFR to control serdexmethylphenidate as a schedule IV drug. The commenter's primary issue with the scheduling of serdexmethylphenidate was that, as a new drug, there was no documented evidence of abuse potential. While the commenter did not completely disagree with the placement of serdexmethylphenidate in schedule IV, the commenter suggested that DEA should ''let scientists experiment with it first to determine if it has any beneficial use'' or if serdexmethylphenidate is more effective for controlling Attention Deficit Hyperactivity Disorder compared to current drug treatments. Thus, the commenter thought DEA should only schedule serdexmethylphenidate if problems occur. The commenter also referred to ongoing clinical studies for

use of this substance in the treatment of Stimulant Use Disorder and the potential for future expansion of its use.

DEA Response: Scheduling a drug does not preclude its use as a therapeutic medication. Substances are scheduled to protect the public health and safety. In addition, substances that are scheduled are subject to regulatory controls and administrative, civil, and criminal sanctions of the schedule that it is placed to allow an adequate supply of controlled substances while preventing those substances from being diverted for illicit purposes. Thus, pursuant to 21 U.S.C. 811(a), the CSA authorizes the Administrator of DEA, under authority delegated by the Attorney General, to control any drug or other substance if it is found that the drug or other substance has a potential for abuse, and makes with respect to such drug or other substance the findings prescribed by 21 U.S.C. 812(b). As discussed in the IFR, after considering the eight factors in 21 U.S.C. 811(c), including consideration of the substance's abuse potential based upon the available information and all relevant data, DEA concluded that serdexmethylphenidate warranted control in schedule IV of the CSA.

The commenter's reference to ongoing clinical studies investigating the usefulness of serdexmethylphenidate in stimulant use disorder and its future therapeutic potential is not relevant. DEA continues to support through this final rule its scheduling determination, and adopts the IFR, without change.

Requirements for Handling Serdexmethylphenidate

As indicated above, serdexmethylphenidate has been a schedule IV controlled substance by virtue of an IFR issued by DEA in May 2021. Thus, this final rule does not alter the regulatory requirements applicable to handlers of serdexmethylphenidate that have been in place since that time. Nonetheless, for informational purposes, we restate here those requirements. Serdexmethylphenidate is subject to the CSA's schedule IV regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, dispensing, importing, exporting, research, and conduct of instructional activities and chemical analysis with, and possession involving schedule IV substances, including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, dispenses, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, serdexmethylphenidate, must be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312. Any person who intends to handle serdexmethylphenidate, and is not registered with DEA, must submit an application for registration and may not handle serdexmethylphenidate unless DEA approves that application for registration, pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312. These registration requirements, however, are not applicable to patients (end users) who possess serdexmethylphenidate pursuant to a lawful prescription.

2. *Disposal of stocks.* Any person who obtains a schedule IV registration to handle serdexmethylphenidate but who subsequently does not desire or is not able to maintain such registration must surrender all quantities of serdexmethylphenidate or may transfer all quantities of serdexmethylphenidate to a person registered with DEA in accordance with 21 CFR part 1317, in additional to all other applicable Federal, State, local, and tribal laws.

3. *Security.* Serdexmethylphenidate is subject to schedule III–V security requirements for DEA registrants and it must be handled and stored in accordance with 21 CFR 1301.71–1301.77. Non-practitioners handling serdexmethylphenidate must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93. These requirements, however, are not applicable to patients (end users) who possess serdexmethylphenidate pursuant to a lawful prescription.

4. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of serdexmethylphenidate must comply with 21 U.S.C. 825, and be in accordance with 21 CFR part 1302.

5. *Inventory.* Every DEA registrant who possesses any quantity of serdexmethylphenidate was required to keep an inventory of serdexmethylphenidate on hand, as of May 7, 2021, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. These requirements, however, are not applicable to patients (end users) who possess serdexmethylphenidate pursuant to a lawful prescription.

6. *Records and Reports.* DEA registrants must maintain records and submit reports for serdexmethylphenidate, pursuant to 21 U.S.C. 827 and 832(a), and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317.

7. *Prescriptions.* All prescriptions for serdexmethylphenidate, or products containing serdexmethylphenidate, must comply with 21 U.S.C. 829, and be issued in accordance with 21 CFR parts 1306 and 1311, subpart C.

8. *Manufacturing and Distributing.* In addition to the general requirements of the CSA and DEA regulations that are applicable to manufacturers and distributors of schedule IV controlled substances, such registrants should be advised that (consistent with the foregoing considerations) any manufacturing or distribution of serdexmethylphenidate may only be for the legitimate purposes consistent with the drug's labeling, or for research activities authorized by the Federal Food and Drug Cosmetic Act and the CSA.

9. *Importation and Exportation.* All importation and exportation of serdexmethylphenidate must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving serdexmethylphenidate not authorized by, or in violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

This final rule, without change, affirms the amendment made by the IFR that is already in effect. Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) generally requires notice and comment for rulemakings. However, 21 U.S.C. 811(j) provides that in cases where a certain new drug is: (1) Approved by HHS) and (2) HHS recommends control in CSA schedule II–V, DEA shall issue an IFR scheduling the drug within 90 days. Additionally, subsection (j) specifies that the rulemaking shall become immediately effective as an IFR without requiring DEA to demonstrate good cause. DEA issued an IFR on May 7, 2021, and solicited public comments on that rule. Subsection (j) further states that after giving interested persons the opportunity to comment and to request a hearing, the Attorney General, as delegated to the Administrator of DEA, shall issue a final rule in accordance with the scheduling criteria of 21 U.S.C. 811(b) through (d) and 812(b). DEA is now responding to the comments submitted by the public and issuing the final rule, in accordance with 21 U.S.C. 811(j).

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

In accordance with 21 U.S.C. 811(a) and (j), this scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of E.O. 13132. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As noted in the above discussion regarding the applicability of the APA, DEA was not required to publish a general notice of proposed rulemaking. Consequently, the RFA does not apply.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* DEA has determined that this action would not result in any federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

Congressional Review Act

This final rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

Signing Authority

This document of the Drug Enforcement Administration was signed on June 21, 2022, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

■ Accordingly, the interim final rule amending 21 CFR part 1308, which published on May 7, 2021 (86 FR 24487), is adopted as a final rule without change.

Scott Brinks,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2022–13538 Filed 6–23–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0475]

RIN 1625–AA08

Special Local Regulation; Marine Events; Annual Bayview Mackinac Race, Lake Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations found in 33 CFR 100.902 for the annual Bayview Yacht Club Port Huron to Mackinac Race. These special local regulations are necessary to safely control vessel movements in the vicinity of the race and provide for the safety of the general boating public and commercial shipping. During this enforcement period, no person or vessel may enter the regulated area without the permission of the Coast Guard Patrol Commander (PATCOM).

DATES: The regulation in 33 CFR 100.902 will be enforced from 10 a.m. through 3 p.m. on July 16, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Tracy Girard, Waterway Management Division, U.S. Coast Guard Sector Detroit, 110 Mt. Elliott Street, Detroit, MI at (313) 568–9564 or *tracy.m.girard@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation in 33 CFR 100.902 for the Annual Bayview Mackinac Race from 10 a.m. through 3 p.m. on July 16, 2022. This notice of enforcement is necessary to safely control vessel movements in the vicinity of the race and provide for the safety of the general boating public and commercial shipping. This notice of enforcement applies to all U.S. navigable waters of the Black River, St. Clair River, and lower Lake Huron, bound by a line starting at latitude 042°58′47″ N, longitude 082°26′0″ W; then easterly to latitude 042°58′24″ N, longitude 082°24′47″ W; then northward along the International Boundary to latitude 043°02′48″ N, longitude 082°23′47″ W; then westerly to the shoreline at approximate location latitude 043°02′48″ N, longitude 082°26′48″ W; then southward along the U.S. shoreline to latitude 042°58′54″ N, longitude 082°26′01″ W; then back to the beginning [DATUM: NAD 83].

In order to ensure the safety of spectators and participating vessels, the Coast Guard will patrol the race area under the direction of a designated Coast Guard Patrol Commander (PATCOM). Vessels desiring to transit the regulated area may do so only with prior approval of the PATCOM and when so directed by that officer. The PATCOM may be contacted on Channel 16 (156.8 MHz) by the call sign ''Coast Guard Patrol Commander.'' Vessels permitted to transit the regulated area will operate at no wake speed and in a manner which will not endanger participants in the event or any other craft. The rules contained above shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

This notice of enforcement is issued under the authority of 33 CFR 100.902 and 5 U.S.C. 552(a). If the District Commander, Captain of the Port or PATCOM determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 16, 2022.

Brad W. Kelly,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2022–13345 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2022–0182]

Special Local Regulation; 37th Annual Sarasota P1 Powerboat Grand Prix; Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation on the waters of the Gulf of Mexico, in the vicinity of Lido Beach, Florida, during the Sarasota Powerboat Grand Prix. Approximately 55 boats and jet skis, traveling at speeds in excess of 100 miles per hour are expected to participate. Additionally, it is anticipated that 300 spectator vessels will be present along the race course. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on certain navigable waters of the Gulf of Mexico, Lido Beach, Florida during the event. The special local regulation will establish an enforcement area where all persons and vessels, except those persons and vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without obtaining permission from the Captain of the Port St. Petersburg or a designated representative.

DATES: The regulations in 33 CFR 100.703 will be enforced daily from 6 a.m. until 7 p.m., on July 2, 2022 and July 3, 2022, for the location identified in Item 5 in Table 1 to § 100.703.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Marine Science Technician Second Class Regina Cuevas, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email *Regina.L.Cuevas@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.703, Table 1 to § 100.703, Item No. 5, for the Sarasota Powerboat Grand Prix/Powerboat P–1 USA, LLC regulated area from 6:30 a.m. until 7 p.m., on July 2, 2022 through July 3, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events, Sector St. Petersburg, § 100.703, Table 1 to § 100.703, Item No. 5, specifies the location of the regulated area for the Sarasota Powerboat Grand Prix/Powerboat P–1 USA, LLC which encompasses portions of the Gulf of Mexico near Lido beach. During the enforcement periods, as reflected in § 100.703(c), if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any designated representative.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, marine information broadcasts, or both.

Dated: June 17, 2022.

Matthew A. Thompson,

Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.

[FR Doc. 2022–13525 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0477]

RIN 1625–AA00

Safety Zone; Spokane Street Bridge; Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by repair work on the Spokane Street Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Puget Sound.

DATES: This rule is effective from 11 p.m. on June 24, 2022, until 7 a.m. on September 30, 2022. This rule is subject to enforcement on four occasions: from 11 p.m. on June 24, 2022 until 7 a.m. on June 25, 2022; 11 p.m. on July 8, 2022 until 7 a.m. on July 9, 2022; 11 p.m. on September 23, 2022 until 7 a.m. on September 24, 2022; and 11 p.m. on September 29, 2022 until 7 a.m. on September 30, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0353 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Samud Looney, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and

opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Spokane Street Bridge requires immediate action to respond to the potential safety hazards associated with emergency bridge inspection and repair work. It is impracticable to publish an NPRM because we must establish this safety zone by June 24, 2022.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the emergency stability inspection and repair of the Spokane Street Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Puget Sound has determined that potential hazards associated with bridge repairs starting June 24, 2022, will be a safety concern for anyone navigating on the West Duwamish Waterway in the vicinity of the Spokane Street Bridge Light List Number 16870.1. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being inspected and repaired.

IV. Discussion of the Rule

This rule establishes a safety zone from 11 p.m. on June 24, 2022 until 7 a.m. on September 30, 2022. It is subject to enforcement on four occasions: from 11 p.m. on June 24, 2022 until 7 a.m. on June 25, 2022; 11 p.m. on July 8, 2022 until 7 a.m. on July 9, 2022; 11 p.m. on September 23, 2022 until 7 a.m. on September 24, 2022; and 11 p.m. on September 29, 2022 until 7 a.m. on September 30, 2022. The safety zone will cover all navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Spokane Street Bridge is being inspected and potentially repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will not be able to safely transit around this safety zone which would impact a small designated area of the Duwamish Waterway. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 4 days that will prohibit entry within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1 to ensure the safety of all vessels navigating in the vicinity of inspection and repair work on the Spokane Street Bridge. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0477 to read as follows:

§ 165.T13–0477 Safety Zone; Spokane Street Bridge; Duwamish Waterway, Seattle, WA.

(a) *Location.* The following area is a safety zone: All navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1 on the Duwamish Waterway to ensure the safety of all vessels navigating in the vicinity of inspection and repair work on the Spokane Street Bridge.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Puget Sound in the enforcement of the safety zone.

(c) *Regulations.* In accordance with the general regulations in part 165, subpart C, no persons or vessels may enter or remain in the safety zone created in this unless authorized by the Captain of the Port or their designated representative. For permission to enter the safety zone, contact the on-scene designated representative or Joint Harbor Operations Center via VHF CH16 or at 206–217–6002. Those in the safety zone must comply with all lawful orders or directions given to them by the Captain of the Port or their designated representative.

(d) *Enforcement periods.* This section will be subject to enforcement from 11 p.m. on June 24, 2022 until 7 a.m. on June 25, 2022; 11 p.m. on July 8, 2022 until 7 a.m. on July 9, 2022; 11 p.m. on September 23, 2022 until 7 a.m. on September 24, 2022; and 11 p.m. on September 29, 2022 until 7 a.m. on September 30, 2022.

Dated: June 17, 2022.

P.M. Hilbert,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2022–13500 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0497]

RIN 1625–AA00

Safety Zone; Lake of the Ozarks, Mile Marker 42.5 Lake of the Ozarks, MO; Lake of the Ozarks, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 200-yard radius of a fireworks launch barge at mile maker (MM) 42.5 on the Lake of the Ozarks. The safety zone is to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display. Entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective on July 1, 2022 from 9:30 p.m. through 10:30 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0497 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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

cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this safety zone by July 1, 2022 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the fireworks display on July 1, 2022 will be a safety concern for anyone on the Lake of the Ozarks at the designated launch location. This rule resulted from a marine event notification stating that there will be a fireworks display on the Lake of the Ozarks. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:30 p.m. until 10:30 p.m. on July 1, 2022. The safety zone will cover all navigable waters within a 200 yard radius of a fireworks launch barge located at MM 42.5 on the Lake of the Ozarks. The duration of this zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River. The COTP or a designated representative will inform the public of the enforcement date and times for these safety zones, as well as any emergent safety concerns that may delay the enforcement of the zones.

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 on size, location, and duration of the temporary safety zones. This action involves a fireworks display at MM 42.5 on the Lake of the Ozarks on July 1, 2022. Moreover, the Coast Guard will publish a Local Notice to Mariners and mariners may seek permission to enter the zones.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 1 hour that will prohibit entry within a 200 yard radius of a fireworks launch barge. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0497 to read as follows:

§ 165.T08–0497 Safety Zones; Lake of the Ozarks, Mile Marker 42.5, Lake of the Ozarks, MO.

(a) Location.all navigable waters extending 200 yards in all directions around a fireworks launch barge at mile marker (MM) 42.5 on the Lake of the Ozarks on July 1, 2022 from 9:30 p.m. until 10:30 p.m.

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

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF radio Channel 16 or by telephone at 314–269–2332.

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

(c) Informational broadcasts. The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through either a Safety Marine Information Broadcast (SMIB), Broadcast Notice to Mariners (BNM) and or the Local Notices to Mariners (LNMs).

Dated: June 16, 2022.

R.M. Scott,

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

[FR Doc. 2022–13393 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–USCG–0413]

RIN 1625–AA00

Safety Zone; Henderson Harbor, Henderson Harbor, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 150-yard radius of the Henderson Harbor Triathlon Swim Event. The safety zone is needed to protect competitors participating in the swim portion of the triathlon from any vessel traffic or other potential hazards that could otherwise enter into the swim area. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

DATES: This rule is effective from 8 a.m. through 11:30 a.m. on July 9, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–USCG–0413 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 LT Justin Miller, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *D09-SMB-SECBuffalo-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor notified the Coast Guard with insufficient time to accommodate the comment period. Delaying the effective date of this rule would be contrary to the public interest and the rule's objectives of protecting safety of life on the navigable waters, including protection of persons competing in the swim event for this triathlon. It is impracticable to publish an NPRM because we must establish this safety zone by July 9, 2022. Delay of the effective date would inhibit the Coast Guard's ability to protect swim competitiors from vessel traffic and all associated hazards that could interfere with the swim area.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Buffalo (COTP) determined that potential hazards to competitors, volunteers and spectators associated with a triathlon swim event occurring on July 9, 2022, will be a safety concern for anyone within a 150-yard radius of the designated swim area. This rule is needed to protect personnel, volunteers, and the marine environment in the navigable waters within the safety

zone while the competition is taking place.

IV. Discussion of the Rule

This rule establishes a safety zone from 8 a.m. through 11:30 a.m. on July 9, 2022. The safety zone will cover all navigable waters within a 150 yard radius of the center of the designated swim area. The duration of the zone is intended to protect all personnel in these navigable waters while the swim event is taking place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of Henderson Harbor for 3.5 hours during the morning. Additionally, vessels will be able to safely transit to the local marina and boat ramp within the harbor without impacting the safety zone. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via the VHF–FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 3.5 hours that will prohibit entry within 150 yards of the designated swim area. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for the Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, marine safety, navigation (water), reporting and recordkeeping requirements, security measures, waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1. 2.

■ 2. Add § 165.T09–0413 to read as follows:

§ 165.T09–0413 Safety Zone; Henderson Harbor, Henderson Harbor, NY.

(a) *Location.* The following area is a safety zone: All waters of Henderson Harbor, from surface to bottom, encompassing a 150-yard radius of position 43°51′05.6″ N 076°12′17.8″ W.

(b) *Regulations.* (1) Under the general safety zone regulations in Subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Buffalo (COTP) or the COTP's designated representative.

(2) The ''designated representative'' of the COTP is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on his behalf.

(3) To seek permission to enter, contact the COTP or the COTP's representative by telephone, 716–843–9391. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement Period.* This section will be enforced from 8 a.m. through 11:30 a.m. on July 9, 2022.

Dated: June 16, 2022.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2022–13423 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0352]

RIN 1625–AA00

Safety Zone; Red Bull Flugtag, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of Lake Michigan in the vicinity of Veterans Park in Milwaukee, WI. This action is necessary to provide for the safety of life on these navigable waters during the Red Bull Flugtag event on July 16, 2022. This rulemaking will restrict usage by persons and vessels within the safety zone. At no time during the effective period may non-event persons or vessels transit the waters of Milwaukee Harbor within 800 feet of the southern shoreline of Veterans Park. These restrictions apply to all perons and vessels during the effective period unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective from 9 a.m. through 6 p.m. on July 16, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0325 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 Chief Petty Officer Jeromy Sherrill, Sector Lake Michigan Waterways Management Division, U.S. Coast Guard; telephone 414–747–7148, email *Jeromy.N.Sherrill@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On March 12, 2022, the organizer of the Red Bull Flugtag Milwaukee notified the Coast Guard that it will be organizing an event in the Milwaukee Harbor on July 16, 2022 from 11:00 a.m. through 4:00 p.m. The marine event will take place in the waters of Milwaukee Harbor adjacent to the south shore of Veterans Park in Milwaukee, WI. In response, on May 12, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Red Bull Flugtag, Milwaukee, WI (87 FR 29244). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended June 13, 2022, we received 00 comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Lake Michigan (COTP) has determined that potential hazards associated with the Red Bull Flugtag Milwaukee event would be a safety concern for anyone within the safety zone that is not participating in the event. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published May 12, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 9:00 a.m. to 6:00 p.m. on July 16, 2022. The safety zone will cover all navigable waters of Milwaukee Harbor within 800 feet of the southern shoreline of Veterans Park. The duration of the zone is intended to ensure the safety of life and vessels on these navigable waters before, during, and after the event. No vessels or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the characteristics of the safety zone. The safety zone created by this rule is relatively small and is designed to minimize its impact on

navigable waters. This rule will prohibit entry into certain navigable waters of Milwaukee Harbor, WI, and it is not anticipated to exceed 9 hours in duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels may still transit through the safety zone when permitted by the COTP Lake Michigan.

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 00 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 safety zone may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 9 hours that would prohibit entry within a relatively small portion of Milwaukee Harbor. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0352 to read as follows:

§ 165.T09–0352 Safety Zone; Red Bull Flugtag, Milwaukee, WI.

(a) *Location.* All navigable waters of Milwaukee Harbor within 800 feet of the southern shore of Veterans Park in Milwaukee, WI.

(b) Enforcement period. The safety zone described in paragraph (a) would be effective on July 16, 2022 from 9:00 a.m. through 6:00 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in section § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan (COTP) or a designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) The ''designated representative'' of the COTP is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on his or her behalf.

(4) Persons and vessel operators desiring to enter or operate within the safety zone during the marine event must contact the COTP or an on-scene

representative to obtain permission to do so. The COTP or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or an on-scene representative.

Dated: June 16, 2022.

D.P. Montoro,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2022–13310 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0523]

Safety Zone; Seafair Air Show Performance, 2022, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the annual Seafair Air Show Performance safety zone on Lake Washington, Seattle, WA, from 10 a.m. until 4 p.m. on August 4th and from 8 a.m. until 5 p.m. on August 5th, 6th, and 7th 2022. This action is necessary to ensure the safety of the public from inherent dangers associated with these annual aerial displays. During the enforcement period, no person or vessel may enter or transit this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: The regulations in 33 CFR 165.1319 will be enforced from 10 a.m. until 4 p.m. on August 4th and from 8 a.m. until 5 p.m. on August 5th, 6th, and 7th 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Peter J. McAndrew, Sector Puget Sound Waterways Management Division, Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Seafair Air Show Performance safety zone in 33 CFR 165.1319 from 10 a.m. until 4 p.m. on August 4th and from 8 a.m. until 5 p.m. on August 5th, 6th, and 7th 2022 unless canceled sooner by the Captain of the Port. The specific boundaries of the safety zone are listed in 33 CFR 165.1319(b).

In accordance with the general regulations in 33 CFR part 165, subpart C, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or designated representatives. Vessels and persons granted authorization to enter the safety zone must obey all lawful orders or directions made by the Captain of the Port or his designated representative.

The Captain of the Port may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of the safety zone via the Local Notice to Mariners and marine information broadcasts on the day of the event.

If the COTP determines that the safety zone need not be enforced for the full duration stated in this notice of enforcement, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 17, 2022.

P.M. Hilbert,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2022–13506 Filed 6–23–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 1 and 14

RIN 2900–AQ81

Individuals Using the Department of Veterans Affairs' Information Technology Systems To Access Records Relevant to a Benefit Claim

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) issues this final rule amending its regulations addressing when VA will allow individuals and VA recognized service organizations who are assisting claimants in the preparation, presentation, and prosecution of their benefit claims before VA to access specific VA's information technology (IT) systems to review VA records relevant to their clients' claims. This final rule addresses who is permitted, and under what circumstances, to directly access VA records and other claims-related information through specific VA IT systems during representation of a claimant in a claim for VA benefits. This rule also outlines the appropriate behavior while using VA's IT systems to access records and the consequences for individuals who mishandle such access. This rulemaking, however, does not address general issues involving management of access to VA physical facilities or VA's disclosure of claimants' private information through any means other than direct access to the specific VA IT systems.

DATES: This final rule is effective July 25, 2022.

FOR FURTHER INFORMATION CONTACT: Carling K. Bennett, Management and Program Analyst, Office of Administrative Review, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–5347(this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On February 19, 2020, VA published a proposed rule in the **Federal Register** at 85 FR 9435–41, to clarify when an individual providing representation on a claim may access a claimant's automated records now that VA has transitioned to primarily processing VA benefit claims electronically. VA provided a 60-day public comment period and invited interested persons to submit written comments on or before April 20, 2020. In response to the proposed rule, VA received 15 written comments. The commenters included VA-accredited attorneys, law firms, VA-recognized veterans service organizations (VSOs), non-profit corporations, a legal clinic, a law student, and a trade association. In preparing this final rule, VA carefully considered all comments received in response to the proposed rule and addresses them below according to topic. In this final rule, VA focuses its discussion on changes from the proposed revisions based on comments received during the comment period and VA's further consideration of the issues raised by the comments. By clarifying through this rulemaking: (1) who is eligible to apply for remote access to VA IT systems for the purpose of representing, or assisting in the representation of, claimants on their VA benefits claims, and (2) the basic parameters on the privileges that will be granted to the approved VA IT system users, VA will provide transparency to Veterans and beneficiaries as to who may receive information from VA by accessing specific VA IT systems remotely. However, this rule does not change the ability of VA to disclose a claimant's private claim information through other methods to the claimant's

appointed attorney or agent of record or to the representatives of the claimant's appointed VSO of record as those who do not seek optional system access under the amended regulations may continue to receive records from VA as provided under the other provisions in 38 CFR part 1. Likewise, the rule does not change the ability of VA to disclose a claimant's private claim information through other methods to certain other individuals under an authorization that is not reliant on representation. *See* 38 CFR 1.500–1.527 (generally addressing the release of information from VA claimant records).

A. Comments Concerning Competent Representation and Meaningful Access to Records, Including Comments Concerning the Proposed Removal of the Note to 38 CFR 14.629

This rulemaking was necessary because, as several of the commenters pointed out, the regulations, policies, and procedures governing attorneys, agents, and VSO representatives and their staffs' access to the VA IT systems have been applied inconsistently in the past, and it is important that Veterans are aware of who may be able to access their claims information maintained in VA IT systems. VA believes that some of the variation of the application of these regulations, policies, and procedures may be due to the note that follows current 38 CFR 14.629(c), which indicates that systems access to claims records may be provided to legal interns, law students, paralegals, and VSO support staff, who are working under the supervision of an accredited individual designated under § 14.631(a) to represent the claimant. VA is aware that some paralegals, interns, and support staff have been approved for access to Veterans Benefits Management System (VBMS) in the past even though VBMS is not one of the VA IT systems listed in 38 CFR 1.600. VA is also aware that some VA-accredited IT system users and their staffs have been granted broad privileges within VBMS allowing certain users to view records of claimants for whom they do not hold the power of attorney (POA) so long as they are affiliated with the individual attorney or VSO that has been designated as the POA pursuant to 38 CFR 14.631.

VA proposed amending 38 CFR 1.600 through 1.603 to establish that only an individual who is accredited by VA pursuant to 38 CFR 14.629 as an attorney, agent, or representative of a VA-recognized service organization may be granted direct access privileges to VA IT systems, and within those systems, would only be permitted to access the records of claimants for whom that individual holds POA pursuant to 38 CFR 14.631. VA received twelve comments expressing general opposition to such restrictions on access. Most of these commenters urged VA to promulgate a broader rule allowing systems access to individuals who assist in the representation of a claimant before VA, including accredited associate attorneys and agents, paralegals, law students, interns, and other non-lawyer support staff. The commenters also urged VA to allow for more expansive permissions within the systems, to include the ability to view records of claimants for whom the users do not hold the POA as long as the users are affiliated with the individual or organization who does hold the POA. Commenters stated that VA's decision to preclude direct system access to electronic records to individuals who assist in the representation of a claimant before VA would undermine the ability of the appointed attorney and agent to provide competent representation and deprive their clients of critical information. One commenter supported the overall changes and agreed with the spirit of VA's proposed amendments, applauding VA's efforts to ensure that Veterans' data is protected.

VA's objective with this rulemaking continues to be to provide the individual or VSO that is appointed to provide representation on the claim suitable remote access so that individual or VSO may provide responsible, qualified representation consistent with VA's policies. However, the comments have made clear that the office structure of the VA-accredited attorneys and agents has evolved to more of a team environment, and now, attorneys and agents have a strong preference that affiliated attorneys and agents as well as support staff should be able to assist in accessing VA documents on behalf of the claimants that the accredited attorney or agent is representing. VA recognizes that limiting systems access to the sole practitioner designated as the representative of record on the VA Form 21–22a, *Appointment of Individual as Claimant's Representative,* may hamper VA's goals to streamline the appeals process and to transition from a cumbersome, paper-intensive process to an efficient electronic environment in order to provide a faster, more accurate and transparent claims process. In response to these comments and upon further consideration, VA revises the framework of the proposed rule by broadening access to claimants' electronic records to certain individuals assisting in the representation of a claimant before VA. VA believes that the security risk posed to the VA IT systems and the information within them can be largely managed through internal policies and added safeguards. Such safeguards include regular, recurring reviews of who has access and under what circumstances, plus recurring certifications of training and acknowledgments of system rules by all users.

Additionally, in the future, VA will consider whether it will be helpful or necessary to add provisions to VA's standards of conduct maintained at 38 CFR 14.632 as further safeguards. In advocating for systems access for individuals who assist in the representation of claimants, ten commenters pointed out that 38 U.S.C. 5904(a)(2) instructs VA to prescribe in regulations ''qualifications and standards of conduct'' consistent with the American Bar Association's Model Rules of Professional Conduct (Model Rules) and asserted that the Model Rules contemplate the use of paralegals and other support staff and charge attorneys with supervising responsibility. Although VA does not believe that the Model Rules must control VA's policy decisions on systems access management and accountability, VA does recognize their value as a way to ensure that individuals who practice before VA do so in a responsible and ethical manner or risk losing their VA accreditation.

VA amends 38 CFR 1.600 through 1.603 to, as proposed, confirm its policy that individuals who are accredited by VA pursuant to 38 CFR 14.629 as an attorney, agent, or representative of a VA-recognized VSO may be granted direct access privileges to specific VA IT systems. However, based on the comments received, VA further amends those regulations beyond the proposed rule to allow similar access to some staff members who are affiliated with recognized VSOs and VA-accredited attorneys or claims agents. In addition, within those VA IT systems: (1) VA-accredited VSO representatives will be permitted to access the records of claimants for whom their VSO holds POA pursuant to 38 CFR 14.631; (2) VA-accredited attorneys and agents will be permitted to access the records for claimants for whom they hold the POA; and (3) in some instances, the users—including VA accredited attorneys and agents, their support staff, and the support staff of VSOs—who receive systems access will be able to view records for claimants for whom the users may not directly hold the POA as long as the users are affiliated with the individual or recognized VSO that does

hold the POA and, in the case of an attorney or agent, the claimants represented by that individual have provided their consent to such access on the VA Form 21–22a, *Appointment of Individual as Claimant's Representative.*

Additionally, VA is expanding the provision of direct access privileges to specific VA IT systems to qualifying individuals providing representation under 38 CFR 14.630 of this chapter pursuant to special authority granted by VA's General Counsel to represent more than one claimant. Section 14.630 permits any person complying with the regulation to prepare, present, and prosecute one claim. But, unless an exception is granted by VA's General Counsel under § 14.630(b), such representation may be provided only one time. An exception to this one-time limitation may be granted by the General Counsel in unusual circumstances. To help facilitate responsible, qualified representation by individuals authorized to practice before VA under this special authority, we are revising the proposed amendments to 38 CFR 1.600 through 1.603 to permit systems access to individuals to whom the General Counsel has granted such an exception. VA believes that permitting the possibility of systems access to qualifying individuals with such an authorization would be consistent with the purpose of this rulemaking.

In revising the proposed language to accommodate systems access for qualifying support staff and individuals authorized by the General Counsel under § 14.630, VA has modified proposed § 1.600(b)(1) by removing the reference to an attorney, agent, or representative of a recognized VSO ''who is accredited pursuant to part 14 of this chapter.'' This does not mean that access will be provided to individuals in those categories who are not accredited. The requirement for accreditation as a prerequisite for individuals in those categories is still contained under qualifications for access in amended § 1.601(a). This is because the statement in § 1.600(b)(1) that VA will provide access only to the categories of attorney, agent, representative of a recognized VSO, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter is qualified by the rest of the paragraph ''who is approved to access VA IT systems under §§ 1.600 through 1.603.''

VA choosing to allow additional individuals to access specific VA IT systems and to broaden the access permitted within the VA IT systems to individuals who are affiliated with the accredited individual or recognized VSO that holds the POA means that the individual or VSO holding the POA will have heightened responsibilities that extend further than just their own individual access, in terms of ensuring the confidentiality, integrity, and availability of the information that is stored, processed, and transmitted by VA within its systems. Specifically, VA has amended 38 CFR 1.603(c)(7)(ii) to provide that if the access of an affiliated support-staff person of an attorney or agent is revoked, VA will consider whether to refer the matter to VA's Office of General Counsel for potential inquiry into the principal individual's conduct or competence, pursuant to 38 CFR 14.633.

VA proposed the removal of the note to current 38 CFR 14.629 to clarify policy. The note that follows current 38 CFR 14.629 states that a legal intern, law student, and paralegal, as well as VSO support staff, ''may qualify for read-only access to pertinent Veterans Benefits Administration automated claims records'' under 38 CFR 1.600 through 1.603. Although VA prevailed in recent litigation concerning the meaning of the note and is continuing with the removal of the note, VA believes the changes from the proposed rule throughout §§ 1.600–1.603 to expand access and privileges satisfy the commenters concerns about systems access for the categories of individuals contemplated by the note.

Finally, while revising the amendatory language of the proposed rule, VA recognized a typographical error in the introductory paragraph of current § 1.600(d). VA is correcting that error by changing ''14.603'' to ''1.603''.

B. Comments Concerning Applicability to Various VA IT Systems

VA received five comments discussing access to various VA business applications for electronic claims processing, such as the Veterans Benefits Management System (VBMS), Caseflow, Share, and Compensation and Pension Record Interchange (CAPRI). Because all these applications may provide information regarding the current status of a claim or appeal but are systems with significant differences in functionality and underlying purpose—for example, VBMS is a document repository, other systems, such as Share, are not—questions arise regarding to which applications this rule governs access.

VA has revised language proposed in § 1.600(a)(1) that referred to access to ''[VBA IT] systems'' to refer instead to ''*specific* VA [IT] systems'' (emphasis added) to permit VA to provide access to the electronic claims folder as it specifically decides. VA had proposed removing references to specific systems and instead described affected IT systems more generally to ''ensure VA's regulations stay current regardless of future IT developments and to allow VA flexibility to provide access to only those IT systems which are necessary to providing representation while minimizing risk to IT system integrity and privacy.'' 85 FR at 9437. However, although VA has in recent years successfully defended in court its ability to determine systems access under the current regulations, the wide range of systems discussed by the commenters made VA concerned that in future litigation a court could have found the proposed language ''[VBA's] electronic information technology (IT) systems that contain information regarding the claimants whom they represent before VA'' unambiguous and included a specific system to which VA did not intend, or want, to provide access.

In the introductory text of paragraph (b), VA has identified the specific systems VBMS and Caseflow (the eFolder Express and Queue products) to which VA will provide access. VA will provide access to VBMS because that was the current IT system VA contemplated in the proposed rule. *See* 85 FR at 9436 (noting that the rulemaking was being done in part ''to provide increased access to claimant's records'' in VBMS and that ''a VA-accredited attorney [had] petitioned VA to initiate a rulemaking for purposes of clarifying whether attorney support staff could gain access to VBMS in the same manner as the attorney of record in the claim''); *see also Carpenter* v. *McDonough,* 34 Vet. App. 261 (2021) (discussing, among other things, the petition for rulemaking, the proposed rule, and numerous arguments advocating for VBMS access for unaccredited paralegals under the existing regulations).

VA will provide access to the eFolder Express product of Caseflow because VA recognizes that the functionality of eFolder Express is directly related to a claimant's VBMS eFolder. The Caseflow eFolder Express product permits downloading of all the files in a claimant's VBMS eFolder in chronological order by date of document receipt with the most recent date at the top of the list. Caseflow is a Board of Veterans' Appeals (Board) IT system, not a VBA IT system (as contemplated in the proposed rule), but multiple commenters indicated that attorneys have been provided access to Caseflow products, and one commenter specifically advocated for VA to provide

access to eFolder Express. Also, although the proposed rule only proposed permitting access to VBA IT systems, the proposed rule did refer to Caseflow. 85 FR at 9436 (''Other systems, such as Caseflow, are not document repositories, but may provide information regarding the current status of the claim or appeal, such as whether it is pending the development of evidence, pending a decision, etc.''). VA believes that providing access to eFolder Express matches VA's goals in providing access to VBMS. Moreover, providing access to eFolder Express ensures that practitioners will not be overly reliant on VA's systems (*e.g.,* such as by treating the records accessed through VA systems but not downloaded as their own records). VA will also provide access to Queue, another Caseflow product mentioned by one of the commenters, which provides information regarding the status of some appeals, because providing such access also matches VA's goals in providing access to VBMS.

VA has specified the only systems to which access will be granted under these regulations. Systems to which VBA does not have administrative rights, such as CAPRI, which was mentioned by one of the commenters, are not included. (Notably, although Caseflow is a Board IT system, VBA personnel have administrative rights for providing access.) Further, although there are additional systems that VBA does administer, VA is only providing access to VBMS and the Caseflow products eFolder Express and Queue because other systems provide substantially duplicative information and any gaps are being evaluated for migration to VBMS. For example, VBA will not give access to the Share application. One commenter indicated that they use Share to review payments and ensure clients receive proper payment amounts. This information is now available in VBMS rendering the Share application redundant.

Finally, although proposed § 1.600(a)(1) had only referred to providing access to claimant records, VA is further revising § 1.600(a)(1) to clarify that qualifying individuals may obtain access to basic information regarding the status of claims or appeals in addition to (read-only) access to claimants' records. VA is making this change because, as several of the commenters noted, VBMS does provide some basic information regarding the status of claims or appeals. Likewise, VA has modified the language proposed in § 1.602(a) to add a reference to ''obtain[ing] basic claims status information.''

C. Comments Concerning § 1.601—Qualifications for Access and § 1.602—Utilization of Access

VA received one comment stating that the provision in proposed 38 CFR 1.601(a)(2) regarding a background suitability investigation for issuance of a personal identity verification (PIV) card was not necessary for attorneys who are members in good standing of a State bar because these individuals have already met a State's character and fitness requirements. VA declines to exclude attorneys in good standing from the requirement for a background investigation as part of the qualifications for systems access under the final rule. VA is required to implement the use of PIV cards for logistical access to VA networks and information systems. *See* Homeland Security Presidential Directive-12. In accordance with Office of Management and Budget (OMB) guidance, VA must ensure the initiation of a background investigation and more specifically, either a National Agency Check with Written Inquiries or one that is at least equivalent. *See* 44 U.S.C. 3554; OMB Circular A–130, *Managing Information as a Strategic Resource.* To comply with OMB's guidance and meet the specific background criteria, VA is unable to accept certificates of good standing as a substitute for conducting its own suitability investigation.

The same commenter also disagreed with the provision in proposed 38 CFR 1.602(c)(1) allowing VA to inspect computers including hardware and software utilized to obtain systems access. This commenter suggested adding safeguards to the provision to limit the scope and the basis of VA's ability to inspect privately-owned equipment containing confidential information. This inspection provision is not a new requirement but part of the current regulation and its predecessor since being promulgated in 1994. *See* 59 FR 47082, 47084–85 (Sept. 14, 1994). Moreover, the requirement to permit such inspection is embedded in the information security requirements to which VA must adhere (identified in the proposed rule, *see* 85 FR at 9436) and applies to anyone, whether an employee or non-employee, with access to VA IT systems. Its purpose is to protect the integrity of the network and the sensitive information of Veterans, so VA plans no changes to this long-standing policy and subsection based on the comment.

There is no law that requires VA to provide claimants' representatives or their support staff access to VA IT systems, and there is no expectation of privacy when accessing VA IT systems. To gain access to VA-specific IT systems, the applicant must agree to general rules of behavior. These rules acknowledge the right of authorized IT personnel to periodically inspect devices, systems, or software used to obtain access to VA's network. They also include the ability of VA to periodically inspect a remote location for compliance with required security requirements. Approval of the hardware and software ensures the necessary security for systems access. Approval of the location ensures that access is only from the non-VA-employee's customary and usual or primary place of business, and not from other locations, which might place confidential information at risk of exposure. To properly oversee access activities that provide for the security of the data and systems, VA may, without notice, inspect systems and monitor access activities. VA employs a team of network security experts to monitor and safeguard its systems and databases. Therefore, VA will not change proposed § 1.602(c)(1) based on the comment.

D. Comments Concerning § 1.603—Revocation and Reconsideration

Two commenters commented on the revocation and reconsideration process set forth in 38 CFR 1.603. Both commenters stated that the process should include notice and an opportunity to be heard before the revocation of systems access and should specify a time frame for VA's decision on reconsideration. One of these commenters also stated that the level of detail specified for the reconsideration decision should be included in the initial final decision. The other commenter recommended that VA provide a more robust procedure for appealing an adverse decision by providing specific standards for what factors are analyzed in the reconsideration process and how this process would work in practicality.

VA has carefully considered these comments, particularly in the context of the existing regulation and proposed amendments. Notably, the proposed rule would have eliminated current § 1.603's provision of notice of a proposed revocation but retained, in proposed § 1.603(d), VA's ability to suspend an individual's systems access if there were exigent circumstances. That combination is somewhat incongruous. VA believes the exigent circumstances provision provides sufficient protection for VA systems and the data therein if VA determines that there is a credible risk of harm. Therefore, VA can provide notice of a

proposed revocation and permit an optional response as requested by the commenters, albeit, subject to the possibility on an immediate suspension of systems access under the exigent circumstances provision in paragraph (d), which specifies that the immediate suspension may take place prior to any determination on the merits of a proposed revocation. Accordingly, VA has added language to provide in paragraph (c)(1) that VA will generally notify the attorney, agent, representative of a recognized VSO, or individual authorized by the General Counsel under 38 CFR 14.630 of the proposed denial or revocation and allow 30 days for an optional response. As suggested by one of the commenters, VA has also added language, in paragraph (c)(2), providing that the initial decision will describe in detail the facts found and state the reasons for VA's final decision, matching in pertinent aspects the content proposed for any decision on reconsideration. VA declines the commenters' request to add a time frame for decisions on access. VA cannot predict the time it will take to issue a decision because that will vary based on the variety of facts and circumstances of each particular case. But VA believes that adding the provision for a proposed notice of revocation fairly addresses some of the concern inherent in the commenters' request that VA specify a time frame for the decision on reconsideration. Under the proposed regulation, the first opportunity to respond to a revocation of access was in the reconsideration phase, likely triggering the commenters' concern about a time frame for a VA decision based on that response. Now, there will be an opportunity to respond to a proposed revocation prior to further VA action unless the exigent circumstances provision applies. (In the exigent circumstances provision, VA has also added an opportunity to respond, similar to language in current § 1.603's exigent circumstances provision but excluded from proposed § 1.603(d).) Likewise, VA believes this change makes the revocation process generally ''more robust'' as urged by one of the commenters. Under the current regulation, there is a proposed revocation but no reconsideration of a final decision. Under the proposed regulation, there was no proposed revocation. Under the amended regulation, there will be a revocation proposal before further action by VA unless the exigent circumstances provision applies, a decision, and the opportunity for reconsideration of a revocation. As to the commenter's specific description of a more robust procedure—providing specific standards for what factors are analyzed in the reconsideration process and how this process would work in practicality—VA has also added, in paragraph (c)(2), a standard of proof, the preponderance of the evidence, for the decisions. VA is not making any other changes in response to the commenter's suggestion for further specification because that specification already exists in other parts of the regulations. A revocation or denial of systems access is necessarily premised on a failure to meet a requirement or abide by a rule.

E. Comments Outside the Scope of the Rule

One commenter requested clarification on whether the proposed amendments could be interpreted as prohibiting VSO support staff from receiving VA network access altogether for those organizations co-located with a VA regional office. The commenter asked VA to include a statement in this rulemaking confirming that co-located administrative support staff for VSOs will continue to be able to utilize basic VA IT functionality. This rulemaking is limited in scope and does not apply to or restrict the basic IT functionality currently provided to administrative support staff for VSOs, co-located within VA regional offices. Therefore, VA made no changes in response to this comment.

One commenter suggested a minimum of thirteen months of incarceration as a penalty for mishandling a claimant's personal information. While VA understands the commenter's desire to deter such misconduct, this comment refers to criminal provisions that are not included in this rulemaking and, therefore, cannot be addressed by this action.

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.*

Regulatory Flexibility Act

The Secretary hereby 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 (5 U.S.C. 601–612). This final rule might have an insignificant economic impact on an insubstantial number of small entities, generally, law firms that have individual attorneys who are accredited by VA for purposes of representing VA benefit claimants. VA believes the impact to be minimal because access to VA systems is optional and not a prerequisite to representing any claimant before VA. Therefore, under 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 will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Assistance Listing

There are no assistance listing program numbers and titles for this rule.

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

38 CFR Part 1

Administrative practice and procedure, Archives and records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of information, Government contracts, Government

employees, Government property, Infants and children, Inventions and patents, Parking, Penalties, Postal service, Privacy, Reporting and recordkeeping requirements, Seals and insignia, Security measures, Wages.

38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on June 6, 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 set forth in the preamble, VA amends 38 CFR parts 1 and 14 as follows:

PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1, is revised to read as follows:

Authority: 31 U.S.C. 3711(e); 38 U.S.C. 501, 5701(g) and (i); 38 U.S.C. 5320. 38 U.S.C. 1751–1754 and 7331–7334. Sections 1.500–1.527 issued under 72 Stat. 1114, 1236, as amended; 38 U.S.C. 501, 5701. Sections 1.600–1.603 also issued under 38 U.S.C. 5721–5728.

■ 2. Amend the undesignated center heading preceding § 1.600 by removing the word ''Remote''.

■ 3. Amend § 1.600 by:

■ a. Revising paragraph (a)(1).

■ b. Amending paragraph (a)(2) by removing ''claimants' representatives'' and adding in its place ''attorneys, agents, representatives of a VA-recognized service organization, affiliated support-staff personnel, and individuals authorized by the General Counsel under § 14.630 of this chapter''.

■ c. Revising paragraph (a)(3).

■ d. Revising paragraphs (b), (c), and (d).

The revisions read as follows:

§ 1.600 Purpose.

(a) * * *

(1) When, and under what circumstances, VA will grant attorneys, agents, representatives of a VA-recognized service organization, affiliated support-staff personnel, and individuals authorized by the General Counsel under § 14.630 of this chapter the ability to access records and basic claims status information through specific VA electronic information technology (IT) systems that contain information regarding the claimants whom they represent or assist in representing before VA;

* * * * *

(3) The bases and procedures for denial or revocation of access privileges to VA IT systems of an attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter for violating any of the requirements for access.

(b) VA will provide access to specific VA IT systems, the Veterans Benefit Management System (VBMS) and the Caseflow products Queue and eFolder Express, under the following conditions:

(1) Only to an attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter who is approved to access VA IT systems under §§ 1.600 through 1.603;

(2)(i) For a representative or affiliated support-staff person of a VA-recognized service organization, only to the records of VA claimants who appointed the service organization as the organization of record to provide representation on their claims,

(ii) For an attorney or agent, only to the records of VA claimants who either appointed the attorney or agent as the attorney or agent of record on their claims or appointed an attorney or agent employed by the same legal services office as the attorney or agent of record and consented to affiliated access on VA Form 21–22a, ''Appointment of Individual as Claimant's Representative,''

(iii) For an individual authorized by the General Counsel under § 14.630 of this chapter, only to the records of VA claimants who appointed the individual to provide representation on their claims, or

(iv) For a support-staff person working under the direct supervision of an accredited attorney or agent only to the records of VA claimants who appointed the attorney or agent as the attorney or agent of record on their claims and consented to affiliated access on VA Form 21–22a, ''Appointment of Individual as Claimant's Representative'';

(3) Solely for the purpose of representing or assisting in the representation of the individual claimant whose records are accessed in a claim for benefits administered by VA; and

(4) On a read-only basis, an attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter authorized to access VA IT systems under §§ 1.600 through 1.603 will not be permitted to modify the data, to include modifying any existing records. However, such an attorney, agent, representative of a VA-recognized service organization, or individual authorized by the General Counsel under § 14.630 of this chapter may upload documents as permitted by VA IT policy regarding submittal of new documents.

(c) Privileges to access VA IT systems may be granted by VA only for the purpose of accessing a represented claimant's electronically stored records pursuant to applicable privacy laws and regulations, and as authorized by a claimant's power of attorney under § 14.631 of this chapter.

(d) Sections 1.600 through 1.603 are not intended to, and do not:

(1) Waive the sovereign immunity of the United States;

(2) Create, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law against the United States or VA; or

(3) Create or establish a right to electronic access.

■ 4. Revise § 1.601 to read as follows:

§ 1.601 Qualifications for access.

(a)(1) An applicant for access to VA IT systems for the purpose of providing representation or assisting in representation must be:

(i) A representative of a VA-recognized service organization who is accredited by VA under § 14.629(a) of this chapter through a service organization and whose service organization holds power of attorney for one or more claimants under § 14.631 of this chapter;

(ii) An attorney or agent who is accredited by VA under § 14.629(b) of this chapter and who:

(A) holds power of attorney for one or more claimants under § 14.631 of this chapter or

(B) is authorized to assist in the representation of one or more claimants as an associate attorney or agent employed by the same legal services office as the attorney or agent of record;

(iii) An unaccredited support-staff person, including a legal intern, law

student, or paralegal, working under the direct supervision of an accredited attorney or agent who has been designated to provide representation to one or more claimants under § 14.631(a) of this chapter or an accredited representative of a VA-recognized service organization designated to provide representation to one or more claimants under § 14.631(a); or

(iv) An individual authorized by the General Counsel under § 14.630 of this chapter to represent, without VA accreditation, more than one claimant and holding power of attorney for one or more claimants under § 14.631 of this chapter.

(2) To qualify for access to VA IT systems, the applicant must comply with all security requirements deemed necessary by VA to ensure the integrity and confidentiality of the data and VA IT systems, which may include passing a background suitability investigation for issuance of a personal identity verification badge.

(3) VA may deny access to VA IT systems if the requirements of paragraphs (a)(1) or (2) of this section are not met.

(b) The method of access, including security software and work-site location of the attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter, must be approved in advance by VA.

(c) Each attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter approved for access must complete, sign, and return a notice provided by VA. The notice will specify any applicable operational and security requirements for access, in addition to the applicable VA Rules of Behavior, and an acknowledgment that the breach of any of these requirements is grounds for revocation of access.

■ 5. Revise § 1.602 to read as follows:

§ 1.602 Utilization of access.

(a) Once VA issues to an attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter the necessary logon credentials to obtain basic claims status information and read-only access to the VA records regarding the claimants represented, access will be exercised in accordance with the following requirements. The attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter:

(1) Will electronically access VA records through VA IT systems only by the method of access approved in advance by VA;

(2) Will use only his or her assigned logon credentials to obtain access;

(3) Will not reveal his or her logon credentials to anyone else, or allow anyone else to use his or her logon credentials;

(4) Will access via VA IT systems only the records of claimants whom he or she represents or is authorized to assist in representing;

(5) Will access via VA IT systems a claimant's records solely for the purpose of representing or assisting in the representation of that claimant in a claim for benefits administered by VA;

(6) Is responsible for the security of the logon credentials and, upon receipt of the logon credentials, will destroy the hard copy so that no written or printed record is retained;

(7) Will comply with all security requirements VA deems necessary to ensure the integrity and confidentiality of the data and VA IT systems; and

(8) Will, if accredited or authorized by the General Counsel under § 14.630 of this chapter, comply with each of the standards of conduct for accredited individuals prescribed in § 14.632 of this chapter.

(b)(1) A VA-recognized service organization shall ensure that all its representatives and support-staff personnel provided access in accordance with these regulations receive annual training approved by VA on proper security or annually complete VA's Privacy and Security Training.

(2) An attorney, agent, affiliated support-staff person of an attorney or agent, or individual authorized by the General Counsel under § 14.630 of this chapter who is provided access in accordance with these regulations will annually acknowledge review of the security requirements for the system as set forth in these regulations, VA's Rules of Behavior, and any additional materials provided by VA.

(c) VA may, at any time without notice:

(1) Inspect the computer hardware and software utilized to obtain access and their location;

(2) Review the security practices and training of any attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter provided access in accordance with these regulations; and

(3) Monitor the access activities of an attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter. By applying for and exercising the access privileges under §§ 1.600 through 1.603, the individual expressly consents to VA monitoring access activities at any time for the purpose of auditing system security.

■ 6. Amend § 1.603 by:
■ a. Revising the section heading.
■ b. Revising paragraph (a).
■ c. Revising paragraphs (b) introductory text and (b)(2).
■ d. Removing paragraph (b)(3).
■ e. Redesignating paragraph (b)(4) as (b)(3) and revising the newly redesignated (b)(3).
■ f. Redesignating paragraph (b)(5) as (b)(4) and revising the newly redesignated (b)(4).
■ g. Redesignating paragraph (b)(6) as (b)(5) and revising the newly redesignated (b)(5).
■ h. Revising paragraph (c).
■ i. Removing paragraph (d).
■ j. Redesignating paragraph (e) as (d) and revising the newly redesignated (d).

The revisions read as follows:

§ 1.603 Revocation and reconsideration.

(a)(1) VA may revoke access of an attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter to a particular claimant's records because the principal individual or organization no longer represents the claimant, and, therefore, the claimant's consent is no longer in effect.

(2) VA may revoke access of a previously affiliated attorney or agent to a particular claimant's records because the attorney or agent is no longer affiliated with the principal individual, and, therefore, the claimant's consent is no longer in effect.

(3) VA may revoke access privileges of a previously affiliated support-staff person to all claimants' records because the support-staff person is no longer affiliated with the principal individual or VA-recognized service organization, and, therefore, the claimants' consent is no longer in effect.

(b) VA may revoke the access privileges of an attorney, agent, representative of a VA-recognized service organization, affiliated support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter, either to an individual claimant's records or to all claimants' records via the VA IT systems, if the

individual, or, additionally in the case of the affiliated support-staff personnel of an attorney or agent, the principal individual:

* * * * *

(2) Accesses or attempts to access data for a purpose other than representation or assistance in the representation of an individual claimant;

(3) Accesses or attempts to access data of a claimant whom he, she, or the VA-recognized service organization neither represents nor is authorized to assist in representing;

(4) Accesses or attempts to access a VA IT system by a method that has not been approved by VA; or

(5) Modifies or attempts to modify data in a VA IT system without authorization.

(c)(1) To initiate the process for denial of access under § 1.601(a)(3) or revocation of access under paragraph (b) of this section, VA will notify the attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter of the proposed denial or revocation. If VA is initiating the process to deny or revoke access privileges for a representative of a VA-recognized service organization or any support-staff person, VA will notify the service organization(s) through which the representative is accredited, or the employer of the support-staff person, of the proposal. If VA is initiating the process to revoke access privileges for an attorney or agent based on conduct related to the attorney's or agent's authorized assistance in the representation of one or more claimants, VA will notify the claimants' attorney or agent of record of the revocation proposal. VA's notice will include the procedures applicable to the proposed denial or revocation, including instructions for submitting an optional response and identification of the official making the final decision. VA will allow 30 days for an optional response to the proposal.

(2) After considering any timely-received response, VA will issue a final decision based on a preponderance of the evidence. The decision will describe in detail the facts found and state the reasons for VA's final decision. If VA denies or revokes access privileges for a representative of a VA-recognized service organization or any support-staff person, VA will notify the service organization(s) through which the representative is accredited, or the employer of the support-staff person, of the denial or revocation of access. If VA revokes access privileges for an attorney or agent based on conduct related to the attorney's or agent's authorized assistance in the representation of one or more claimants, VA will notify the claimants' attorney or agent of record of the revocation of access.

(3) The attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter may request reconsideration of a denial or revocation of access by submitting a written request to VA. VA will consider the request if it is received by VA not later than 30 days after the date that VA notified the attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter of its decision.

(4) The attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter may submit additional information not previously considered by VA, provided that the additional information is submitted with the written request and is pertinent to the prohibition of access.

(5) VA will close the record regarding reconsideration at the end of the 30-day period described in paragraph (c)(3) of this section and furnish the request, including any new information submitted by the attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter to the Director of the VA regional office or center with jurisdiction over the final decision.

(6) VA will reconsider access based upon a review of the information of record as of the date of its prior denial or revocation, with any new information submitted with the request. The decision will:

(i) Identify the attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter,

(ii) Identify the date of VA's prior decision,

(iii) Describe in detail the facts found as a result of VA's review of its decision with any new information submitted with the reconsideration request, and

(iv) State the reasons for VA's final decision, which may affirm, modify, or overturn its prior decision.

(7) VA will provide notice of its final decision on access to:

(i) The attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter requesting reconsideration, and

(ii) if the conduct that resulted in denial or revocation of the authority of an attorney, agent, representative of a VA-recognized service organization, support-staff person, or individual authorized by the General Counsel under § 14.630 of this chapter to access VA IT systems merits potential inquiry into the individual's conduct or competence, or in the case of an affiliated support-staff person of an attorney or agent, the principal individual's conduct or competence, pursuant to § 14.633 of this chapter, the VA regional office or center of jurisdiction will immediately inform VA's Office of General Counsel in writing of the fact that it has denied or revoked the individual's access privileges and provide the reasons why.

(d) VA may immediately suspend access privileges prior to any determination on the merits of a proposed revocation where VA determines that such immediate suspension is necessary to protect, from a reasonably foreseeable compromise, the integrity of the system or confidentiality of the data in VA IT systems. However, in such case, VA shall offer the individual an opportunity to respond to the charges that led to the immediate suspension and the proposed revocation after the temporary suspension.

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

■ 7. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 512, 515, 5502, 5901–5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

§ 14.629 [Amended]

■ 8. Amend § 14.629 by removing the Note.

[FR Doc. 2022–13312 Filed 6–23–22; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2022–0329; FRL–9699–02–R7]

Air Plan Approval; Missouri; Start-Up, Shutdown and Malfunction Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend the SIP to incorporate revisions to a state regulation related to the reporting of start-up, shutdown, and malfunction (SSM) events in Missouri. The revisions to this rule include adding incorporations by reference to other state rules, including definitions specific to the rule and making administrative wording changes. These revisions meet the requirements of the Clean Air Act, do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between state and federally approved rules.

DATES: This final rule is effective on July 25, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2022–0329. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Allie Donohue, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7986; email address: *donohue.allie@epa.gov.*

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

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

The EPA is taking final action to approve Missouri's revisions to 10 Code of State Regulation (CSR) 10–6.050, *Start-Up, Shutdown, and Malfunction Conditions,* which relate to reporting of SSM events in the Missouri SIP. On April 7, 2022, the EPA published a notice of proposed rulemaking (NPRM) which proposed to approve the SIP revision as submitted by Missouri on February 11, 2020 (87 FR 20367). The EPA received two comments from one commenter during the public comment period. The EPA's summary of those comments and our responses is contained in Section III of this document.

As described in section IX.H.3 of the February 2013 **Federal Register** document in which EPA analyzed specific SSM SIP provisions and explained how each one either did or did not comply with the Clean Air Act (CAA), EPA reviewed the Missouri rule at issue in this action because it was included in a Sierra Club petition.[1] Sierra Club argued that this Missouri provision gave state personnel authority to determine where enforcement action should be taken based on information a source submits about excess emissions resulting from a malfunction, start-up or shutdown. In EPA's final action, EPA denied the petition on this provision and affirmatively found the provision to be consistent with the 2015 policy ''on the basis that the provision is on its face clearly applicable only to Missouri state enforcement personnel and that the provision thus could not reasonably be read by a court to foreclose enforcement by the EPA or through a citizen suit where Missouri state personnel elect to exercise enforcement discretion.'' As a result, Missouri rule, 10 Code of State Regulation (CSR) 10–6.050, *Start-Up, Shutdown, and Malfunction Conditions,* was not included in the 2015 SSM SIP Call. Because the Missouri submittal does not substantively alter this rule, EPA's previous conclusions relating to this provision's compliance with EPA's SSM policy remain unchanged. Further background information for this action can be found in Section III of EPA's NPRM.

These provisions in the SIP require the reporting of SSM events to the Missouri Department of Natural Resources (MoDNR). Specifically, the provisions set the time by which such notification must occur, define what constitutes an SSM event, and establish the required contents of the written report including but not limited to measures taken to mitigate the extent and duration of the excess emissions, measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of these situations.

The EPA received the MoDNR's SIP revision submission on February 11, 2020. The EPA's full analysis of the revisions can be found in the technical support document (TSD) included in this docket.

In 10 CSR 10–6.050 Section (2) Definitions, the state incorporated definitions for ''excess emissions'' into subsection (A), ''malfunction'' into subsection (B), ''shutdown'' into subsection (C), and start-up into subsection (D). The definitions in the revision are the same as the definitions in the SIP approved 10 CSR 10–6.020. The revisions to Section (2) Definitions also move language about definitions not included in 10 CSR 10–6.050 into subsection (E). Because the language was already SIP-approved, and because the definitions relate to requirements related to informational reporting on SSM events, EPA finds that these revisions do not affect the stringency of the SIP. The rule revisions also include minor word changes, which are administrative in nature and do not affect the stringency of the SIP.

EPA finds that approving these revisions into the Missouri SIP is consistent with EPA's policy as further described in EPA's NPRM.

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

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from June 3, 2019 to July 3, 2019 and received 6 comments. Five comments were from industry groups and one comment was from EPA. The industry comments all related to reporting excess emissions as soon as possible. Ultimately, the State opted not to include additional language to this effect and maintained that notification

[1] Petition to Find Inadequate and Correct Several State Implementation Plans under Section 110 of the Clean Air Act Due to Startup, Shutdown, Malfunction, and/or Maintenance Provisions (June 30, 2011).

must occur within two days. The EPA comment letter indicated that EPA did not have comments on the rule changes. Therefore, the state adequately addressed each comment. In addition, as explained above and in more detail in the NPRM and technical support document (TSD) which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. The EPA's Responses to Comments

On April 7, 2022, the EPA published a NPRM which proposed to approve the SIP revision as submitted by Missouri on February 11, 2020 (87 FR 20367). The public comment period on the EPA's proposed rule opened April 7, 2022 and closed on May 9, 2022. During this period, EPA received two comments from one commenter.

Comment 1: The commenter stated that the EPA did not call for a revision of 10 CSR 10–6.050 in the EPA's June 12, 2015 final rule titled ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,'' (80 FR 33839, June 12, 2015). The commenter stated that EPA found that the provision clearly applies only to Missouri state enforcement at the time of rulemaking. The commenter agreed the provision should apply only to state enforcement but believes the provision could be clarified to reduce any chance that it would interfere with citizen or EPA enforcement.

Response 1: EPA agrees that if a state chooses to maintain state provisions related to SSM events, such provisions should be clear that they do not limit federal enforcement or citizen suit authority in order to be consistent with Clean Air Act requirements. Missouri's revisions to this rule which EPA proposed to approve in the NPRM were limited to largely administrative changes, such as removing unnecessary words and adding in rule-specific definitions. Missouri did not request revisions to the remainder of the SIP-approved rule text; therefore the unchanged portions of the rule text were not at issue in this action. For these reasons, the comment on the clarity of this rule language with respect to federal enforcement or citizen suit authority is outside the scope of this action.

Further, as the commenter acknowledges, EPA previously found the provision in this action to not limit federal enforcement or citizen suit authority and therefore did not find it to be substantially inadequate to meet CAA requirements for the purposes of the 2015 SSM SIP Call. This prior EPA determination was open to notice and comment through EPA's 2015 SSM SIP Action, so commenters had a full opportunity to weigh in on this issue previously. As made clear in the proposal and restated here, EPA is not reopening the determination made in the 2015 SSM SIP Action in this rulemaking.

Comment 2: The commenter stated that the EPA determined a provision in Missouri's Restriction of Emission of Visible Air Contaminants rule, 10 CSR 10–6.220(3)(C), was substantially inadequate to meet CAA requirements in the 2015 SSM SIP Call setting a deadline for the state to respond to the SIP Call of November 22, 2016. The commenter further stated that the SIP-called 10 CSR 10–6.220(3)(C) remains in effect because EPA has not yet acted on Missouri's responsive November 2016 submittal. The commenter urges EPA to address this unlawful loophole that is years overdue.

Response 2: EPA acknowledges this comment, though it does not raise any issue adverse to this current rulemaking. This comment is related to a different state rule and submission in front of the Agency for action. Therefore, this comment is outside the scope of this action. Although outside the scope of the present rulemaking, EPA notes that consistent with CAA section 113(g), the EPA recently published a proposed consent decree including a deadline by which EPA must finalize action on Missouri's 2016 submission responding to EPA's 2015 SSM SIP Call (87 FR 21118, Case No. 21–cs–6956). EPA anticipates taking expeditious action on Missouri's 2016 responsive submittal but no later than the date which will be set by the final consent decree when entered by the Court.

IV. What action is the EPA taking?

The EPA is taking final action to amend the Missouri SIP to incorporate revisions to state rule 10 CSR 10–6.050, *Start-Up, Shutdown, and Malfunction Conditions,* related to reporting of SSM events, in the Missouri SIP as submitted to EPA on February 11, 2020. On April 7, 2022, the EPA published a NPRM proposing to approve Missouri's February 11, 2020, SIP revision submittal (87 FR 20367). The EPA sought public comment on the NPRM and received two comments from one commenter. The EPA's responses to comments received is included in Section IV of this document. The EPA is taking final action after consideration of the comments. Approval of these revisions will ensure consistency between State and federally approved rules. As described in the NPRM and the TSD, the EPA has determined that these changes meet the requirements of the CAA and will not adversely impact air quality or the stringency of the SIP.

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri rule 10 CSR 10–6.050 described in Section I of this preamble and set forth below in the amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2]

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

[2] 62 FR 27968, May 22, 1997.

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).
- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).
- Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 23, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 15, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–6.050'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.050	Start-Up, Shutdown, and Malfunction Conditions.	1/30/2020	6/24/2022 [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2022–13314 Filed 6–23–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket No. 15–146, GN Docket No. 12–268; FCC 22–33; FR ID 91601]

Preservation of One Vacant Channel in the UHF Television Band for Use by White Spaces Devices and Wireless Microphones

AGENCY: Federal Communications Commission.

ACTION: Denial of petitions for reconsideration.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts an Order on Reconsideration (Order), that denies the Petitions for Reconsideration filed by Sennheiser Electronic Corporation and Shure Incorporated and affirms its conclusions and reasoning to close the vacant channel proceeding. The Commission's Order denies petitioners' requests for reconsideration and reversal

of the Commission's 2020 Report and Order, that declined to adopt proposals of a 2015 Notice of Proposed Rulemaking, and affirms closure of the vacant channel proceeding.

DATES: The petitions for reconsideration were denied effective May 11, 2022.

FOR FURTHER INFORMATION CONTACT: For further information, contact Michael Scurato (202–418–2083; *Michael.Scurato@fcc.gov*).

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Order on Reconsideration, MB Docket No. 15–146, GN Docket No. 12–268; FCC 22–35, adopted and released on May 11, 2022. The full text of this document can be accessed online via the Commission's Electronic Comment Filing System (ECFS) at: *https://apps.fcc.gov/ecfs* and is available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat via ECFS and at *https://www.fcc.gov/document/fcc-affirms-closure-vacant-channel-proceeding*. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Synopsis

In this Order on Reconsideration, the Commission denies the Petitions for Reconsideration filed by Sennheiser Electronic Corporation (Sennheiser) and Shure Incorporated (Shure) (collectively, Petitioners) requesting reconsideration and reversal of a Commission Report and Order, 86 FR 9297 (Feb. 12, 2021), 35 FCC Rcd 14272 (2020) (*Termination Order*) that declined to adopt rules proposed in a 2015 Notice of Proposed Rulemaking, 80 FR 38158 (July 2, 2015), 30 FCC Rcd 6711 (2015) (*2015 NPRM*), to preserve a vacant channel in the television (TV) bands for use by white space devices and wireless microphones and terminated the proceeding.

As the Commission held in the *Termination Order,* it finds that adoption of the rules proposed in the *2015 NPRM* would not strike the most reasonable balance that would best serve the public interest. The Commission makes this determination in light of other actions taken by the Commission since the *2015 NPRM* that will support wireless microphone users and the burdens that the proposal would impose on broadcasters. The Commission also reaffirms the conclusions it reached in the *Termination Order* that the steps the Commission has taken in other proceedings since the *2015 NPRM* provide a better alternative for addressing the needs of wireless microphone providers than through efforts to preserve a vacant channel in light of the burdens the vacant channel proposal would impose on broadcasters. Because it agrees that the totality of these circumstances support the findings in the *Termination Order,* the Commission rejects the Petitioners' claim that the its action was arbitrary and capricious.

The Commission recognizes the Petitioners' preference for UHF TV band spectrum to the alternatives adopted to assist the wireless microphone operations, but does not find sufficient grounds to reconsider the Commission's conclusion not to pursue the *2015 NPRM*. The Commission notes that the *Termination Order* does not find that the other proceedings to support spectrum access for wireless microphones are a perfect substitute for the UHF TV band spectrum. The Commission also notes that its decision not to pursue the *2015 NPRM* did not lessen the spectrum access that wireless microphones currently enjoy in the TV band and indeed the Commission has continued to find ways, and additional spectrum, to accommodate wireless microphones in the future outside of the crowded TV bands. Furthermore, technical issues raised by Petitioners and commenters related to the differences between spectrum in the TV band and other bands have been considered in other dockets, the Commission explains. Moreover, although not necessary to support the Commission's decision to terminate this proceeding, the Commission also notes that it continues to explore these issues in pending proceedings.

In weighing those needs, the Commission further affirms that it reasonably concluded that the 2015 vacant channel proposal would impose undue burdens on the broadcast users of the TV band. The Commission finds that it adequately weighed the needs of all spectrum users, and supported its decision not to pursue the proposals in the *2015 NPRM* for several reasons, including changed circumstances since 2015 and the alternate initiatives taken by the Commission since 2015.

The Commission also agrees with its prior decision that the proposal would impose undue burdens on broadcasters ''both in congested areas where a vacant channel may not be available in the television band and in less congested areas where more spectrum is available such that analysis is not warranted.'' As the National Association of Broadcasters (NAB) and a number of individual broadcasters noted in their 2015 comments, the Commission explains that adoption of the proposed rules would serve to freeze full power stations in place and hamstring their ability to expand or innovate to better serve their viewers. And the proposal would require ''novel engineering studies'' that ''would be expensive and time-consuming, particularly for smaller broadcasters'' where ''the cost of conducting such studies is likely to be multiples of current engineering design costs.'' Significantly, television stations would bear the administrative burden of studying and proving the availability of channels for other users in order to receive approval of an application that is otherwise grantable in the public interest. The Commission concludes it properly decided ''not [to] deviate from previous Commission decisions that use of the TV bands by primary and secondary broadcast users have priority over wireless microphones and white space devices.'' Further, although Petitioners' opine that the adoption of the 2015 proposals would not hinder the development of ATSC 3.0 (the TV transmission standard developed by the Advanced Television Systems Committee) service by broadcasters, including new and innovative uses of broadcast spectrum that the ATSC 3.0 standard enables, the Commission explains that it believes that it properly balanced concerns raised in the record that the proposed rules would hamstring the ability of broadcasters to innovate. Petitioners' support of a scheme that would forgo the nationwide solution proposed by the Commission and sought by proponents of the *2015 NPRM* would not ameliorate cost and regulatory compliance burdens for licensed broadcasters, the Commission concludes.

The Commission acknowledges Shure's assertion that the *2015 NPRM* was an integral part of a multi-proceeding effort to support wireless microphones and that it was contemplated that the Incentive Auction would result in changed circumstances. The Commission does not, however, believe these factors mandate reconsideration. As described herein, the Commission continues to balance and support various spectrum users' needs in multiple proceedings balancing all the facts and circumstances and

concludes that the actions taken in other proceedings to make spectrum available for wireless microphones have achieved the balance sought in the *Incentive Auction Report and Order,* 79 FR 48441 (Aug. 15, 2014), 29 FCC Rcd 6567 (2014), while also addressing the needs of licensed broadcast stations displaced by the Incentive Auction. For the same reason, the Commission does not believe that Sennheiser's insistence that the Commission pursue the *2015 NPRM's* proposals in addition to the other proceedings supporting wireless microphones mandates reconsideration.

While the focus of the *2015 NPRM* was on a nationwide vacant channel solution, Petitioners contend that a non-nationwide solution would also benefit wireless microphones and thus the inability to achieve a nationwide solution does not justify termination of the proceeding. The Commission disagrees. A non-nationwide vacant channel solution would necessarily provide fewer benefits than the proposal as originally conceived without diminishing any of the burdens on broadcasters, especially in rural areas without adequate multichannel video programming distributor (MVPD) and broadband service alternatives, and if anything would therefore further support the Commission's balance of the needs of the various spectrum users.

The Commission also rejects Shure's unsupported argument that the Commission erred by unanimously adopting the *Termination Order* during the ''lame duck'' transition period after the national presidential election, which resulted in a change of the party with control over administrative agencies. Shure's argument is unavailing because it lacks any legal support and, in any event, is now moot because the Commission rejects the Petitions on the merits.

Market analyses provided by Shure and Sennheiser purporting to indicate vacant channel availability in major designated market areas (DMAs) does not support reconsideration, according to the Commission. Neither submission alters the Commission's conclusion in the *Termination Order* that TVStudy software reveals that there are numerous major metropolitan areas in the United States that have no vacant, 6 MHz channels. In its petition, Shure describes an ''independent preliminary analysis of channel availability'' that it conducted using a tool that it developed to ''calculate[ ] vacant channel availability after drawing information from the FCC TV database.'' Using the tool, Shure compiled a list of channels it claims are vacant in the top 10 DMAs. But the ''preliminary analysis'' is flawed, the Commission finds. For example, channels listed as available in multiple markets, including the two listed for Houston, two for Dallas, two for Los Angeles, and one for Chicago, do not qualify as vacant channels because they are adjacent to land mobile. Others, including the remaining channels listed for Dallas, Los Angeles, and Chicago also do not qualify as vacant channels because they are identified in LPTV or Class A construction permits or licenses. Similarly, Sennheiser's ex parte purportedly ''update[d] the Commission on new developments'' to offer a data analysis. On the basis of that analysis, it asserts that, with the exception of Phoenix, Arizona, ''in almost every major DMA in the United States, there is a vacant channel that could be designated for wireless microphones.'' This analysis is also unconvincing, the Commission concludes. First, by identifying Phoenix as a market that lacks a vacant channel, the ex parte concedes that the Commission was correct in its assertion in the *Termination Order* that a *nationwide* vacant channel solution in the TV band as proposed in the *2015 NPRM* is no longer possible. Furthermore, the analysis described in the ex parte is flawed for several reasons, and therefore it does not undermine the assertion in the *Termination Order* that numerous major metropolitan areas have no vacant 6 MHz channels. First, the analysis is inaccurate in stating that certain channels are available. For example, the ex parte assertion that channel 16 in Salt Lake City is available overlooks a displacement construction permit issued for that channel. Second, the analysis incorrectly assumes that the identification of an available channel in a specific location demonstrates that the channel could be preserved across an entire DMA. Again, the example of channel 16 in Salt Lake City is illustrative, as the Salt Lake City DMA includes the entire state of Utah and portions of neighboring states. Within that DMA a number of TV translators occupy channel 16, which would disqualify the channel as vacant throughout the entire DMA. Third, some of the channels that the ex parte identifies as available in large markets, such as New York and Los Angeles, could not be deemed vacant for the purposes of the *2015 NPRM* proposals because those channels have land mobile reservations on adjacent channels. Finally, the ex parte analysis was performed using a third-party tool found on an internet web page that utilizes standards that are not consistent with Commission rules to protect TV operations from wireless microphones, which in many cases will overstate channel availability as compared to what was proposed in the *2015 NPRM* and is not a reliable method for evaluating the Vacant Channel proposal.

In summary, and consistent with the public interest analysis in the *Termination Order,* while the Commission recognizes the important benefits provided by wireless microphones in the TV bands, it finds that other actions that the Commission has taken to support these users subsequent to issuance of the *2015 NPRM* provide a better alternative for addressing their needs than through efforts to preserve a vacant channel in light of the burdens the vacant channel proposal would impose on broadcasters. The Commission agrees with the conclusion in the *Termination Order* that it can no longer say that the *2015 NPRM's* proposals ''will not significantly burden broadcast applicants.'' In light of changed circumstances, the Commission concludes that it should not deviate from previous Commission decisions that use of the TV bands by primary and secondary broadcast users have priority over wireless microphones and white space devices. The Commission believes that preserving robust over-the-air broadcast television service remains an important spectrum allocation priority, especially to rural areas without adequate MVPD and broadband service alternatives. The Commission continues to recognize the promise of next generation ATSC 3.0 service by over-the-air television broadcasters to expand the universe of potential uses of broadcast spectrum capacity for new and innovative services in ways that will complement the nation's burgeoning 5G networks and usher in a new wave of innovation and opportunity. Having restructured the TV band, the Commission finds that to now adopt a requirement that primary and/or secondary television stations protect spectrum availability for wireless microphones in the smaller, more densely packed television band, would not serve the public interest. Therefore, the Commission finds that, on balance, seeking to preserve a vacant channel at this time, considering all of the actions that the Commission has taken since 2015 to promote wireless microphones interests, are outweighed by the burdens of the proposals on broadcasters.

The Commission therefore affirms the its decision in the *Termination Order* to decline to adopt the proposals of the *2015 NPRM* and to terminate this docket, and disagrees with Petitioners

that the Commission's rejection of the *2015 NPRM* warrants reconsideration.

For the reasons stated above, the Commission denies the Petitions filed by Sennheiser and Shure requesting reconsideration and reversal of the *Termination Order* and declines to adopt rules proposed in the *2015 NPRM* to preserve a vacant channel for use wireless microphones use.

Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 4(j), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), 405 and § 1.429 of the Commission's rules, 47 CFR 1.429, the captioned Petitions for Reconsideration *are denied*, for the reasons discussed herein.

It is further ordered that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 15–146 *shall be terminated* and the docket closed.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–13249 Filed 6–23–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[Docket No. FWS–HQ–ES–2020–0047, FF09E23000 FXES1111090FEDR 223; Docket No. 220613–0133]

RIN 1018–BE69; 0648–BJ44

Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat

AGENCY: U.S. Fish and Wildlife Service, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (hereafter collectively referred to as the ''Services'' or ''we''), rescind the final rule titled ''Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat'' that was published on December 16, 2020, and became effective on January 15, 2021. This rescission removes the regulatory definition of ''habitat'' established by that rule.

DATES: This final rule is effective July 25, 2022.

ADDRESSES: Public comments and materials received, as well as supporting documentation used in the preparation of this final regulation, are available online at *https://www.regulations.gov* in Docket No. FWS–HQ–ES–2020–0047.

FOR FURTHER INFORMATION CONTACT: Angela Somma, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, telephone 301–427–8403; or Bridget Fahey, U.S. Fish and Wildlife Service, Division of Conservation and Classification, 5275 Leesburg Pike, Falls Church, VA 22041–3803, telephone 703–358–2171. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

On January 20, 2021, the President issued Executive Order (E.O.) 13990, which, in section 2, required all executive departments and agencies to review Federal regulations and actions taken between January 20, 2017, and January 20, 2021. In support of E.O. 13990, a ''Fact Sheet'' was issued that set forth a non-exhaustive list of specific agency actions that agencies are required to review to determine consistency with the policy considerations articulated in section 1 of the E.O. (See *www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/*). Among the agency actions listed on the Fact Sheet was our December 16, 2020, final rule promulgating a regulatory definition for the term ''habitat'' (85 FR 81411) under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (hereafter, ''the Act''). Following our review of this rule (the ''habitat definition rule''), we determined it was unclear and confusing and inconsistent with the conservation purposes of the Act, and we subsequently published a proposed rule to rescind it (86 FR 59353, October 27, 2021). We solicited public comments on the proposed rule through November 26, 2021. In response to several requests, we extended the deadline for submission of public comments to December 13, 2021 (86 FR 67013, November 24, 2021).

The December 2020 final rule defined ''habitat'' as follows: For the purposes of designating critical habitat only, habitat is the abiotic and biotic setting that currently or periodically contains the resources and conditions necessary to support one or more life processes of a species. The definition itself indicates that it applies only in the context of designating ''critical habitat,'' which is defined in section 3(5)(A) of the Act as specific areas within the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protections; and as specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The two types of critical habitat described in this statutory definition are often referred to as ''occupied'' and ''unoccupied'' critical habitat, respectively, and for simplicity, we use those shorthand terms within this document. The Secretaries (of Commerce and the Interior) designate critical habitat for threatened and endangered species on the basis of the best scientific data available and after taking into consideration various impacts of the designation (16 U.S.C. 1533(b)(2)). Once critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify that habitat (16 U.S.C. 1536(a)(2)). Critical habitat requirements do not apply to actions on private land that do not involve the authorization or funding of a Federal agency.

On January 14, 2021, one day before the rule took effect, seven environmental groups challenged it, filing suit against the Services in Federal district court in Hawaii. Shortly thereafter on January 19, 2021, 19 States similarly filed suit challenging the habitat definition rule in the Northern District of California. Parties in both cases have agreed to long-term stipulated stays in the litigation as this rulemaking proceeds.

Following consideration of all public comments received in response to our proposed rule to rescind the habitat definition, and for reasons outlined both

in our proposed rule (86 FR 59353, October 27, 2021) and this document, we have decided to rescind the regulatory definition of ''habitat.'' We acknowledge that, in coming to this final decision to rescind the regulatory definition of ''habitat,'' we are changing our position on some aspects of the rationale underpinning the definition's adoption; accordingly, we have provided explanations for why rescission of the definition is appropriate.

Rationale for Rescission of the Habitat Definition Rule

As indicated in our initial proposed rule to define the term ''habitat,'' the impetus for developing the regulatory definition was the decision by the U.S. Supreme Court in *Weyerhaeuser Co.* v. *U.S.F.W.S.,* 139 S. Ct. 361, 372 (2018) (hereafter, ''*Weyerhaeuser*'') (85 FR 47333, August 5, 2020). The relevant holding in that case that prompted our rulemaking was: ''An area is eligible for designation as critical habitat under § 1533(a)(3)(A)(i) only if it is habitat for the species.'' The Court's decision in *Weyerhaeuser* did not address what should or should not qualify as habitat, nor did it require the Services to adopt a regulatory definition of ''habitat.'' Rather, the Court remanded the case to the lower court to consider whether the particular record supported a finding that the area disputed in the litigation was habitat for the particular species at issue (the dusky gopher frog). This dispute, however, was never resolved by any court. The Services subsequently adopted a regulatory definition of ''habitat,'' stating our intent was to provide transparency, clarity, and consistency for stakeholders (85 FR 81411, December 16, 2020). We have reconsidered the habitat definition rule and considered public comments, and we now conclude that codifying a single definition in regulation could impede the Services' ability to fulfill their obligations to designate critical habitat based on the best scientific data available. For reasons further outlined below, we find that it is instead more appropriate, more consistent with the purposes of the Act, and more transparent to the public to determine what areas qualify as habitat for a given species on a case-by-case basis using the best scientific data available for the particular species.

First and most problematically, the definition and statements made in the December 2020 final rule are in tension with the conservation purposes of the Act because they could inappropriately constrain the Services' ability to designate areas that meet the definition of ''critical habitat'' under the Act. As indicated by the plain text of the Act and as supported by extensive case law, critical habitat is defined to include areas that are essential to the recovery of listed species; critical habitat is not limited to areas that merely support the survival of the species (*Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Serv.,* 378 F.3d 1059, 1070 (9th Cir. 2004); *Sierra Club* v. *U.S. Fish and Wildlife Serv.,* 245 F.3d 434, 442 (5th Cir. 2001); *Center for Biological Diversity* v. *Kelly,* 93 F. Supp. 3d 1193, 1201 (D. Idaho 2015)). In order to fulfill the intended objective of critical habitat, the Services should be able to designate unoccupied areas as critical habitat if those areas fit within any reasonable biological understanding of ''habitat'' as established by the best available scientific data for a particular species, and if such areas are essential for the recovery of the species. However, the ''habitat'' definition rule did not afford the Services this ability in all cases. The preamble to the final rule stated that the ''habitat'' definition excludes areas that do not currently or periodically contain the requisite resources and conditions, even if such areas could meet this requirement in the future ''after restoration activities or other changes occur'' (85 FR 81411, p. 81413, December 16, 2020). Thus, the ''habitat'' definition rule eliminated from possible designation as critical habitat any area that does not ''currently or periodically'' contain something deemed a necessary ''resource or condition'' even though it would do so as a result of natural transition following a disturbance (*e.g.* fire or flood), in response to climate change, or after reasonable restoration. Because most species are faced with extinction as a result of habitat degradation and loss, it is more consistent with the purposes of the Act to avoid limiting the Services' ability to designate critical habitat to protect the habitats of listed species and support their recovery.

While we acknowledge that we can revise critical habitat designations after resources and conditions change (*e.g.,* the area is restored or naturally improves), Congress required the Services to identify unoccupied areas that are ''essential for the conservation'' of the species based on the best available scientific data when designating critical habitat (16 U.S.C. 1533(b)(2)). Identifying those areas by applying the best available science for the given species and its habitat, rather than delaying until an arbitrary point in time when conditions that are not required under the Act's definition are realized, better fulfills the conservation purposes of the Act, and ensures that important areas of habitat are protected from destruction or adverse modification. In other words, we find that a better reading of the Act, consistent with the statutory mandate to apply the best available science, is that an area should not be precluded from qualifying as habitat because some reasonable restoration or alteration, whether through reasonable human intervention or natural processes, is necessary for it to support a species' recovery. Rather, we find that relying on the best available scientific data, including species-specific ecological information, is the best way to determine whether areas constitute habitat and may meet the definition of ''critical habitat'' for a species. We note that this key concern with the ''habitat'' definition regarding its excessive constraint on the Services' ability to designate critical habitat under the Act cannot be remedied by issuing guidance on how to interpret the regulatory definition. Because a regulation is binding, we cannot remedy a problematic regulation through issuance of guidance. Further, interpretive guidance could not cure the statutory tension we have identified between the ''habitat'' definition and the conservation purposes and mandates of the Act.

Secondly, the habitat definition rule is not clear and thus does not achieve the ambitious goals of providing transparency and reproducibility of outcome. Application of the habitat definition fundamentally relies on subjective interpretations with respect to which areas would or would not qualify as habitat and, therefore, would or would not be eligible for designation as critical habitat under the Act. This conundrum would not be resolved by simply revising the current definition or resorting to another available definition. As we stated in the proposed rule to rescind the definition, prior to adopting the definition, we reviewed and considered many definitions, both from the ecological literature (*e.g.,* Odum 1971, Kearney 2006) and from numerous public comments. The resulting definition was one that neither stemmed from the scientific literature nor had a clear relationship to the statutory definition of ''critical habitat.'' Instead, in order to codify a sufficiently generalized definition that would cover a wide array of species' habitat requirements and simultaneously satisfy the underlying need to encompass unoccupied critical habitat as defined under the Act, the definition relied on

overly vague terminology. Its terms were neither clear nor sufficiently informative to allow for any conclusions to be reached about whether a particular area would be considered habitat for a particular species. This outcome would also inescapably be the case for any regulatory definition of the term ''habitat,'' which would need to be rather generic in order to encompass the wide range of species the Services must manage. Such a definition would have little to no practical value within the context of designating critical habitat, which is a specific subset of a species' habitat.

Although unintended at the time the definition was finalized, we used terminology that is unclear, has no established meaning in the statute or our prior regulations or practices (*e.g.,* ''abiotic and biotic setting'' and ''resources and conditions necessary to support''), and unavoidably competes with elements of the statutory definition of critical habitat (*e.g.,* ''physical or biological features essential to the conservation''). It is unclear, for example, how ''resources and conditions'' would be distinguished from the ''physical and biological features'' referenced in the statutory definition of ''critical habitat.'' Unlike terminology within the statutory definition of ''critical habitat'' (*e.g.,* ''geographical area occupied by the species'' and ''physical and biological features essential to the conservation of the species'') for which interpretations have been established through extensive practical application and implementing regulations (see 50 CFR 424.02), terminology in the ''habitat'' definition has no clearly established meanings or interpretations.

Because the terms have no clearly established meanings in either the scientific or legal contexts, they would be subject to various interpretations that could not be resolved simply by referring to the explanations that were included in the preamble of the final rule for the definition. For instance, it remains unclear how an area would be judged as containing or not containing all of the ''resources and conditions'' that are ''necessary to support'' a life process of the species, and how application of that terminology would be affected by how much is known about a given species. Knowing that a species occurs in a particular type of habitat does not necessarily equate to there being a scientific understanding of what resources and conditions in that area support a particular life process of that species. Given these ambiguities, we conclude that, despite our efforts to promulgate a definition that was both sufficiently broad and clear, the resulting definition is inadequate to achieve clarity or any practical value in assisting the Services or the public in better understanding what specific areas constitute habitat for a given species. This lack of clarity is also reflected in the public comments received that raised similar concerns, or suggested revisions or alternative definitions, as well as those that expressed opposing assertions that the definition was either too vague or too narrow. Furthermore, as stated above, interpretive guidance to address the lack of clarity would not remedy our primary concern with the ''habitat'' definition as outlined earlier (*i.e.,* that it inappropriately constrains the Services' ability to designate critical habitat under the Act),

In addition, the lack of clarity and potential for confusion extend to how the Services would use, or be required to use, the ''habitat'' definition. As we indicated when we adopted the ''habitat'' definition, by adding this definition to the Code of Federal Regulations, we did not intend to create an additional step in the process of designating critical habitat for all species (85 FR 81411, December 16, 2020). Rather, our intent was that this definition would act as a regulatory standard that primarily would be relevant in a limited set of cases where questions arose as to whether any of the unoccupied areas that we are considering designating as critical habitat qualify as habitat (85 FR 81411, p. 81414, December 16, 2020). (Such questions do not arise for the large majority of critical habitat designations, because most designations involve only ''occupied'' critical habitats, which are inherently ''habitat'' for that species.)

However, based on comments received in response to the proposal to rescind the habitat rule, it appears that this intention was either misinterpreted or considered incorrect. Some commenters appear to expect that, with the habitat rule in place, the Services would need to apply and document consideration of the regulatory definition in all instances when undertaking critical habitat designations, whether the areas were occupied by the listed species or not. Thus, and as we stated in our proposed rule to rescind the definition, we find that the approach of codifying a regulatory definition of ''habitat'' that was not intended to have a practical effect in the majority of designations in the course of designating critical habitat is inherently confusing (86 FR 59353, October 27, 2021). Rescinding the rule will eliminate this confusion and prevent the potential evolution of an additional, unnecessary procedural step that would likely only impede and complicate the Services' ability to fulfill their responsibilities under the Act to designate critical habitat.

Having reconsidered the definition as prompted by E.O. 13990 and in light of the considerations discussed herein, we conclude that the definition is unhelpful, unnecessary, and improperly and excessively constrains the Services' authority under the statute, and it is more appropriate to evaluate and determine what areas qualify as habitat (and that may as a separate matter be potentially also critical habitat) by considering the best available science for the particular species, the statutory definition of ''critical habitat,'' our implementing regulations, and existing case law. Therefore, we are removing and not replacing the definition of ''habitat'' from 50 CFR 424.02. Nevertheless, we recognize the importance of the Supreme Court's ruling in *Weyerhaeuser* and intend to designate as critical habitat only areas that are habitat for the given listed species. We will ensure that the administrative records for particular designations include an explanation for why any unoccupied areas are habitat for the species.

Public Comments

By the close of the public comment period on December 13, 2021, we received just under 13,000 public comments on our proposed rule to rescind the regulatory definition of ''habitat.'' Comments were received from a range of sources including individual members of the public, States, Tribes, industry organizations, legal foundations and firms, and environmental organizations. The vast majority of the comments received (~12,400) were nearly identical statements from individuals indicating their general support for rescission of the rule but not containing substantive content. During the public comment period, we received a request for public hearings. However, public hearings are not required for regulations of this type and we elected not to hold public hearings.

All public comments were reviewed and considered prior to developing this final rule. Summaries of substantive comments and our responses are provided below. Similar comments are combined where appropriate. We did not, however, consider or respond to comments that are not relevant to and are beyond the scope of this particular rulemaking. For example, we did not discuss and respond to comments regarding the FWS' proposed rule to

rescind regulations regarding section 4(b)(2) of the Act (see 86 FR 59346, October 27, 2021), previous versions of the Services' regulations in 50 CFR part 424, consistency of potential future land use actions by the FWS with State management plans, consultations between FWS and State management agencies, or general concerns regarding State versus Federal control as it relates to implementation of the Act (*e.g.,* listing species and designating critical habitat).

Comment 1: Numerous commenters stated they supported the proposal to rescind the habitat definition rule. Commenters stated the habitat definition rule should be rescinded because it is unnecessary, creates confusion, and could lead to absurd outcomes by excluding degraded habitats or habitats not yet occupied by the species from designation as critical habitat. Some commenters also stated that the habitat definition rule could hinder the Services from designating ephemeral habitats or areas where the precise resources and conditions are not well understood. Other commenters stated that the habitat definition rule violates the conservation purposes of the Act, was arbitrary and capricious under the Administrative Procedure Act, and its issuance violated the National Environmental Policy Act.

Response: As discussed more fully above, we share many of these concerns; as a result, we are rescinding the habitat definition rule.

Comment 2: Some commenters asserted that rescinding the habitat regulation will result in longer timelines and more litigation on critical habitat designations. Such delays would in turn lead to delays in Federal permitting and increased costs for infrastructure and other projects.

Response: The Services disagree that rescinding the habitat regulation will increase litigation, extend timelines for designating critical habitat, delay Federal permitting, or increase costs for projects. The Services note there is already ongoing litigation on the existing regulation's definition of ''habitat'' and, because the definition is highly controversial, its application in any future critical habitat designations would likely generate additional litigation and potential delays. Basing critical habitat designations on the best available scientific data as determined on a case-by-case basis will likely result in less litigation than designating critical habitat by applying a regulatory definition that is in tension with the Act's definition of ''conservation'' and inappropriately constrains the Services' ability to designate critical habitat.

Comment 3: Several commenters asserted that rescinding this regulation will affect the reliance interests of those who rely on this regulation now, and the rescission will be disruptive and result in added costs. One commenter, however, stated that rescission of the habitat rule would not impose any undue hardship because they were unaware of any reliance interests on the current definition and because previous interpretations of critical habitat were well understood.

Response: This regulation became effective on January 15, 2021. On January 20, 2021, the President issued E.O. 13990 and an associated Fact Sheet with a non-exhaustive list of agency actions, directing the Services to review the habitat rule and other regulations. The Services publicly announced on June 4, 2021, that they would propose to rescind the habitat definition rule. In the proposal to rescind the rule, the Services did not identify any affected reliance interests (*i.e.,* instances of a third party making a decision in reliance on application of the definition) because they were unaware that any existed, especially due to the rule's limited practical applicability and the limited time it has been in effect. Although several commenters expressed the possibility that there may have been reliance on the definition of ''habitat,'' none provided any specific examples of actual reliance, nor did any articulate why such reliance would have been reasonable given the limited time that elapsed between the rule's effective date and when it was identified for reconsideration. The regulatory definition has been in place for a relatively short time and has a potential bearing only on unoccupied areas. (As we explained in the final rule establishing the habitat definition, if an area is occupied by the species and meets the statutory definition for ''occupied'' critical habitat (which includes, notably, a requirement that physical or biological features essential to the conservation of the species be present), then as a matter of logic and rational inference, the area must also be habitat for the species (85 FR 81411, December 16, 2020).) Most of the Services' designations do not involve ''unoccupied'' critical habitat. As a result, the regulatory habitat definition has been relevant to only a small number of designations and was not determinative in the areas identified as critical habitat in those designations. Therefore, we have no basis to conclude that rescinding this definition and relying on the best available scientific data on a case-by-case basis will affect any reliance interests.

Comment 4: Some commenters stated the lack of a definition for ''habitat'' will place an increased burden on Service employees who will have to make independent assessments about habitat for each critical habitat designation. These commenters stated that those drafting critical habitat designations will now be required to demonstrate not only that the proposed designation of critical habitat meets the statutory definition of critical habitat, but also that the rule ensures that independent meaning is given to the term ''habitat,'' and that such meaning is consistent with the Act. The commenters asserted that this consideration is a heavy and inappropriate burden to place on an employee.

Response: Removing the regulatory definition of ''habitat'' will not place an increased burden on employees when designating critical habitat. The Services must make an independent assessment of areas occupied by the species as well as unoccupied areas that are essential for that species' conservation when we designate critical habitat regardless of whether ''habitat'' is defined in regulation. In addition, as noted in the final rule promulgating the definition, areas are inherently considered habitat for the species if they are occupied by the species and also meet the definitional elements of ''critical habitat'' provided in the statute. Although the Services agree that all critical habitat must be habitat, in practice, the regulatory definition would be relevant only in determining whether unoccupied areas that are essential for the conservation of the species constitute habitat for the species.

Comment 5: Several commenters expressed concerns about regulatory takings should the habitat definition rule be rescinded. These comments asserted that determinations that private lands are habitat, and more consequentially critical habitat, place onerous restrictions on those lands or result in the Services withholding permits to develop the land, and that rescinding the habitat definition rule would increase those uncompensated, unlawful regulatory takings exponentially. In particular, these commenters were concerned that rescinding the definition would allow the Services to designate critical habitat where the species could not currently survive and place the burden of restoring the area on the private landowner. Commenters stated that, consistent with case law addressing the Fifth Amendment's Takings Clause (*e.g., Nollan* v. *California Coastal*

Commission, 483 U.S. 825 (1987); *Dolan* v. *City of Tigard,* 512 U.S. 374 (1994); and *Koontz* v. *St. Johns River Water Management District,* 570 U.S. 595 (2013)), the Federal Government cannot impose conditions on land use permits that require the private landowner to mitigate adverse effects on the habitat where the necessary habitat features are lacking, and that retaining the habitat definition would help ensure avoidance of such Takings Clause violations.

Response: The rescission of the regulatory definition of ''habitat'' will not allow for unlawful takings by the Services as described by the commenters. In making future critical habitat designations, the Services will adhere to the Supreme Court's ruling in *Weyerhaeuser* that an area may be designated as critical habitat only if it is habitat for that species. The requirement to avoid the destruction or adverse modification of critical habitat applies to actions on private land only when they involve Federal authorization or Federal funding. Where an action does implicate authorization or funding by a Federal agency, any resulting section 7 consultation under the Act on the designated critical habitat would then consider the effects of the particular proposed action (*e.g.,* issuance of a land-use-related permit) to ensure the critical habitat is not likely to be destroyed or adversely modified by the action. Even a finding that the action was likely to destroy or adversely modify the critical habitat would not result in an unlawful taking, because that finding would not require the Federal action agency or the landowner to restore the critical habitat or recover the species, but rather to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat. Rather than imposing an affirmative requirement that Federal actions improve critical habitat, section 7(a)(2) prohibits Federal actions from reducing the critical habitat's existing capacity to conserve the species (Final Rule Establishing Definition of ''Destruction or Adverse Modification'' of Critical Habitat, 81 FR 7214, p. 7224, February 11, 2016; extending to the adverse-modification analysis the conclusion in *Nat'l Wildlife Fed'n* v. *National Marine Fisheries Service,* 524 F.3d 917, 930 (9th Cir. 2007), that agency action can only violate section 7(a)(2) of the Act ''if that agency action causes some deterioration in the species' pre-action condition''). In other words, the requirement for Federal agencies to ensure their actions are not likely to result in destruction or adverse modification of critical habitat is a prohibitory standard only; it does not mandate affirmative restoration of habitat.

Comment 6: Multiple commenters stated that rescinding the regulatory definition of ''habitat'' will undermine conservation, particularly in areas that currently lack the necessary resources and conditions to support the particular listed species. These commenters were concerned that rescission of the habitat definition will discourage habitat restoration or even create a perverse incentive for private landowners to make their land less hospitable for listed species in an effort to avoid the economic impacts due to the stigma effect associated with critical habitat designation. Commenters also stated that rescinding the habitat definition will increase the fears of private landowners that their land could be deemed habitat and designated as critical habitat, and as a result these landowners would be less likely to cooperate in conservation efforts or allow access for surveys and studies that could benefit recovery planning. Commenters noted that critical habitat is not a good tool for encouraging landowners to create habitat features and that non-regulatory approaches to habitat conservation would provide a greater benefit to listed species.

Response: Commenters have provided no basis upon which the Services could conclude that the act of rescinding the regulatory definition of ''habitat'' will discourage conservation or create a new, ''perverse'' incentive for landowners to modify their land in order to make it less hospitable for listed species. In the absence of the regulatory habitat definition, we will still be required to designate critical habitat based on the best scientific data available and after taking into consideration the economic, national security, and other relevant impacts of designating any particular area as critical habitat. Pursuant to the joint Policy Regarding Implementation of Section 4(b)(2) of the ESA (''Section 4(b)(2) Policy,'' 81 FR 7226, February 11, 2016), we will consider areas covered by conservation agreements or plans when assessing the benefits of including and excluding particular areas from a designation. In particular, the Services consider whether such conservation plans are already providing on-the-ground conservation that would reduce the benefit of designating the same area as critical habitat. Our approach of excluding from designations of critical habitat areas that are subject to voluntary conservation agreements and plans will continue to provide a substantial incentive to private landowners. Rescinding the habitat definition will in no way alter this process or how conservation plans and agreements affecting private lands are weighed when assessing the benefits of designating an area as critical habitat.

To the extent that any ''perverse incentives'' may exist with regard to modifying habitat conditions on private lands, it has been the Services' experience that these attitudes persist regardless of any specific regulation. Discussion in the final habitat definition rule implied that an area would qualify as habitat only if the area, without any restoration, currently has all of the requisite resources and conditions necessary to support the species (85 FR 81411, p. 81413, December 16, 2020). Thus, the Services find that with the habitat rule in place, it is equally, and likely more, plausible that the actions suggested in the comments would occur to prevent the particular area from becoming suitable habitat for a particular listed species and thereby eligible for designation as critical habitat. We also note that some of the cases cited by the commenters demonstrate that deliberate modification of areas to make private property less hospitable to listed species has sometimes occurred previously in response to species' listings under the Act—and not directly in response to, or in potential avoidance of, a critical habitat designation. Rescinding the regulatory definition of ''habitat'' has no effect on whether species are listed under the Act and therefore unlikely to have an effect on any such behaviors and attitudes.

Lastly, we emphasize that, in undertaking critical habitat designations, the Services will proceed in light of the Supreme Court's ruling in *Weyerhaeuser* that ''[s]ection 4(a)(3)(A)(i) does not authorize the Secretary to designate [an] area as critical habitat unless it is also habitat for the species'' (139 S. Ct. at 368). Rescinding the regulatory definition of ''habitat'' does not undermine this holding or the requirement that the Services adhere to it.

Comment 7: A commenter asserted that continuing to rely on the concept of habitat as reflected in the regulatory definition would improve communication with scientists and nonscientists, thereby benefiting conservation efforts. The commenter suggested that rescinding the definition would allow for other interpretations of ''habitat'' and that those other interpretations could allow for increased miscommunication, misinterpretation of scientific findings, limited comparability among studies, and inefficient use of conservation resources.

Response: The regulatory definition of ''habitat,'' which only applied to the designation of critical habitat, had no bearing on the comparability of studies or communication of scientific findings, nor did it prohibit the use or development of other definitions of the term ''habitat.'' Rescinding this rule will therefore not alter or exacerbate those issues where they may exist. Rescinding this rule may also allow the Services to better prioritize their limited conservation resources by removing an inappropriate limitation on their ability to designate as critical habitat, and therefore bring attention to, areas that are essential for the conservation and recovery of threatened and endangered species.

Comment 8: Several commenters said the rescission of the definition of ''habitat'' will increase regulatory uncertainty for landowners, stakeholders, and the public and would undermine the transparency, clarity, and consistency the definition provides. Some commenters noted that their industries need clarity and consistency in the application of the Act to be able to forecast the costs and timing of projects and expressed concern that, without a definition, the Services will return to designating critical habitat in an arbitrary or inconsistent way. One commenter asserted that a definition of ''habitat'' is necessary to inform the designation of critical habitat. Other commenters supported the rescission because doing so would eliminate confusion and uncertainty regarding critical habitat designations, as the definition is not consistent with the Services' past practice.

Response: Rescission of the definition of ''habitat'' will not increase regulatory uncertainty or undermine the transparency, clarity, and consistency of the critical habitat designation process. As discussed previously, the definition is in tension with the statutory definition of ''critical habitat,'' and is vague and confusing, such that interested landowners would not be able under the definition to confidently conclude whether any particular area would be considered ''habitat.'' Furthermore, applying the 2020 definition would leave future critical habitat designations open to continual challenge because that definition is in tension with the statute and inappropriately constrains our ability to designate as ''critical habitat''—thus creating greater regulatory uncertainty. In addition, as discussed previously, the habitat definition rule is not clear and thus does not achieve the intended goals of providing transparency and reproducibility of outcome. Application of the habitat definition would fundamentally rely on subjective interpretations with respect to which areas would or would not qualify as habitat and, therefore, would or would not be eligible for designation as critical habitat under the Act. Given the complexity and variety of factual information pertaining to each individual species that the Services must consider, it is not possible for perfect predictability in determining what areas constitute habitat. We do not agree that implementing a case-by-case approach will result in inconsistent application of the statutory definition of critical habitat. Our critical habitat designations are governed by the requirements of the Act, our regulations, the best scientific data available, and applicable court decisions, which results in substantial consistency in approach and application.

Comment 9: One commenter noted they agreed that the habitat needs for a specific species should be determined on a case-by-case basis but disagreed that a regulatory definition of ''habitat'' constrains the Services from making such determinations. They also said the Services should codify a straightforward and consistent process for defining the habitat needs for individual species.

Response: As a result of our review of the habitat definition rule, we determined there are significant shortcomings with its definition of ''habitat,'' as well as, more broadly, fatal flaws inherent in the approach of attempting to devise any single regulatory definition that would apply to all species. As we outlined in detail in the preceding ''Rationale for Rescission of the Habitat Definition Rule'' section of this document, we conclude that the definition is unhelpful, unnecessary, and improperly constrains the Services' authority under the statute, and it is more appropriate to evaluate and determine what areas qualify as habitat and potentially also as critical habitat by considering the best available science for the particular species, the statutory definition of ''critical habitat,'' our implementing regulations, and existing case law. In addition, any definition that would satisfy the underlying requirement that it encompass unoccupied critical habitat as defined under the Act, would need to be overly general and non-specific such that it would provide no added clarity, transparency, or regulatory certainty as to how particular areas would be understood in relation to particular species. Determinations of whether a particular area is habitat for a particular species must be tailored to consideration of the particular species' needs and how they interact with their environments, issues which vary tremendously across species and are not subject to meaningful generalization. As a result of the series of issues we have identified, we have concluded it is appropriate to rescind and not replace the definition. With regard to codifying a process for defining the habitat needs of species, our regulations at 50 CFR 424.12(b) specify a straightforward and consistent process by which we identify specific areas to be designated as critical habitat, including identification of those features of the habitat that are essential to the conservation of the species.

Comment 10: Multiple commenters expressed concern that, without the ''habitat'' definition, the Services will have carte blanche to decide what qualifies as habitat and is thus eligible for designation as critical habitat. Commenters also expressed concern that rescission of the ''habitat'' definition will lead to increased designation of unoccupied critical habitat. Some commenters asserted that the Services would return to previous practices that, in the commenters' view, ''over-designated'' areas and applied the Act's definition of ''critical habitat'' under the premise that any area that meets that definition must also be habitat.

Response: Rescinding the ''habitat'' definition does not grant the Services carte blanche to designate any area as critical habitat, nor does it alter our authorities for designating critical habitat. We will continue to adhere to the Supreme Court's ruling in *Weyerhaeuser* that any area that is designated as critical habitat must also be habitat. All designations must conform to the requirements and standards of the Act, our regulations, and applicable case law, and are reviewable by courts if challenged. We will continue to comply with the Act, which states in section 3(5)(C) that, except in circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species. We will also continue to comply with the other applicable statutory and regulatory requirements that govern how the Services may designate occupied and unoccupied critical habitat, including the requirements of section 4(b)(2) of the Act to base designations on the best scientific data available and after taking into account the impacts of designating any particular area (16 U.S.C. 1533(b)(2)).

Comment 11: Several commenters asserted that to be consistent with the Supreme Court's decision in

Weyerhaeuser it is necessary to have a definition of ''habitat'' that establishes that an area cannot be considered habitat if the species cannot survive there. Commenters asserted that returning to ''case-by-case'' determinations disregards this requirement.

Response: Rescinding this regulatory definition is not inconsistent with the Supreme Court's decision in *Weyerhaeuser.* As we noted previously in both the 2020 final rule (85 FR 81411, December 16, 2020) as well as in the proposed rule to rescind the ''habitat'' definition rule (86 FR 59353, October 27, 2021), the Court's decision did not require that the Services adopt a regulatory definition for ''habitat.'' Rather, the Court remanded the case to the lower court to consider whether the particular record supported a finding that the unoccupied area disputed in the litigation was habitat for the particular species at issue (the dusky gopher frog). The Court did not address what conditions may be necessary for an area to be considered habitat, nor did it state that an area can be considered habitat only if the species can survive there. Although the Services initially, if somewhat reflexively, concluded that the best response to the Supreme Court decision was to craft a new layer of regulation, we now conclude that that extra layer of regulation was not in fact a helpful response. The Services have concluded that we can adequately address, on a case-by-case basis and on the basis of the best scientific data available, any concerns that may arise in future designations as to whether unoccupied areas are habitat for a particular species. The administrative record for each designation will carefully document how the designated areas are in fact habitat for the particular species at issue, using the best available scientific information and explaining the needs of that species.

Comment 12: Multiple commenters stated their views that, to qualify as habitat, areas must be habitable or capable of sustaining the species in its present condition. Commenters asserted that this interpretation is consistent with the present tense language used by Congress to describe critical habitat in sections 3 and 4 of the Act and with the Supreme Court's use of the present tense in its ruling in the *Weyerhaeuser* case. Commenters also asserted that areas in need of restoration in order to support the species or be occupied by the species cannot be considered habitat for that species, and some asserted that the Act, as supported by *Weyerhaeuser,* prohibits designation of areas that cannot presently support the species. The commenters stated that rescission of the habitat definition rule indicates an intention by the Services to consider such areas as habitat and an intention to designate them as critical habitat or return to the previous practice of designating critical habitat where habitat did not exist.

Response: The Act defines two types of critical habitat—areas ''within the geographical area occupied by the species'' and areas ''outside the geographical area occupied by the species (16 U.S.C. 1532(5)(A)). Areas that are ''within the geographical area occupied'' at the time the species is listed under the Act are assessed under the first prong of the statutory definition of critical habitat, provided in section 3(5)(A)(i)—that is, the areas must be ones ''on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection'' (16 U.S.C. 1532(5)(A)(i)). Implicit within this text is that the appropriate timeframe for assessing whether physical or biological features ''are found'' is, in fact, the time of designation. This approach is consistent with the Services' longstanding interpretation and application of this statutory definition of ''occupied'' critical habitat and is also reflected in the Services' joint implementing regulations in 50 CFR 424.12(b)(1)(iii).

Areas that are ''outside the geographical area occupied'' by the species when it is listed under the Act are assessed under the prong of the statutory definition provided in section 3(5)(A)(ii)—that is, only areas that ''are essential for the conservation of the species'' qualify for designation (16 U.S.C. 1532(A)(ii)). Again, implicit within this text is the concept that the appropriate timeframe for assessing whether an area is essential for conservation is the time of designation. (We note, however, that the Act does not compel the Services to know specifically *when* a species will be ''conserved'' as a result of the designation of unoccupied critical habitat.) This approach, too, is consistent with the Services' longstanding interpretation and application of this statutory definition of ''unoccupied'' critical habitat. That a specific unoccupied area may remain inaccessible to the listed species, or may require some form of natural recovery or reasonable restoration in order to support the listed species over the long term, does not preclude a finding that the area is presently habitat or that the area is ''essential for the conservation'' of that species if the record of evidence regarding that species' needs and the resources available to it, such as limited availability of other habitat, supports such a conclusion at the time of designation.

As explained previously in our response to Comment 11, in contrast to assertions made in some of the comments, the Supreme Court in *Weyerhaeuser* did not reach any holding on the matter of whether an area must be capable of supporting the species in its present condition in order to qualify as habitat. Instead, it remanded the case to the Court of Appeals to consider whether the particular record supported a finding that the area disputed in the litigation was habitat for the particular species at issue (the dusky gopher frog). The *Weyerhaeuser* ruling also did not establish any prohibition on designating areas as critical habitat if those areas may require some reasonable restoration in order to become accessible, habitable, or capable of supporting the species.

As indicated previously, we recognize the Supreme Court's holding in *Weyerhaeuser* that any area that is designated as critical habitat must also be habitat. Rescinding the regulatory definition of ''habitat'' does not alter the need for the Services to undertake future critical habitat designations in light of that ruling.

Comment 13: A commenter stated that, without a regulatory definition of ''habitat,'' there would not be any meaningful standards for judicial review of the Services' exercise of discretion in a particular critical habitat designation decision, undermining the Supreme Court's holding in *Weyerhaeuser* that the Services' decisions not to exclude areas from critical habitat designations are reviewable under the Administrative Procedure Act.

Response: Although not stated explicitly or elaborated upon further in the comment, we interpret this comment to refer to the discretion the Secretary has under section 4(b)(2) of the Act to exclude particular areas from a designation provided the benefits of the exclusion outweigh the benefits of designation and provided that failure to designate the area will not result in the extinction of the species concerned (16 U.S.C. 1533(b)(2)). In *Weyerhaeuser,* the Supreme Court determined the Secretary's decision not to exclude an area from critical habitat under section 4(b)(2) of the Act is subject to judicial review. Under section 4(b)(2) of the Act, the Secretary is required to take into consideration economic and other impacts before designating any particular areas as critical habitat. The Secretary may exclude any area from critical habitat if she determines the

benefits of such exclusion outweigh the benefits of designation. A regulatory definition of ''habitat'' is irrelevant to the process of weighing these benefits and would not facilitate judicial review of the exercise of the Services' discretion in determining whether to exclude a particular area from designation under section 4(b)(2) of the Act.

Comment 14: Several commenters noted that the Supreme Court did not limit its holding in *Weyerhaeuser* to unoccupied areas, and that the prerequisite for an area to be habitat before it is designated as critical habitat applies irrespective of whether the area is occupied or unoccupied. Thus, any area must be habitat for the species in order for it to be eligible for designation as critical habitat regardless of whether it is occupied or unoccupied.

Response: We recognize that the Supreme Court's holding in *Weyerhaeuser* that any area designated as critical habitat must also be habitat was not limited to areas that are unoccupied by the species. As we explained in our final rule defining ''habitat,'' if an area is occupied by the species and meets the statutory definition of ''critical habitat,'' then as a matter of logic and rational inference, the area must also be habitat for the species (85 FR 81411, December 16, 2020). Thus, the definition of ''habitat'' would have a practical bearing only in cases where an area was unoccupied, and even among unoccupied areas only in the subset of cases where ''genuine questions'' might exist as to whether areas are habitat for a species (85 FR 81411, p. 81414, December 16, 2020). In all instances, however, the area must be habitat before it can be designated as critical habitat. Rescinding the regulatory definition does not affect that requirement.

Comment 15: Several commenters noted that the Supreme Court also found in *Weyerhaeuser* that even if an area otherwise meets the statutory definition of unoccupied critical habitat because the Secretary finds the area essential for the conservation of the species, section 4(a)(3)(A)(i) of the Act does not authorize the Secretary to designate the area as critical habitat unless it is also habitat for the species.

Response: As noted in prior responses, we acknowledge the Supreme Court's holding in *Weyerhaeuser* that any area must be habitat in order to be designated as critical habitat—whether the area is occupied by the species or not. We do not intend to designate any unoccupied area as critical habitat unless it is habitat for the species, nor have we indicated any such intention. We recognize that a finding that an area is ''essential for the conservation of the species'' is not a substitute for evidence that a particular area qualifies as habitat.

Comment 16: Some commenters asserted that the Services have incorrectly interpreted critical habitat as habitat necessary for the recovery of the species. These commenters stated that the broad definition of ''conservation'' in the Act does not allow for a broad interpretation of ''critical habitat'' or justify any action the Services want to take. Instead, the commenters asserted, Congress intended for critical habitat to have a limited role under the Act, and designations of critical habitat should be limited to what is needed to ensure the survival of the species.

Response: It is clear from the plain text of the Act that the purpose of critical habitat is to identify the areas that are essential to the recovery of listed species. The Act defines ''critical habitat'' in terms of its relationship to the species' ''conservation:'' Stated generally, ''critical habitat,'' as defined in section 3, includes areas and habitat features that are *essential for the conservation* of the listed species (16 U.S.C. 1532(5)(A), emphasis added). Section 3 of the Act in turn defines ''conservation'' as: ''To use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary; such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation'' (16 U.S.C. 1532(3), defining ''conserve,'' ''conserving,'' and ''conservation''). The point at which measures provided pursuant to the Act are no longer necessary is the point at which a listed species has been recovered and should be removed from the lists of threatened and endangered species (see also 50 CFR 424.02). Therefore, the plain text of the critical habitat definition in the Act indicates that critical habitat includes not just areas essential to support the continued survival of the species, but also areas that are essential to the recovery of threatened and endangered species.

Courts have also interpreted the Act's definition of ''critical habitat'' broadly to include areas that provide for the recovery of listed species. See *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Serv.,* 378 F.3d 1059, 1070 (9th Cir. 2004) (''Clearly, then, the purpose of establishing 'critical habitat' is for the government to carve out territory that is not only necessary for the species' survival but also essential for the species' recovery.''); *Sierra Club* v. *U.S. Fish and Wildlife Serv.,* 245 F.3d 434, 442 (5th Cir. 2001) (noting that the Act's definition of ''critical habitat'' ''is grounded in the concept of conservation' ''); *Center for Biological Diversity* v. *Kelly,* 93 F. Supp. 3d 1193, 1201 (D. Idaho 2015) (noting that critical habitat is ''defined and designated 'in relation to areas necessary for the conservation of the species, not merely to ensure its survival' '') (quoting *Arizona Cattle Growers' Ass'n* v. *Salazar,* 606 F.3d 1160, 1166 (9th Cir. 2010)). The Ninth Circuit also has recognized that ''it is logical and inevitable that a species requires more critical habitat for recovery than is necessary for the species' survival,'' which necessarily must include potentially suitable habitat areas that the species formerly occupied or may potentially occupy in the future. *Gifford Pinchot Task Force,* 378 F.3d at 1069.

The commenters have pointed to no legislative history specifically addressing the intended meaning or scope of ''habitat,'' as used in section 4(a)(3)(A)(i) of the Act, that is distinct from the term ''critical habitat.'' Legislative history on the meaning of ''critical habitat'' is not directly relevant here and does not help us discern any intended meaning of ''habitat''; therefore, we do not address that history here.

We acknowledge, however, that critical habitat designation alone is not necessarily sufficient to ensure the recovery of listed species. Critical habitat has a specific, limited regulatory role under the Act: It creates a requirement for Federal agencies to ensure that any actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. Beyond this direct regulatory role, critical habitat can also contribute to the conservation of listed species in other ways. Critical habitat can facilitate implementation of section 7(a)(1) of the Act by identifying areas where Federal agencies can focus their conservation programs and use their authorities to further the conservation purposes of the Act. In the absence of a recovery plan, critical habitat can provide a form of early conservation-planning guidance for the Services (*e.g.,* by identifying some of the areas that are needed for recovery, the physical and biological features needed for the species' life history, and special management considerations or protections), and it can also help focus

the conservation efforts of other conservation partners.

The Services do not rely on an assertion of an overly broad meaning for ''conservation'' to justify actions that are not otherwise authorized under the Act. In fulfilling their responsibilities under the Act, the Services undertake conservation actions that align with the statute's definition of ''conservation'' and also adhere to the many requirements outlined in the Act, implementing regulations in 50 CFR part 424, and formal policies.

Comment 17: Several commenters stated that the regulatory definition of ''habitat'' has not been in place long enough for the Services to determine its benefits, nor have the Services put sufficient effort into implementing the regulation. They argued that the Services could consider whether revisions to the definition may be necessary after a reasonable amount of time.

Response: Following a review of the regulatory definition of ''habitat,'' the Services have found the definition and the preamble of that final rule inappropriately constrain the Services' ability to designate areas that meet the definition of ''critical habitat'' under the Act and thus undermine the conservation purposes of the Act. In light of this shortcoming, as well as our finding that the definition cannot achieve its intended goals of providing transparency, clarity, and consistency, we have determined it is appropriate to rescind this definition. Because these shortcomings cannot be addressed by putting further effort into implementing the definition (including through issuing interpretive guidance), we have determined that it is in the best interests of stakeholders and for the conservation purposes of the Act to minimize the time that this definition is in effect by swiftly rescinding it. Interpretive guidance cannot overcome the statutory tension the Services have identified. Furthermore, waiting and then considering possible revisions to the definition is not likely to alter our current conclusion that any regulatory definition for this term would necessarily be too generic to provide any meaningful guidance to the Services or the public in terms of delineating what areas qualify as habitat for a given species. As we stated previously, the best approach for determining what areas are habitat for a listed species is to rely on the best available scientific data for that species, provide a thorough accounting of the information used, and subject that determination to peer and public comment during the course of a critical habitat rulemaking.

Comment 18: Multiple commenters requested that the Services revise the definition of ''habitat'' rather than rescind it. Commenters stated that, if the Services consider the definition to be vague or unclear, they are required to consider alternatives to complete revocation, and the definition should be revised to address those problems, rather than rescinded. Many commenters gave suggestions on how to revise the definition, suggested alternative definitions, or requested that we reconsider the definitions they had submitted previously in response to the initial proposed rule to define the term ''habitat.'' For example, some commenters stated the definition should be revised in a manner supported by regulated entities and to clearly exclude areas that are currently unsuitable for species conservation. One commenter suggested the Services establish a process to seek stakeholder input on a definition. Other commenters stated the definition was too narrow and should be broadened, or should be more holistic, or that the definition should be revised to avoid precluding areas that will have the necessary attributes for a species due to natural processes or proactive conservation efforts.

Response: As we outlined previously (see ''Rationale for Rescission of the Habitat Definition Rule'') we decline to revise the regulatory definition of ''habitat.'' The Supreme Court did not require us to promulgate a definition in the *Weyerhaeuser* decision, and upon reconsideration, we have recognized that the regulatory definition ultimately adopted in 2020 was inconsistent with the conservation purposes of the Act and did not meet the stated policy goals of providing clarity, transparency and certainty. Furthermore, which particular areas constitute habitat for any given species depends on that species' biology and ecology, and what in turn qualifies as critical habitat under the Act is guided by the statutory definition of ''critical habitat,'' regulations in 50 CFR part 424, and existing case law. When we engage in designation of critical habitat, we conduct an exhaustive review of the relevant scientific data and information and provide a detailed and specific as possible explanation in each proposal and final critical habitat rule of the particular listed species' habitats and distribution. A generic, definition of the general term ''habitat'' would not facilitate or provide any meaningful value to this process. Thus, and as stated previously, we find that application of the best available data regarding a listed species' habitats and adhering to the statutory and regulatory requirements, as well as being guided by case law, is the best path to fulfilling our statutory responsibilities to designate critical habitat under the Act.

Moreover, we have concluded that our 2020 reaction to *Weyerhaeuser—i.e.,* promulgating a regulatory definition to attempt to address the Supreme Court's interpretation of section 4(a)(3)(A)(i) of the ESA—did not take into account the value that the existing notice-and-comment rulemaking process applicable to specific critical habitat designations provides to meet the objectives of giving stakeholders transparency, clarity, and consistency. Rather, at that time, we made an unwarranted assumption that these qualities were lacking. (*See* 85 FR 47334, August 5, 2020, (''Given this holding in the Supreme Court's opinion in *Weyerhaeuser,* we are proposing to add a regulatory definition of 'habitat.' ''); *also* 85 FR 81418, 81419, December 16, 2020, (''As we made clear in the proposed rule, the objective of this rulemaking is to 'provide transparency, clarity and consistency for stakeholders' because the *Weyerhaeuser* decision may raise questions in some instances as to whether areas of unoccupied critical habitat are 'habitat.' '')). The rulemaking process for specific critical habitat designations gives all stakeholders an opportunity to evaluate and provide input on the Services' review of relevant scientific data and information and explanation of a specific species' habitat, necessitates that the Services provide a clear rationale for why a particular critical habitat designation meets the applicable statutory and regulatory standards, and offers substantial consistency in its application to the designation of areas as critical habitat. Because we now conclude that a regulatory definition of ''habitat'' is not an appropriate policy response to the holding in *Weyerhaeuser,* rescinding the definition is preferable to revising the definition.

In making this final decision, we have also reviewed and considered the suggested alternatives to rescinding the rule, including the various alternative versions of a definition of ''habitat'' that were newly submitted and resubmitted. The same challenges that we have identified for the definition codified in 2020 (*e.g.,* ambiguity, confusion, tension with the statutory definition of ''critical habitat'') would arise in attempting to revise the definition or adopt a new definition in response to these comments, as no definition would be sufficiently broad to accommodate the habitats of diverse taxa and both occupied and unoccupied critical habitat, yet simultaneously provide clarity, transparency, and consistency in

terms of indicating which specific areas qualify as habitat for a given species. For example, most suggested definitions used terminology, such as ''essential attributes,'' ''ecological attributes,'' and ''necessary attributes,'' that would have a similarly unclear meaning and relationship to the terminology in the statutory definition of ''critical habitat.'' Some other suggested definitions and approaches, in an attempt to be simple and straightforward or more holistic, would be overly vague and too ambiguous to serve any practical purpose in identifying which areas may or may not qualify as habitat, especially where the area is unoccupied by the species (*e.g.,* ''Habitat is defined as the cumulative influences that act upon, and/or are acted upon by, a living organism''; and ''The place or the location where an organism (or a biological population) lives, resides, or exists'').

In reconsidering the December 2020 rulemaking and reviewing alternative definitions submitted in response to the proposed rule for this action, we thoroughly considered alternatives to rescinding the habitat definition. Establishing an additional stakeholder process, beyond the public comment processes already undertaken for this rule and the prior rulemaking, will not help resolve the deficiencies we have identified with codifying a single regulatory definition for ''habitat.''

Despite its recency and the limited circumstances in which it would be brought to bear in a designation, the existing regulatory definition of ''habitat'' has generated extensive controversy and is the subject of ongoing litigation. Eliminating the regulatory definition of ''habitat'' will eliminate the extensive controversy it has engendered and the potential implementation problems it or any such definition would create. As previously stated, we find that elimination of this definition, and relying instead on the statute, the implementing regulations, existing case law (including *Weyerhaeuser*), and the best scientific data available, is the most transparent and reasonable action.

We also note that the commenters' examples of regulatory rescissions that were subject to legal challenges involved agencies that had rescinded full regulatory programs with multiple discrete components (*e.g.,* the Department of Homeland Security's Deferred Action for Childhood Arrivals program). In these examples, the particular agencies could have considered alternatives, such as rescinding only various parts of the regulatory program, but they did not. That is not the situation here. Rescission of the habitat definition rule has no effect on the existing statutory and regulatory framework establishing the process for the designation of critical habitat. The definition itself did not create any new or different procedural steps in the designation of critical habitat or implementation of the Act (85 FR 81414, December 16, 2020). Accordingly, there is not an array of alternatives that are implicated in the Services' consideration of whether the existence of any regulatory definition of ''habitat'' is appropriate or not. We are also aware of a recent ruling in response to a challenge regarding another agency's withdrawal of a rule clarifying a statutory definition (*Coalition for Workforce Innovation* v. *Walsh,* 1:21–cv–130, Dkt. 32 (E.D. Tex. Mar. 14, 2022)). In *Coalition,* the district court judge determined that the Department of Labor had prohibited public comments on its withdrawal rule and accordingly provided no discussion of *any* alternatives to withdrawal. Here, the Services sought, and have fully considered public comments on the proposed rescission rule. In responding to these comments, we discuss how alternatives, whether in terms of alternative definitions or the alternative of issuing interpretive guidance, would not sufficiently address the issues identified with the regulatory definition.

Comment 19: Several commenters stated the Services have not provided a reasoned basis for rescinding the regulatory definition of ''habitat.'' They also stated that the rule inappropriately relied on E.O. 13990 as its legal basis for rescinding the regulation and simply restated points that were adequately addressed in the 2020 regulation.

Response: E.O. 13990 required all agencies to review agency actions issued between January 20, 2017, and January 20, 2021, that may be inconsistent with the policies it set forward. Following the issuance of that E.O., we undertook a review of the habitat definition regulation. E.O. 13990 provided the impetus for the review, but the E.O. is not the legal basis of the rescission. We are rescinding the rule on the basis of our legal authority under the Act (16 U.S.C. 1531 *et seq.*). As described in the proposed rule to rescind this definition, after reviewing the regulation and its intended effect of eliminating as ''habitat'' areas in need of restoration, we concluded the final rule inappropriately constrains our ability to designate areas that meet the definition of ''critical habitat'' under the Act because it is in significant tension with the Act's broad definition of ''conservation.'' The statute's definition of ''conservation'' expressly contemplates a wide range of tools for furthering the ultimate goal of recovering listed species including management of habitat (see 16 U.S.C. 1532(3)), and the statute's definition of ''critical habitat'' is in turn expressly tied to the conservation of the listed species (see 16 U.S.C. 1532(5)(A)). The definition of ''habitat,'' however, required that areas already contain the resources and conditions necessary to support one or more life processes of a species, and eliminated areas that do not currently or periodically contain the requisite resources and conditions, even if they could after restoration activities or other changes occur and were otherwise considered essential to the conservation of the species.

We also reviewed the available ecological definitions for use as our regulatory definition but found they were either too broad or too narrow to guide designation of areas that could qualify under the statute as unoccupied critical habitat. The qualities that make certain areas habitat for a species vary based on the biology and ecology of the species; the scientific literature also evolves over time; and there is currently some ambiguity in the use of the term ''habitat.'' Therefore, codifying an inflexible single definition in the Act's regulations would constrain our ability to incorporate the best available ecological science in the future. For those reasons, we have decided to rescind the definition.

The Services disagree with the commenters who asserted our rationale for rescinding the ''habitat'' definition was insufficient. The specific reasons the commenters cite for that assertion (which we address in other responses to comments, *e.g.,* responses to Comments 18, 20, 21, and 24) do not undermine the legal bases or factual findings for the Services' action.

Comment 20: Some commenters said the rescission ignores a central reason why the ''habitat'' definition rule was promulgated: to modernize implementation of the Act and provide additional certainty to the regulated community and the public about ''habitat.''

Response: The policy reasons articulated for the proposed adoption of the definition are not the same as the policy reasons that guided the Services' reconsideration. As a result, these same goals are not discussed at length in our proposal to rescind the definition. However, following our review of the habitat definition regulation, we determined that, because that rule is in significant tension with the conservation mandate of the Act, it did

not in fact modernize implementation of the Act. As discussed in our response to Comment 8, we also determined that it would not provide additional certainty to the regulated community. Because of the significant shortcomings inherent in the definition, we conclude that continued application of the definition would not provide additional certainty to the regulatory community or the public and would likely lead to additional litigation.

Comment 21: Several commenters asserted the Services did not adequately justify the statements in the preamble of the proposed rule to rescind the habitat regulation that the definition is in tension with the Act's definition of ''conservation.''

Response: The Act authorizes the Services to designate as critical habitat unoccupied areas that are ''essential for the conservation'' of the species (16 U.S.C. 1532(5)(A)(ii)). Section 3 of the Act defines ''conservation'' as including a wide range of tools to specifically further the recovery of listed species. Therefore, and as discussed previously in our response to Comment 16, critical habitat includes areas needed to support the recovery of the species. In order to meet the regulatory definition of ''habitat'' codified in 2020 (and thus be eligible for designation as critical habitat), areas must already contain all the resources and conditions necessary to support one or more life processes of the species. That definition, as discussed in the preamble to that rule, excluded areas that do not currently or periodically contain the requisite resources and conditions even if those areas could meet this requirement after minor restoration or natural changes occur and are clearly (on the basis of the best available science) habitat from a biological perspective for a particular species. Because of that exclusion, we find the definition and the preamble of the 2020 final rule inappropriately constrain the Services' ability to designate areas that meet the definition of ''critical habitat'' under the Act and are therefore in tension with the Act's definition of ''conservation.'' Identifying and protecting those areas when we determine they are essential, rather than delaying until a future point in time when conditions that are not required under the Act's definition are realized, better fulfills the conservation purposes of the Act.

Comment 22: A commenter asserted that, in the preamble of the proposed rule to rescind the ''habitat'' definition, we said it is illogical to require that an area be habitable before designating it as critical habitat and that such an assertion is not consistent with the Act. The commenter further stated that the Services have tools other than the designation of critical habitat under the Act to conserve species in areas that should not be considered habitat.

Response: This comment misinterprets our statements. In the preamble to this final rule, we said the broad definition of ''conservation,'' along with the statute's recognition of destruction or loss of habitat as a key factor in the decline of listed species (in section 4(a)(1) of the Act), indicates that areas not currently in an optimal state to support a species could nonetheless be considered ''habitat'' and ''critical habitat'' (86 FR 59353, p. 59354, October 27, 2021). Including those areas in critical habitat designations, where appropriate, may be essential for the conservation of some species and is consistent both with the purposes of the Act and with the Services' practice prior to the habitat definition final rule becoming effective in January 2021. To find otherwise would lead to the illogical result that the more a species' habitat has been degraded, the less ability there is to attempt to recover the species. Our reference regarding illogical results was about our ability to attempt to recover species in furtherance of the purposes of the Act as a species' habitat becomes more degraded.

Designation of critical habitat is one important tool among the many tools the Act provides to conserve species. Congress recognized the importance of critical habitat for the conservation of listed species by mandating that the Services designate critical habitat at the time the species is listed except in very limited circumstances.

Comment 23: One commenter stated that, under the Supreme Court's holding in *Weyerhaeuser,* the Act's definition of ''conservation'' has no relevance to the meaning of habitat.

Response: The Services recognize the Supreme Court's holding in *Weyerhaeuser* that, for an area to be designated as critical habitat, it must also be habitat. However, the Supreme Court did not reach any holdings with regard to how the Services can or should interpret the term ''habitat'' as it is used in section 4(a)(3)(A)(i) of the Act, which generally compels the Services to designate for a species ''any habitat'' that is then considered to be critical habitat. Because the purpose of designating critical habitat, and the Act itself, is to conserve listed species, and because ''critical habitat'' is expressly defined with reference to ''conservation,'' the term ''conservation'' is inherently relevant to the determination of areas that are considered habitat for listed species. Further, habitat is a key concept in conservation biology and is integral to the conservation of the species.

Comment 24: Many commenters stated that the habitat definition will not limit what the Services can designate as critical habitat and that there is no evidence or indication that the definition has constrained the Services' ability to designate critical habitat. Some commenters asserted that the definition does not preclude designation of suboptimal areas or areas that are in need of restoration and that the definition precludes only designation of wholly uninhabitable areas. Commenters also stated that the Services can always revise critical habitat designations if and when an area becomes habitat, either through natural processes or through human efforts. Other commenters stated that the habitat definition was too narrow and could lead to the absurd outcome of excluding from critical habitat designations degraded areas or lost habitat, future habitat areas, areas that indirectly support the species, or areas where resources and conditions are not precisely known.

Response: We acknowledge that during the short time that the habitat definition rule has been in effect, the definition has not resulted in reduced designations over what we might have designated in the absence of the definition. Nevertheless, the definition and associated discussion in the preamble to the 2020 rule regarding restoration inappropriately constrain our ability to designate critical habitat. Although there has been limited opportunity for the Services to provide tangible examples of how this definition has affected a designation, we do not need to wait until that situation occurs in order to rescind the habitat definition rule.

The habitat definition rule limits our ability to designate as critical habitat areas that are degraded or considered suboptimal for all species if those areas are in need of management actions or restoration to support the species even though those areas may easily qualify, as a matter of biological science, as habitat for a particular species. The purpose of designating critical habitat is to conserve species that depend on those areas, and the statutory definition of ''conservation'' broadly includes actions that relate to management of habitat (16 U.S.C. 1532(3)). Therefore, it furthers the statutory purpose to designate areas that do not at the time of designation contain all of the resources and conditions that the species needs but could contain them

with some limited additional management or restoration. The limitations on what areas may qualify as habitat arise from the statements in the preamble to the December 2020 final rule that the habitat definition excludes areas that do not currently contain the requisite resources and conditions to support one or more life processes of the species even if these areas could do so after restoration activities or other changes occurred (85 FR 81411, p. 81413, December 16, 2020). Implicit in these statements is a requirement that no amount of restoration, however reasonable, can be needed for an area to qualify as habitat for a given species. These statements similarly imply that no changes to the habitat, however predictable or foreseeable, can be assumed, or even planned, in order for an area to qualify as habitat for a given species. The habitat definition rule, in effect, excludes areas from qualifying as habitat if they require any amount of restoration or lack any of what might be deemed a ''necessary resource or condition'' and in turn precludes such areas from designation as critical habitat.

Because most species are faced with extinction as a result of habitat degradation and loss, it is more consistent with the purposes of the ESA to avoid limiting the Services' ability to designate critical habitat to protect the habitats of listed species and support their recovery. Avoiding such a limitation is a primary reason we are rescinding the habitat rule. By rescinding the habitat definition rule and essentially retracting statements made in the preamble to the 2020 final rule, we reiterate that we do not intend to designate areas that are wholly unsuitable for the given listed species or that require extreme intervention or modification in order to support the species. We instead intend to proceed in light of the Supreme Court's ruling in *Weyerhaeuser* that an area must be habitat for the species in order for it to be designated as critical habitat. See also our response to Comment 10. Although the Services have the authority under the Act to revise critical habitat when appropriate, removing these potential limitations on the Services' ability to designate critical habitat in the first place is more consistent with the purposes of the Act and is also a more effective and efficient way to implement the Act.

Comment 25: Many commenters stated that the regulatory definition of ''habitat'' is not unclear and will not generate confusion or conflict with other programs or statutes, especially because its application is explicitly limited to critical habitat designation. Some commenters stated that the regulatory definition of ''habitat'' is similar to others and is consistent with definitions in the scientific literature, the plain language meaning of the term, and the Services' own interpretations of this term. The commenters asserted that, in proposing to rescind the definition, the Services had failed to provide a sufficient explanation or demonstration of how the definition was unclear or would generate confusion. In contrast, other comments expressed support for the rescission of the ''habitat'' definition in part because the definition is confusing or uses ambiguous terms that were inadequately explained.

Response: In the proposed rule to rescind the regulatory definition of ''habitat,'' we stated that we were proposing to rescind the definition, in part, because it was confusing and insufficiently clear (86 FR 59353, p. 59354, October 27, 2021). We briefly explained that, in our attempt to ensure that the final definition was sufficiently broad to capture the term ''critical habitat,'' we had deliberately avoided using the same terminology as in the statutory definition for ''critical habitat'' and instead resorted to using different terms, such as ''biotic and abiotic setting'' and ''resources and conditions,'' that have no established meaning in the Act, our regulations, or our prior practices. Although the preamble of the habitat definition rule explained the wording changes made in finalizing the definition and why those changes were made, the rule did not articulate interpretations for each of the terms used. The habitat definition rule did not articulate, for example, what will satisfy the ''necessary to support'' phrase or what the full scope of the necessary ''resources and conditions'' should include in a given ''setting.'' Thus, during the course of designating critical habitat, differing and potentially conflicting interpretations could arise regarding, for example, whether the existing resources and conditions are sufficient to meet the ''necessary to support'' standard and over what time period this should even be assessed; or how many members of a species must be able to use a particular ''setting'' in order for the setting to qualify as supporting ''one or more life processes of the species.''

Just because the regulatory definition we developed may be in some respects similar to, or generally consistent with, certain other dictionary and scientific definitions for this term does not alleviate these concerns or invalidate this reason for rescinding the definition. We instead conclude that a more reasonable and supportable approach is to apply species-specific ecological data when determining whether particular areas constitute habitat for that species. The fact that, in response to our proposed rule to rescind the existing definition, we received multiple proposed alternative definitions and various suggestions regarding how to potentially revise the definition serves as further indication that debate and disagreement over wording and interpretations of the definition are likely to continue, and that what qualifies as habitat is better determined on a fact-specific, case-by-case basis (see also response to Comment 18).

The language limiting the definition's applicability to critical habitat designations does not alleviate the potential for confusion or the potential for conflict with other programs or statutes. Although not a significant aspect of our rationale for rescinding the definition, we pointed out in the proposed rule that having multiple definitions and interpretations of what constitutes habitat that vary based on the particular Federal program or statutory authority may be confusing (86 FR 59353, p. 59355, October 27, 2021). It is also inherently confusing, likely for both the Services and the public, to limit the regulatory definition to only the designation of critical habitat when other provisions of the Act directly or indirectly address the habitats of listed species. This limitation on applicability implies that the term ''habitat'' will be interpreted differently when the Services are implementing other provisions or programs under the Act. For example, it implies that the Services will use a different definition of the term ''habitat'' when evaluating habitat conservation plans developed under section 10 of the Act; when identifying habitat conservation actions in a recovery plan prepared under section 4(f) of the Act; or when evaluating whether a species is threatened by the destruction, modification, or curtailment of habitat under section 4(a)(1)(A) of the Act. Therefore, in contrast to the comments that suggest this limited applicability eliminates the concern regarding varying interpretations of the term ''habitat'' and any resulting confusion, we find this limitation served only to substitute one source of potential confusion for another.

Comment 26: Several commenters stated the habitat definition rule does not prevent the use of, or reliance on, the best available scientific data. Further, they argued, the preamble to the proposed rule to rescind the definition provided no support for

statements that the definition could prevent the Services from relying on the best available scientific data when designating critical habitat; they also maintained that those statements conflict with statements we made in the 2020 final rule. Several other commenters stated that the best available scientific data is used to determine whether areas meet the definition of ''habitat,'' not to define the term ''habitat.'' The term ''habitat'' should have a fixed meaning and is a question of statutory interpretation, not the best available scientific information.

Response: As noted above, we have reassessed the habitat definition rule in light of E.O. 13990 and have concluded that statements in the preamble to the 2020 final rule inappropriately constrain the Services' ability to designate areas that meet the definition of ''critical habitat'' under the Act (85 FR 81411, p. 81413, December 16, 2020). As noted by the commenters, the Supreme Court determined in *Weyerhaeuser* that an area must be habitat in order to be designated as critical habitat. The Act requires us to identify areas for designation as critical habitat on the basis of the best available scientific data for a particular species. Although at the time of promulgating the definition we glossed over the difficulties, we see now that any definition that categorically precludes certain types of areas from being considered habitat for any species even though some areas would, on the basis of the best available science, easily be demonstrated to be habitat for that species is inappropriate. Such a narrow rule inappropriately limits our ability to rely on the best available scientific data to determine what is habitat for that species. In addition, because the scientific literature evolves over time, and our understanding of ''habitat'' could also evolve, codifying a single definition in regulation could constrain the Services' ability to incorporate the best available ecological science in the future.

Habitat is an ecological term that should be defined or identified based on the best available scientific data. The Act clearly requires that critical habitat should be determined on the basis of the best available science. The unique regulatory definition of ''habitat'' promulgated in 2020 could conflict with this mandate by requiring and shaping or limiting how the Services can consider which areas meet the definition of ''critical habitat.'' We find that relying on the best available scientific data as specified in the Act, including species-specific ecological information, is the best way to determine whether areas constitute habitat and meet the definition of critical habitat for a species.

Comment 27: A commenter disagreed with our statement in the preamble to the proposed rule to this final rule that the scientific literature evolves over time with regard to habitat. The commenter also stated there is no evidence that Congress, upon adopting the Act's provisions that deal with critical habitat designations in 1978, intended to adopt an evolving scientific definition of ''habitat'' or rely on concepts in the scientific literature. The commenter further asserted that it should be understood that Congress intended the term to have its ordinary meaning.

Response: Habitat is a key ecological concept in conservation biology and is linked to a scientific understanding of a particular species and its environment. What constitutes habitat for a particular species depends on complex considerations that must be informed by the best available scientific data regarding that species' life-history needs. Further, the scientific literature on species conservation continues to evolve, and the variety of definitions for ''habitat'' found in the conservation biology literature are reflective of that evolution (*e.g.,* Odum 1971, Whittaker et al. 1973, Hall et al. 1997, Kearney 2006). Because Congress did not define the term ''habitat'' but mandated that we designate critical habitat on the basis of the best available scientific data for a particular species, it is logical that our understanding of what areas serve as habitat for the species, and can therefore be potentially designated as critical habitat, must both itself be based on the best available scientific data and allow for application in the context of particular designations that will be consistent with the best available science for each particular species. Because Congress defined ''critical habitat,'' the term ''habitat'' must also be compatible with both prongs of the definition of ''critical habitat,'' including unoccupied areas, which generic dictionary definitions of ''habitat'' generally do not include.

Required Determinations

Regulatory Planning and Review (E.O.s 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, reduce uncertainty, and encourage use of the best, most innovative, and least burdensome tools for achieving regulatory ends. We have developed this final rule in a manner consistent with the requirements of E.O. 13563, and in particular with the requirement 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.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency, or their designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NMFS and FWS are the only entities that are directly affected by this rule because we are the only entities that designate critical habitat under the Act. This rule does not directly apply to any other entities. Thus, no other entities, including any small businesses, small organizations, or small governments, will experience any direct economic impacts from this rule. Entities other than NMFS and FWS, including small businesses, small organizations, and small governments, may, however, be affected by critical habitat designations, and any such impacts would be assessed and taken into consideration by the Services as part of those specific rulemakings. At the proposed rule stage, we certified that this rule would not have a significant economic effect on a substantial number of small entities. Nothing in this final rule changes that conclusion.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) On the basis of information contained in the Regulatory Flexibility Act section, this rule does not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, that this rule does not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments are not affected because the rule does not place additional requirements on any city, county, or other local municipalities.

(b) This rule would not produce a Federal mandate on State, local, or Tribal governments or the private sector of $100 million or greater in any year; therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. This rule would impose no obligations on State, local, or Tribal governments.

Takings (E.O. 12630)

In accordance with E.O. 12630, this rule does not have significant takings implications. This rule does not directly affect private property, nor does it cause a physical or regulatory taking. It does not result in a physical taking because it does not effectively compel a property owner to suffer a physical invasion of property. Further, the rule does not result in a regulatory taking because it does not deny all economically beneficial or productive uses of the land or aquatic resources, it does substantially advance a legitimate government interest (conservation and recovery of endangered species and threatened species), and it does not present a barrier to all reasonable and expected beneficial uses of private property.

Federalism (E.O. 13132)

This rule does not have significant federalism effects, and a federalism summary impact statement is not required under E.O. 13132. This rule pertains only to designation of critical habitat under the Act and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

This rule does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988. This rule pertains only to designation of critical habitat under the Act.

Government-to-Government Relationship With Tribes

In accordance with E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments,'' the Department of the Interior's manual at 512 DM 2, the Department of Commerce Tribal Consultation and Coordination Policy (May 21, 2013), the Department of Commerce Departmental Administrative Order (DAO) 218–8 (April 2012), and the National Oceanic and Atmospheric Administration (NOAA) Administrative Order (NAO) 218–8 (April 2012), we considered the possible effects of this rule on federally recognized Tribes. This rule is general in nature and does not directly affect any specific Tribal lands, treaty rights, or Tribal trust resources. This regulation, which removes the definition of ''habitat'' from 50 CFR 424.02, has a direct effect on the Services only. With or without the regulatory definition of ''habitat,'' the Services would be obligated to continue to designate critical habitat based on the best available data and would continue to coordinate and consult as appropriate with Tribes and Alaska Native corporations on critical habitat designations, consistent with our longstanding practice.

During July 2021, we held three separate webinars for Tribes and Tribal organizations to provide an overview of, and information on how to provide input on, a series of rulemakings related to implementation of the Act that the Services were developing, including the proposed rule to rescind the habitat definition rule. We received written comments from Tribal organizations; however, we did not receive any requests for consultation regarding this action. Although this rule does not have ''tribal implications'' under section 1(a) of E.O. 13175, we will continue to collaborate with Tribes on issues related to federally listed species and their habitats and work with the Tribes as we implement the provisions of the Act. *See* Joint Secretarial Order 3206 (''American Indian Tribal Rights, Federal–Tribal Trust Responsibilities, and the Endangered Species Act'', June 5, 1997).

Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (45 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior regulations on Implementation of the National Environmental Policy Act (43 CFR 46.10–46.450), the Department of the Interior Manual (516 DM 8), the NOAA Administrative Order 216–6A, and the NOAA Companion Manual (CM), ''Policy and Procedures for Compliance with the National Environmental Policy Act and Related Authorities'' (effective January 13, 2017). We have determined that a detailed statement under NEPA is not required because the rule is covered by a categorical exclusion. The Department of the Interior has found that the following categories of actions would not individually or cumulatively have a significant effect on the human environment and are, therefore, categorically excluded from the requirement for completion of an environmental assessment or environmental impact statement: ''Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature.'' 43 CFR 46.210(i). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

NOAA's NEPA procedures include a similar categorical exclusion for ''preparation of policy directives, rules, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature'' (Categorical Exclusion G7, at CM Appendix E). This rule does not involve any of the extraordinary circumstances provided in NOAA's NEPA procedures, and therefore does not require further analysis to determine whether the action may have significant effects (CM at 4.A).

As a result, we find that the categorical exclusion found at 43 CFR 46.210(i) and in the NOAA CM applies to this regulation rescission, and neither Service has identified any extraordinary circumstances that would preclude this categorical exclusion. We did not receive any public comments regarding our stated intention of invoking a

categorical exclusion, with the exception of comments asserting that the initial use of a categorical exclusion when the habitat definition rule was codified (*i.e.,* the rule we are now rescinding) was incorrect. These comments do not conflict with or undermine our analysis here or compliance with applicable NEPA regulations for this rule.

Energy Supply, Distribution or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. The rescission of the regulatory definition of ''habitat'' is not expected to affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no statement of energy effects is required.

Signing Authority for the Department of the Interior

Shannon Estenoz, Assistant Secretary for Fish and Wildlife and Parks, approved this action on February 28, 2022, for publication. On June 16, 2022, Shannon Estenoz 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 the Interior.

Authority

We issue this rule under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq*).

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened species.

Maureen D. Foster,

Chief of Staff, Office of the Assistant Secretary for Fish and Wildlife and Parks.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

Regulation Promulgation

For the reasons set out in the preamble, we hereby amend part 424, subchapter A of chapter IV, title 50 of the Code of Federal Regulations, as set forth below:

PART 424—LISTING ENDANGERED AND THREATENED SPECIES AND DESIGNATING CRITICAL HABITAT

■ 1. The authority citation for part 424 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

§ 424.02 [Amended]

■ 2. Amend § 424.02 by removing the definition for ''Habitat''.

[FR Doc. 2022–13368 Filed 6–23–22; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 87, No. 121
Friday, June 24, 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.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

[Release Nos. 33–11073; 34–95122; IC–34619; File No. S7–19–22]

List of Rules To Be Reviewed Pursuant to the Regulatory Flexibility Act

AGENCY: Securities and Exchange Commission.

ACTION: Publication of list of rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is publishing a list of rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act. The list is published to provide the public with notice that these rules are scheduled for review by the agency and to invite public comment on whether the rules should be continued without change, or should be amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of small entities.

DATES: Comments should be submitted by August 23, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–19–22 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–19–22. 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 of submission. The Commission will post all comments on the Commission's website (*https://www.sec.gov/rules/other.shtml*). Comments are also 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 a.m. and 3 p.m. Operating conditions may limit access to the Commission's Public Reference Room.

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.

FOR FURTHER INFORMATION CONTACT: Leila Bham, Senior Special Counsel, Office of the General Counsel, 202–551–5532.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (''RFA''), codified at 5 U.S.C. 601–612, requires an agency to review its rules that have a significant economic impact upon a substantial number of small entities within ten years of the publication of such rules as final rules. 5 U.S.C. 610(a). The purpose of the review is ''to determine whether such rules should be continued without change, or should be amended or rescinded . . . to minimize any significant economic impact of the rules upon a substantial number of such small entities.'' 5 U.S.C. 610(a). The RFA sets forth specific considerations that must be addressed in the review of each rule:

- the continued need for the rule;
- the nature of complaints or comments received concerning the rule from the public;
- the complexity of the rule;
- the extent to which the rule overlaps, duplicates or conflicts with other federal rules, and, to the extent feasible, with state and local governmental rules; and
- the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. 5 U.S.C. 610(b).

The list below includes rules adopted in 2012 that may have a significant economic impact on a substantial number of small entities (but excludes rules that have been substantially changed since adoption, rules that are minor amendments to previously adopted rules, and rules that are ministerial, procedural, or technical in nature). Where the Commission has previously made a determination of a rule's impact on small businesses, the determination is noted on the list.

The Commission particularly solicits public comment on whether the rules listed below affect small businesses in new or different ways than when they were first adopted. The rules and forms listed below are scheduled for review by staff of the Commission.

Title: Purchase of Certain Debt Securities by Business and Industrial Development Companies Relying on an Investment Company Act Exemption.

Citation: 17 CFR 270.6a–5.

Authority: 15 U.S.C. 80a–6(a)(5)(A)(iv)(I) and 15 U.S.C. 80a–37(a).

Description: The Commission adopted a new rule to establish a standard of credit-worthiness in place of a statutory reference to credit ratings that the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') removed. The rule established the standard of credit quality that must be met by certain debt securities purchased by business and industrial development companies that rely on an exemption from the Investment Company Act of 1940.

Prior RFA Analysis: When the Commission adopted this rule on November 19, 2012, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. IC–30268, available at: *https://www.federalregister.gov/documents/2012/11/23/2012-28456/purchase-of-certain-debt-securities-by-business-and-industrial-development-companies-relying-on-an.* The Commission received no comments on its Initial Regulatory Flexibility Analysis published in the proposing release, Release No. IC–29592 (March 3, 2011), available at: *https://www.federalregister.gov/documents/2011/03/09/2011-5184/references-to-credit-ratings-in-certain-investment-company-act-rules-and-forms.*

* * * * *

Title: Conflict Minerals.

Citation: 17 CFR 240.13p–1 and 17 CFR 249b.400.

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77jjj, 77kkk, 77nnn, 77sss, 77ttt, 78a *et seq.* 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78 *l,* 78m, 78n, 78n–

1, 78o, 78o–4, 78o–8, 78p, 78q, 78s, 78u–5, 78w, 78x, 78dd(b), 78dd(c), 78 *ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201 *et seq.,* and 8302; 18 U.S.C. 1350; 12 U.S.C. 5221(e)(3), and Pub. L. 111–203, Sec. 1502, 124 Stat. 1376.

Description: The Commission adopted a new form and rule pursuant to Section 1502 of the Dodd-Frank Act relating to the use of conflict minerals. Section 1502 added Section 13(p) to the Securities Exchange Act of 1934 (''Exchange Act''), which required the Commission to promulgate rules requiring issuers with conflict minerals that are necessary to the functionality or production of a product manufactured by such person to disclose annually whether any of those minerals originated in the Democratic Republic of the Congo or an adjoining country. If an issuer's conflict minerals originated in those countries, Section 13(p) required the issuer to submit a report to the Commission that includes a description of the measures it took to exercise due diligence on the conflict minerals' source and chain of custody. The measures taken to exercise due diligence must include an independent private sector audit of the report that is conducted in accordance with standards established by the Comptroller General of the United States. Section 13(p) also required the issuer submitting the report to identify the auditor and to certify the audit. In addition, Section 13(p) required the report to include a description of the products manufactured or contracted to be manufactured that are not ''DRC conflict free,'' the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin. Section 13(p) required the information disclosed by the issuer to be available to the public on its internet website.[1]

Prior RFA Analysis: When the Commission adopted the new form and rule on August 22, 2012, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. 34–67716, available at: *https://www.federalregister.gov/documents/2012/09/12/2012-21153/conflict-minerals.* The Commission solicited comment on the Initial Regulatory Flexibility Analysis included in the proposing release, Release No. 34–63547 (Dec. 15, 2010), available at *https://www.federalregister.gov/documents/2010/12/23/2010-31940/conflict-minerals,* and considered comments received at that time.

* * * * *

Title: Listing Standards for Compensation Committees.

Citation: 17 CFR 229.407 and 17 CFR 240.10C–1.

Authority: 15 U.S.C. 77c, 77d, 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78j–3, 78k, 78k–1,78l, 78m, 78n, 78n–1, 78o, 78o–4, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 80a–8, 80a–9, 80a–20, 80a–23, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* and 18 U.S.C. 1350, and 12 U.S.C. 5221(e)(3), unless otherwise noted.

Description: The Commission adopted a new rule and amendments to its proxy disclosure rules to implement Section 952 of the Dodd-Frank Act, which added Section 10C to the Exchange Act. Section 10C required the Commission to adopt rules directing the national securities exchanges and national securities associations to prohibit the listing of any equity security of an issuer that is not in compliance with Section 10C's compensation committee and compensation adviser requirements. In accordance with the statute, 17 CFR 240.10C–1 (Rule 10C–1) directs the national securities exchanges to establish listing standards that, among other things, require each member of a listed issuer's compensation committee to be a member of the board of directors and to be ''independent,'' as defined in the listing standards of the national securities exchanges adopted in accordance with the final rule. In addition, pursuant to Section 10C(c)(2), the Commission adopted amendments to its proxy disclosure rules concerning issuers' use of compensation consultants and related conflicts of interest.

Prior RFA Analysis: When the Commission adopted the new rule and amendments on June 20. 2012, it published a Final Regulatory Flexibility Analysis in the adopting release, Release No. 33–9330, available at: *https://www.federalregister.gov/documents/2012/06/27/2012-15408/listing-standards-for-compensation-committees.* The Commission received no comments on its Initial Regulatory Flexibility Analysis published in the proposing release, Release No. 33–9199 (Mar. 30, 2011), available at *https://www.federalregister.gov/documents/2011/04/06/2011-7948/listing-standards-for-compensation-committees.* However, other comments received that addressed aspects of the proposed rule that could potentially affect small entities were considered at that time.

* * * * *

By the Commission.

Dated: June 17, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–13410 Filed 6–23–22; 8:45 am]

BILLING CODE 8011–01–P

[1] In April 2014, the U.S. Court of Appeals for the District of Columbia Circuit rejected challenges to the bulk of the SEC conflict minerals rule but held that Section 1502 of the Dodd-Frank Act and the rule violate the First Amendment to the extent that they require regulated entities to report to the SEC and to state on their website that any of their products ''have not been found to be DRC conflict free.'' *Nat'l Ass'n of Mfrs.* v. *SEC,* 748 F.3d 359 (D.C. Cir. Apr. 14, 2014). In April 2017, the U.S. District Court for the District of Columbia remanded the case to the Commission. *Nat'l Ass'n of Mfrs.* v. *SEC,* No. 13–635 (D.D.C. Apr. 3, 2017) (Doc. No. 47) (Final Judgment).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106384–20]

RIN 1545–BQ14

Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations prescribing mortality tables to be used for most defined benefit pension plans.

DATES: The public hearing, originally scheduled for Tuesday, June 28, 2022, at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Regina Johnson of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 317–5177 (not a toll-free number) or at *publichearings@irs.gov.*

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Thursday, April 28, 2022 (87 FR 25161) announced that a public hearing to be held by teleconference was scheduled for Tuesday, June 28, 2022 at 10 a.m. The subject of the public hearing is under section 430 of the Internal Revenue Code.

The public comment period for these regulations expired on June 9, 2022. The notice of proposed rulemaking and

notice of hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be discussed. Requests to speak and outlines were due on June 9, 2022. As of the end of the day on June 14, 2022, no one requested to speak. Therefore, the public hearing scheduled for June 28, 2022, at 10 a.m. is cancelled.

Oluwafunmilayo A. Taylor,

Branch Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2022–13491 Filed 6–23–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID DoD–2022–OS–0066]

RIN 0790–AL08

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: The Department of Defense (Department or DoD) is giving concurrent notice of a new Department-wide system of records pursuant to the Privacy Act of 1974 for the DoD–0010, ''Counterintelligence Functional Services'' system of records and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of this system of records from certain provisions of the Privacy Act because of national security, law enforcement, and employment suitability mission areas.

DATES: Send comments on or before August 23, 2022.

ADDRESSES: You may submit comments, identified by docket number, Regulation Identifier Number (RIN), and title, by any of the following methods.

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

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Defense Privacy and Civil Liberties Division, Directorate for Privacy, Civil Liberties and Freedom of Information, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700; *OSD.DPCLTD@mail.mil;* (703) 571–0070.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, the DoD is establishing a new DoD-wide system of records titled ''Counterintelligence Functional Services,'' DoD–0010. This system of records notice describes DoD's collection, use, and maintenance of records about counterintelligence functional services (CIFS). The purpose of CIFS is to protect Department resources and personnel from foreign adversaries who seek to exploit sensitive information, operations, and programs to the detriment of the U.S. government. The system of records consists of both electronic and paper records and will be used by DoD components and offices to maintain records about individuals in support of the Counterintelligence (CI) mission for the Department. DoD is authorized to maintain records on individuals to protect against espionage, intelligence activities, sabotage, or assassinations conducted by foreign entities or international terrorists. CIFS activities support the following CI missions: countering espionage; countering international terrorism; and providing support to force protection, research, development, and acquisition activities. CIFS also include assessments of CI incidents and DoD-required CI reporting conducted throughout the DoD enterprise. Not included in this system of records are records concerning CI investigations or CI collection activities.

The CIFS records contain information on both Federal employees and members of the public. The CIFS system of records contains data derived from individuals, government records (Federal, State, and local, tribal, and foreign) and information collected directly from the public.

II. Privacy Act Exemption

The Privacy Act allows federal agencies to exempt eligible records in a system of records from certain provisions of the Act, including those that provide individuals with a right to request access to and amendment of their own records. If an agency intends to exempt a particular system of records, it must first go through the rulemaking process to provide public notice and an opportunity to comment on the proposed exemption. This proposed rule explains why exemptions are being claimed for this system of records and invites public comment, which DoD will consider before the issuance of a final rule implementing those exemptions.

The DoD proposes to amend 32 CFR part 310 to add a new Privacy Act exemption rule for the DoD–0010, ''Counterintelligence Functional Services'' system of records. In this proposed rulemaking, the Department proposes to exempt portions of this system of records from certain provisions of the Privacy Act because information in this system of records may fall within the scope of the following Privacy Act exemptions: 5 U.S.C. 552a(k)(1), 5 U.S.C. 552a(k)(2), and 5 U.S.C. 552a(k)(5).

DoD proposes to exempt this system of records because these records may contain classified national security information and providing notice, access, amendment, and disclosure of accounting of those records to an individual, as well as certain record-keeping requirements, may cause damage to national security. The Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), authorizes agencies to claim an exemption for systems of records that contain information properly classified pursuant to executive order. The DoD therefore is proposing to claim an exemption from several provisions of the Privacy Act, including various access, amendment, disclosure of accounting, and certain record-keeping and notice requirements, to prevent disclosure of any information properly classified pursuant to executive order, as implemented by DoD Instruction 5200.01 and DoD Manual 5200.01, Volumes 1 and 3.

The DoD is also proposing this exemption rule because this system of records may contain investigatory material compiled for law enforcement purposes within the scope of 5 U.S.C. 552a(k)(2). This exemption allows DoD entities to claim an exemption for systems of records that contain

investigatory materials compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2), which describes certain material related to the enforcement of criminal laws maintained by principal-function criminal law enforcement agencies. The Department therefore is proposing to claim an exemption from several provisions of the Privacy Act, including various access, amendment, disclosure of accounting, and certain record-keeping and notice requirements, to prevent, among other harms, the identification of actual or potential subjects of investigation and/or sources of investigative information and to avoid frustrating the underlying law enforcement purpose for which the records were collected. Finally, the DoD also proposes an exemption for this system of records because the records may contain information pertaining to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. The Privacy Act, pursuant to 5 U.S.C. 552a(k)(5) authorizes agencies to claim an exemption for systems of records containing information identifying confidential sources crucial to determining suitability for holding positions of trust. Accordingly, the DoD is proposing to claim an exemption from several provisions of the Privacy Act, including various access, amendment, disclosure of accounting, and certain record-keeping and notice requirements, to prevent the compromise of the identity of confidential sources within such investigatory material.

Records in this system of records are only exempt from the Privacy Act to the extent the purposes underlying the exemption pertain to the record. A notice of a new system of records for DoD–0010, ''Counterintelligence Functional Services,'' is also published in this issue of the **Federal Register**.

Regulatory Analysis

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

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, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this proposed rule is not a significant regulatory action under these executive orders.

Congressional Review Act

This proposed rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Chapter 6)

The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency certified that this proposed rule does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of a Privacy Act system of records within the DoD.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this proposed rule does not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been determined that this proposed rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that it will not significantly or uniquely affect small governments.

Executive Order 13132, ''Federalism''

It has been determined that this proposed rule does not have federalism implications. This rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments''

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the federal government and Indian tribes. This proposed rule will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 310

Privacy.

Accordingly, 32 CFR part 310 is proposed to be amended as follows:

PART 310—[AMENDED]

■ 1. The authority citation for 32 CFR part 310 continues to read as follows:

Authority: 5 U.S.C. 552a.

■ 2. Section 310.13 is amended by adding paragraph (e)(8) to read as follows:

§ 310.13 Exemptions for DoD-wide systems.

* * * * *

(e) * * *

(8) *System identifier and name.* DoD–0010, ''Counterintelligence Functional Services''

(i) *Exemptions.* This system of records is exempt from 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act.

(ii) *Authority.* 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5).

(iii) *Exemption from the particular subsections.* Exemption from the particular subsections is justified for the following reasons:

(A) *Subsections (c)(3), (d)(1), and (d)(2).*

(*1*) *Exemption (k)(1).* Records in this system of records may contain information concerning individuals that is properly classified pursuant to executive order. Application of exemption (k)(1) for such records may be necessary because access to and amendment of the records, or release of the accounting of disclosures for such records, could reveal classified information. Disclosure of classified records to an individual may cause damage to national security.

(*2*) *Exemption (k)(2).* Records in this system of records may contain investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2). Application of exemption (k)(2) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could: inform the record subject of an investigation of the existence, nature, or scope of an actual or potential law enforcement or disciplinary investigation, and thereby seriously impede law enforcement or

prosecutorial efforts by permitting the record subject and other persons to whom he might disclose the records or the accounting of records to avoid criminal penalties, civil remedies, or disciplinary measures; interfere with a civil or administrative action or investigation by allowing the subject to tamper with witnesses or evidence, and to avoid detection or apprehension, which may undermine the entire investigatory process; reveal confidential sources who might not have otherwise come forward to assist in an investigation and thereby hinder DoD's ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(*3*) *Exemption (k)(5).* Records in this system of records may contain information concerning investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information. In some cases, such records may contain information pertaining to the identity of a source who furnished information to the Government under an express promise that the source's identity would be held in confidence (or prior to the effective date of the Privacy Act, under an implied promise). Application of exemption (k)(5) may be necessary because access to, amendment of, or release of the accounting of disclosures of such records could identify these confidential sources who might not have otherwise come forward to assist the Government; hinder the Government's ability to obtain information from future confidential sources; and result in an unwarranted invasion of the privacy of others. Amendment of such records could also impose a highly impracticable administrative burden by requiring investigations to be continuously reinvestigated.

(B) *Subsections (d)(3) and (4).* These subsections are inapplicable to the extent an exemption is claimed from subsections (d)(1) and (2).

(C) *Subsection (e)(1).* In the collection of information for investigatory or law enforcement purposes, it is not always possible to conclusively determine the relevance and necessity of particular information in the early stages of the investigation or adjudication. In some instances, it will be only after the collected information is evaluated in light of other information that its relevance and necessity for effective investigation and adjudication can be assessed. Collection of such information permits more informed decision-making by the Department when making required suitability, eligibility, fitness, and credentialing determinations. Accordingly, application of exemptions (k)(1), (k)(2) and (k)(5) may be necessary.

(D) *Subsections (e)(4)(G) and (H).* These subsections are inapplicable to the extent exemption is claimed from subsections (d)(1) and (2). Because portions of this system are exempt from the individual access and amendment provisions of subsection (d) for the reasons noted above, DoD is not required to establish requirements, rules, or procedures with respect to such access or amendment provisions. Providing notice to individuals with respect to the existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access, view, and seek to amend records pertaining to themselves in the system would potentially reveal classified information, undermine investigative efforts, reveal the identities of witnesses, potential witnesses, and confidential informants, and impose an undue administrative burden by requiring investigations to be continually reinvestigated. Accordingly, application of exemptions (k)(1), (k)(2) and (k)(5) may be necessary.

(E) *Subsection (e)(4)(I).* To the extent that this provision is construed to require more detailed disclosure than the broad, general information currently published in the system notice concerning the categories of sources of the records in the system, an exemption from this provision is necessary to protect classified information, other national security information, and the confidentiality of national security, law enforcement, and investigatory sources of information, and to protect the privacy and physical safety of witnesses and informants. Accordingly, application of exemptions (k)(1), (k)(2) and (k)(5) may be necessary.

(F) *Subsection (f).* The agency's rules are inapplicable to those portions of the system that are exempt. Accordingly, application of exemptions (k)(1), (k)(2) and (k)(5) may be necessary.

(iv) *Exempt records from other systems.* In the course of carrying out the overall purpose for this system, exempt records from other systems of records may in turn become part of the records maintained in this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the DoD claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the prior system(s) of which they are a part, provided the reason for the exemption remains valid and necessary.

* * * * *

Dated: June 21, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13572 Filed 6–23–22; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0291; EPA–HQ–OAR–2021–0663; FRL–9651–01–R9]

Approval of Air Quality State Implementation Plans; Arizona; 2015 Ozone Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Clean Air Act (CAA) requires each state implementation plan (SIP) to contain adequate provisions prohibiting emissions that will significantly contribute to nonattainment or interfere with maintenance of air quality in other states. The State of Arizona submitted a SIP revision to the Environmental Protection Agency (EPA) to address these requirements for the 2015 ozone national ambient air quality standards (NAAQS). The EPA is proposing to approve Arizona's SIP submission as meeting the requirement that the Arizona SIP contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

DATES: Any comments must arrive by July 25, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0291 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The 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. 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).

There are two dockets supporting this action, EPA–R09–OAR–2022–0291 and EPA–HQ–OAR–2021–0663. Docket No. EPA–R09–OAR–2022–0291 contains information specific to Arizona, including this notice of proposed rulemaking. Docket No. EPA–HQ–OAR–2021–0663 contains additional modeling files, emissions inventory files, technical support documents, and other relevant supporting documentation regarding interstate transport of emissions for the 2015 ozone NAAQS that are being used to support this action. All comments regarding information in either of these dockets are to be made in Docket No. EPA–R09–OAR–2022–0291. For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

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

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

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I. Background

A. Statutory Background

On October 1, 2015, the EPA promulgated a revision to the ozone NAAQS (2015 ozone NAAQS), lowering the level of both the primary and secondary standards to 0.070 parts per million (ppm).[1] Section 110(a)(1) of the CAA requires states to submit, within 3 years after promulgation of a new or revised standard, SIP submissions meeting the applicable requirements of section 110(a)(2).[2] The requirements in CAA section 110(a)(2)(D)(i)(I), otherwise known as the ''interstate transport'' or ''good neighbor'' provision, generally require SIPs to contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on other states due to interstate transport of pollution. There are two so-called ''prongs'' within CAA section 110(a)(2)(D)(i)(I), which require that the SIP for a new or revised NAAQS contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting air pollutants in amounts that will significantly contribute to nonattainment of the NAAQS in another state (prong 1) or interfere with maintenance of the NAAQS in another state (prong 2). The EPA and states must give independent significance to prong 1 and prong 2 when evaluating downwind air quality problems under CAA section 110(a)(2)(D)(i)(I).[3]

B. The EPA's 4-Step Interstate Transport Regulatory Framework

The EPA is using the 4-step interstate transport framework (or ''4-step framework'') to evaluate the states' SIP submittals addressing the interstate transport provision for the 2015 ozone NAAQS. The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to prior ozone NAAQS in several regional regulatory actions, including the Cross-State Air Pollution Rule (CSAPR), which addressed interstate transport with respect to the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter standards,[4] and the CSAPR Update[5] and the Revised CSAPR Update, both of which addressed the 2008 ozone NAAQS.[6]

Through the development and implementation of the CSAPR rulemakings and other prior regional rulemakings pursuant to the interstate transport provision,[7] the EPA, working in partnership with states, developed the following 4-step framework to evaluate a state's obligations to eliminate interstate transport emissions under the interstate transport provision for the ozone NAAQS: (1) identify monitoring sites that are projected to have problems attaining and/or maintaining the NAAQS (*i.e.,* nonattainment and/or maintenance receptors); (2) identify states that impact those air quality problems in other (*i.e.,* downwind) states sufficiently such that the states are considered ''linked'' and therefore warrant further review and analysis; (3) identify the emissions reductions necessary (if any), applying a multifactor analysis, to eliminate each linked upwind state's significant contribution to nonattainment or interference with maintenance of the NAAQS at the locations identified in Step 1; and (4) adopt permanent and enforceable measures needed to achieve those emissions reductions.

C. The EPA's Ozone Transport Modeling Information

In general, the EPA has performed nationwide air quality modeling to project ozone design values that are used in combination with measured data to identify nonattainment and maintenance receptors. To quantify the contribution of emissions from specific upwind states to 2023 ozone design values at the identified downwind nonattainment and maintenance

[1] National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015). Although the level of the standard is specified in the units of ppm, ozone concentrations are also described in parts per billion (ppb). For example, 0.070 ppm is equivalent to 70 ppb.

[2] SIP revisions that are intended to meet the applicable requirements of section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs, and the applicable elements under section 110(a)(2) are referred to as infrastructure requirements.

[3] See *North Carolina* v. *EPA,* 531 F.3d 896, 909–911 (D.C. Cir. 2008).

[4] See Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011).

[5] Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 81 FR 74504 (October 26, 2016).

[6] In 2019, the D.C. Circuit Court of Appeals remanded the CSAPR Update to the extent that it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a). *Wisconsin* v. *EPA,* 938 F.3d 303, 313 (D.C. Cir. 2019). The Revised CSAPR Update for the 2008 Ozone NAAQS at 86 FR 23054 (April 30, 2021) responded to the remand of the CSAPR Update in *Wisconsin* and the vacatur of a separate rule, the ''CSAPR Close-Out'' at 83 FR 65878 (December 21, 2018), in *New York* v. *EPA,* 781 F. App. 4 (D.C. Cir. 2019).

[7] In addition to the CSAPR rulemakings, other regional rulemakings addressing ozone transport include the NO_X SIP Call, 63 FR 57356 (October 27, 1998), and the Clean Air Interstate Rule (CAIR), 70 FR 25162 (May 12, 2005).

receptors, the EPA performed nationwide, state-level ozone source apportionment modeling for 2023. The source apportionment modeling estimated contributions to ozone concentrations at receptors from precursor emissions of anthropogenic nitrogen oxides (NO_X) and volatile organic compounds in individual upwind states.

The EPA has released several documents containing projected ozone design values, contributions, and information relevant to evaluating interstate transport with respect to the 2015 ozone NAAQS. First, on January 6, 2017, the EPA published a notice of data availability (NODA) in which we requested comment on preliminary interstate ozone transport data including projected ozone design values and interstate contributions for 2023 using a 2011 base year platform.[8] In the NODA, the EPA used the year 2023 as the analytic year for this preliminary modeling because 2023 aligns with the expected attainment year for ''Moderate'' ozone nonattainment areas for the 2015 ozone NAAQS.[9] On October 27, 2017, the EPA released a memorandum (''October 2017 memorandum'') containing updated modeling data for 2023. The October 2017 memorandum incorporated changes made in response to comments on the NODA and noted that the modeling may be useful for states developing SIPs to address interstate transport obligations for the 2008 ozone NAAQS.[10] On March 27, 2018, the EPA issued a memorandum (''March 2018 memorandum'') noting that the same 2023 modeling data released in the October 2017 memorandum could also be useful for identifying potential downwind air quality problems with respect to the 2015 ozone NAAQS at Step 1 of the 4-step interstate transport framework.[11] The March 2018 memorandum also included the then newly available contribution modeling data to assist states in evaluating their impact on potential downwind air quality problems for the 2015 ozone NAAQS under Step 2 of the 4-step interstate transport framework.[12] The EPA subsequently issued two more memoranda in August and October 2018, providing additional information to states developing interstate transport SIP submissions for the 2015 ozone NAAQS concerning, respectively, potential contribution thresholds that may be appropriate to apply in Step 2 of the 4-step interstate transport framework, and considerations for identifying downwind areas that may have problems maintaining the standard at Step 1 of the 4-step interstate transport framework.[13]

Since the release of the modeling data shared in the March 2018 memorandum, the EPA performed updated modeling using a 2016-based emissions modeling platform (the ''2016v1'' platform). This emissions platform was developed under the EPA/Multi-Jurisdictional Organization (MJO)/state collaborative project.[14] This collaborative project was a multi-year joint effort by the EPA, MJOs, and states to develop a new, more recent emissions platform for use by the EPA and states in regulatory modeling as an improvement from the dated 2011-based platform that the EPA had used to project ozone design values and contribution data provided in the 2017 and 2018 memoranda. The EPA used the 2016v1 emissions to project ozone design values and contributions for 2023. On October 30, 2020, in the notice of proposed rulemaking for the Revised CSAPR Update, the EPA released and accepted public comment on 2023 modeling that used the 2016v1 emissions platform.[15] Although the Revised CSAPR Update addressed transport for the 2008 ozone NAAQS, the projected design values and contributions from the 2016v1 platform are also useful for identifying downwind ozone problems and linkages with respect to the 2015 ozone NAAQS.[16]

Following the final Revised CSAPR Update, the EPA made further updates to the 2016 emissions platform to include mobile emissions from the EPA's Motor Vehicle Emission Simulator MOVES3 model[17] and updated emissions projections for electric generating units that reflect the emissions reductions from the Revised CSAPR Update, recent information on plant closures, and other sector trends. Details about the updated emissions platform (the ''2016v2'' platform) are described in the emissions modeling technical support document (TSD) for this proposed rule.[18] The EPA performed air quality modeling of the 2016v2 emissions using the most recent public release version of the Comprehensive Air-quality Model with extensions (CAMx) photochemical modeling, version 7.10.[19] The EPA now proposes to primarily rely on the updated modeling for the 2023 analytic year based on the newly available 2016v2 emissions platform (generally referred to herein as the 2016v2 modeling for 2023) in evaluating these submissions with respect to Steps 1 and 2 of the 4-step interstate transport framework. By using the updated modeling results, the EPA is using the most current and technically appropriate information for this proposed rulemaking. Section III of this document and the Air Quality Modeling TSD for 2015 Ozone NAAQS Transport

[8] See Notice of Availability of the Environmental Protection Agency's Preliminary Interstate Ozone Transport Modeling Data for the 2015 8-hour Ozone National Ambient Air Quality Standard (NAAQS), 82 FR 1733 (January 6, 2017).

[9] Id. at 1735.

[10] EPA, Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I) (October 27, 2017). The October 2017 memorandum is available at *https://www.regulations.gov* under docket ID no. EPA–HQ–OAR–2021–0663 or at *https://www.epa.gov/node/194139/.*

[11] EPA, Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I) (March 27, 2018). The March 2018 memorandum is available at *https://www.regulations.gov* under docket ID no. EPA–HQ–OAR–2021–0663 or at *https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs.*

[12] The March 2018 memorandum, however, provided, ''While the information in this memorandum and the associated air quality analysis data could be used to inform the development of these SIPs, the information is not a final determination regarding states' obligations under the good neighbor provision. Any such determination would be made through notice-and-comment rulemaking.''

[13] EPA, Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards (August 31, 2018), and Considerations for Identifying Maintenance Receptors for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards (October 19, 2018). The August 2018 and October 2018 memoranda are available at *https://www.regulations.gov* under docket ID no. EPA–HQ–OAR–2021–0663 or at *https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs.*

[14] The results of this modeling, as well as the underlying modeling files, are available at *https://www.regulations.gov* under docket ID no. EPA–HQ–OAR–2021–0663.

[15] 85 FR 68964, 68981 (October 30, 2020).

[16] EPA, Air Quality Modeling Technical Support Document for the Final Revised Cross-State Air Pollution Rule Update (March 2021). This technical support document is available at *https://www.regulations.gov* under docket ID no. EPA–HQ–OAR–2021–0663.

[17] Additional details and documentation related to the MOVES3 model can be found at *https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves.*

[18] EPA, Technical Support Document (TSD) Preparation of Emissions Inventories for the 2016v2 North American Emissions Modeling Platform (February 2022). This technical support document is available at *https://www.regulations.gov* under docket ID no. EPA–HQ–OAR–2021–0663.

[19] Ramboll Environment and Health, January 2021, *www.camx.com.*

SIP Proposed Actions, included in Docket ID No. EPA–HQ–OAR–2021–0663 for this proposal, contain additional detail on the EPA's 2016v2 modeling. In this document, the EPA is accepting public comment on this updated 2023 modeling, which uses a 2016v2 emissions platform. Comments on the EPA's air quality modeling should be submitted in the Regional docket for this action at docket ID no. EPA–R09–OAR–2022–0291. Comments are not being accepted to docket ID no. EPA–HQ–OAR–2021–0663.

D. The EPA's Approach To Evaluating Interstate Transport SIPs for the 2015 Ozone NAAQS

The EPA proposes to apply a consistent set of policy judgments across all states for purposes of evaluating interstate transport obligations and the approvability of interstate transport SIP submittals for the 2015 ozone NAAQS. These policy judgments reflect consistency with relevant case law and past agency practice as reflected in the CSAPR and related rulemakings. Nationwide consistency in approach is particularly important in the context of interstate ozone transport, which is a regional-scale pollution problem involving many smaller contributors. Effective policy solutions to the problem of interstate ozone transport dating back to the NO_X SIP Call [20] have necessitated the application of a uniform framework of policy judgments in order to ensure an ''efficient and equitable'' approach.[21]

In the March, August, and October 2018 memoranda, the EPA recognized that states may be able to establish alternative approaches to addressing their interstate transport obligations for the 2015 ozone NAAQS that vary from a nationally uniform framework. The EPA emphasized in these memoranda, however, that such alternative approaches must be technically justified and appropriate in light of the facts and circumstances of each particular state's submittal. In general, the EPA continues to believe that deviation from a nationally consistent approach to ozone transport must be substantially justified and have a well-documented technical basis that is consistent with relevant case law. Where states submit SIPs that rely on any such potential flexibilities that have been identified or suggested in the past, the EPA will evaluate whether the state adequately justified the technical and legal basis for doing so.

The EPA notes that certain concepts included in an attachment to the March 2018 memorandum require unique consideration, and these ideas do not constitute agency guidance with respect to transport obligations for the 2015 ozone NAAQS. Attachment A to the March 2018 memorandum identified a preliminary list of potential flexibilities that could potentially inform SIP development.[22] However, the EPA made clear in that attachment that the list of ideas were not suggestions endorsed by the Agency, but rather ''comments provided in various forums'' on which the EPA sought ''feedback from interested stakeholders.'' [23] Further, the attachment stated that the ''EPA is not at this time making any determination that the ideas discussed below are consistent with the requirements of the CAA, nor are we specifically recommending that states use these approaches.'' [24] Attachment A to the March 2018 memorandum, therefore, does not constitute agency guidance, but was intended to generate further discussion around potential approaches to addressing ozone transport among interested stakeholders. To the extent that states seek to develop or rely on these ideas in support of their SIP submittals, the EPA will thoroughly review the technical and legal justifications for doing so.

The remainder of this section describes the EPA's proposed framework with respect to analytic year, definition of nonattainment and maintenance receptors, selection of contribution threshold, and multifactor control strategy assessment.

1. Selection of Analytic Year

In general, the states and the EPA must implement the interstate transport provision in a manner consistent with the provisions of title I of the CAA.[25] This requires, among other things, that these obligations are addressed consistently with the timeframes for downwind areas to meet their CAA obligations. With respect to ozone NAAQS, under CAA section 181(a), this means obligations must be addressed ''as expeditiously as practicable'' and no later than the schedule of attainment dates provided in CAA section 181(a)(1).[26] Several D.C. Circuit court decisions address the issue of the relevant analytic year for the purposes of evaluating ozone transport air-quality problems. On September 13, 2019, the D.C. Circuit issued a decision in *Wisconsin* v. *EPA,* remanding the CSAPR Update to the extent that it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a).[27]

On May 19, 2020, the D.C. Circuit issued a decision in *Maryland* v. *EPA* that cited the *Wisconsin* decision in holding that the EPA must assess the impact of interstate transport on air quality at the next downwind attainment date, including ''Marginal'' area attainment dates, in evaluating the basis for the EPA's denial of a petition under CAA section 126(b).[28] The court noted that ''section 126(b) incorporates the Good Neighbor Provision,'' and, therefore, the ''EPA must find a violation [of section 126] if an upwind source will significantly contribute to downwind nonattainment at the *next downwind attainment deadline.* Therefore, the agency must evaluate downwind air quality at that deadline, not at some later date.'' [29] The EPA interprets the court's holding in *Maryland* as requiring the states and the EPA, under the interstate transport provision, to assess downwind air quality as expeditiously as practicable and no later than the next applicable attainment date,[30] which is now the Moderate area attainment date under CAA section 181 for ozone nonattainment. The Moderate area attainment date for the 2015 ozone NAAQS is August 3, 2024.[31] The EPA believes that 2023 is now the appropriate year for analysis of interstate transport obligations for the 2015 ozone NAAQS because the 2023 ozone season is the last relevant ozone

[20] 63 FR 57356 (October 27, 1998).

[21] See *EME Homer City Generation, LP* v. *EPA,* 572 U.S. 489, 519 (2014).

[22] March 2018 memorandum, Attachment A.

[23] Id. at A–1.

[24] Id.

[25] CAA section 110(a)(2)(D)(i).

[26] For attainment dates for the 2015 ozone NAAQS, refer to CAA section 181(a), 40 CFR 51.1303, and Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018, effective August 3, 2018).

[27] *Wisconsin* v. *EPA,* 938 F.3d 303, 313 (D.C. Cir. 2019).

[28] *Maryland* v. *EPA,* 958 F.3d 1185, 1203–1204 (D.C. Cir. 2020).

[29] Id. at 1204 (emphasis added).

[30] We note that the court in *Maryland* did not have occasion to evaluate circumstances in which the EPA may determine that an upwind linkage to a downwind air quality problem exists at Steps 1 and 2 of the interstate transport framework by a particular attainment date, but for reasons of impossibility or profound uncertainty, the Agency is unable to mandate upwind pollution controls by that date. See *Wisconsin,* 938 F.3d at 320. The D.C. Circuit noted in *Wisconsin* that, upon a sufficient showing, these circumstances may warrant flexibility in effectuating the purpose of the interstate transport provision.

[31] CAA section 181(a); 40 CFR 51.1303; Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards, 83 FR 25776 (June 4, 2018, effective August 3, 2018).

season during which emissions reductions achieved in linked upwind states could assist downwind states in meeting the August 3, 2024 Moderate area attainment date for the 2015 ozone NAAQS.

The EPA recognizes that the attainment date for nonattainment areas classified as Marginal for the 2015 ozone NAAQS is August 3, 2021. Under the *Maryland* holding, any emissions reductions necessary to satisfy interstate transport obligations should have been implemented by no later than this date. At the time of the statutory deadline for states to submit interstate transport SIPs (*i.e.,* October 1, 2018), many states relied upon the EPA's modeling of the year 2023, and no state provided an alternative analysis using a 2021 analytic year (or the prior 2020 ozone season). However, the EPA must act on SIP submittals using the information available at the time it takes such action. In this circumstance, the EPA does not believe it would be appropriate to evaluate states' obligations under CAA section 110(a)(2)(D)(i)(I) as of an attainment date that is wholly in the past, because the EPA interprets the interstate transport provision as forward looking.[32] Consequently, in this proposal, the EPA will use the analytical year of 2023 to evaluate Arizona's CAA section 110(a)(2)(D)(i)(I) SIP submission with respect to the 2015 ozone NAAQS.

2. Step 1 of the 4-Step Interstate Transport Framework

In Step 1 of the 4-step interstate transport framework, the EPA identifies monitoring sites that are projected to have problems attaining and/or maintaining the NAAQS in the 2023 analytic year. Where the EPA's analysis shows that a site does not fall under the definition of a nonattainment or maintenance receptor, that site is excluded from further analysis under the EPA's 4-step interstate transport framework. Where the EPA's analysis shows that a site does meet the definition of a nonattainment or maintenance receptor in 2023, we proceed to the next step of our 4-step interstate transport framework by identifying the upwind state's contribution to those receptors.

The EPA's approach to identifying ozone nonattainment and maintenance receptors in this action is consistent with the approach used in previous transport rulemakings. The EPA's approach gives independent consideration to both the ''contribute significantly to nonattainment'' and ''interfere with maintenance'' prongs of CAA section 110(a)(2)(D)(i)(I), consistent with the D.C. Circuit's direction in *North Carolina* v. *EPA.*[33]

For the purpose of this proposal, the EPA identifies nonattainment receptors as those monitoring sites that are projected to have average design values that exceed the NAAQS and that are also measuring nonattainment based on the most recent monitored design values. This approach is consistent with prior transport rulemakings, such as the CSAPR Update, where the EPA defined nonattainment receptors as those areas that both currently measure nonattainment and that the EPA projects will be in nonattainment in the future analytic year (*i.e.,* 2023).[34]

In addition, in this proposal, the EPA identifies a receptor to be a ''maintenance'' receptor for the purpose of defining interference with maintenance consistent with the method used in the CSAPR and upheld by the D.C. Circuit in *EME Homer City Generation, L.P.* v. *EPA.*[35] Specifically, the EPA identified maintenance receptors as those receptors that would have difficulty maintaining the relevant NAAQS in a scenario that takes into account historical variability in air quality at that receptor. The variability in air quality was determined by evaluating the ''maximum'' future design value at each receptor based on a projection of the maximum measured design value over the relevant period. The EPA interprets the projected maximum future design value to be a potential future air quality outcome consistent with the meteorology that yielded maximum measured concentrations in the ambient data set analyzed for that receptor (*i.e.,* meteorology conducive to ozone formation). The EPA also recognizes that previously experienced meteorological conditions (*e.g.,* dominant wind direction, temperatures, air mass patterns) promoting ozone formation that led to maximum concentrations in the measured data may reoccur in the future. The maximum design value gives a reasonable projection of future air quality at the receptor under a scenario in which such conditions do, in fact, reoccur. The projected maximum design value is used to identify upwind emissions that, under those circumstances, could interfere with the downwind area's ability to maintain the NAAQS.

Recognizing that nonattainment receptors are also, by definition, maintenance receptors, the EPA often uses the term ''maintenance-only'' to refer to those receptors that are not nonattainment receptors. Consistent with the concepts for maintenance receptors, as described previously in this section, the EPA identifies ''maintenance-only'' receptors as those monitoring sites that have projected average design values above the level of the applicable NAAQS, but that are not currently measuring nonattainment based on the most recent official design values. In addition, those monitoring sites with projected average design values below the NAAQS, but with projected maximum design values above the NAAQS are also identified as ''maintenance-only'' receptors, even if they are currently measuring nonattainment based on the most recent official design values.

3. Step 2 of the 4-Step Interstate Transport Framework

In Step 2 of the 4-step interstate transport framework, the EPA quantifies the contribution of each upwind state to each nonattainment and maintenance receptor (as determined in Step 1) in the 2023 analytic year. The contribution metric used in Step 2 is defined as the average impact from each state to each receptor on the days with the highest ozone concentrations at the receptor based on the 2023 modeling. If a state's contribution value does not equal or exceed the threshold of 1 percent of the NAAQS (*i.e.,* 0.70 parts per billion [ppb] for the 2015 ozone NAAQS), the upwind state is not ''linked'' to a downwind air quality problem, and the EPA therefore concludes that the state does not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in the downwind states. However, if a state's contribution equals or exceeds the 1 percent threshold, the state's emissions are further evaluated in Step 3 considering both air quality and cost as part of a multi-factor analysis to determine what, if any, emissions might be deemed ''significant'' and must therefore be eliminated under CAA section 110(a)(2)(D)(i)(I). The EPA is proposing to rely on the 1 percent

[32] See 86 FR 23054, 23074; see also *Wisconsin,* 938 F.3d at 322.

[33] See *North Carolina* v. *EPA,* 531 F.3d at 910–911 (holding that the EPA must give ''independent significance'' to each prong of CAA section 110(a)(2)(D)(i)(I)).

[34] See 81 FR 74504 (October 26, 2016). This same concept, relying on both current monitoring data and modeling to define nonattainment receptor, was also applied in CAIR. See 70 FR 25241, 25249 (January 14, 2005); see also *North Carolina,* 531 F.3d at 913–914 (affirming as reasonable the EPA's approach to defining nonattainment in CAIR).

[35] *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 136 (D.C. Cir. 2015). See also 76 FR 48208 (August 8, 2011). The CSAPR Update and Revised CSAPR Update also used this approach. See also 81 FR 74504 and 86 FR 23054.

threshold for the purpose of evaluating a state's contribution to nonattainment or maintenance of the 2015 ozone NAAQS (*i.e.,* 0.70 ppb) at downwind receptors. This is consistent with the Step 2 approach that the EPA applied in CSAPR for the 1997 ozone NAAQS, which has subsequently been applied in the CSAPR Update when evaluating interstate transport obligations for the 2008 ozone NAAQS. The EPA continues to find 1 percent to be an appropriate threshold. For ozone, as the EPA found in the Clean Air Interstate Rule, CSAPR, and CSAPR Update, a portion of the nonattainment problems from anthropogenic sources in the United States results from the combined impact of relatively small contributions from many upwind states along with contributions from in-state sources and, in some cases, substantially larger contributions from a subset of particular upwind states. The EPA's analysis shows that much of the ozone transport problem being analyzed in this proposed rule is still the result of the collective impacts of contributions from many upwind states. Therefore, application of a consistent contribution threshold is necessary to identify those upwind states that should have responsibility for addressing their contribution to the downwind nonattainment and maintenance problems to which they collectively contribute. Continuing to use 1 percent of the NAAQS as the screening metric to evaluate collective contribution from many upwind states also allows the EPA (and states) to apply a consistent framework to evaluate interstate emissions transport under the interstate transport provision from one NAAQS to the next.[36]

The EPA's August 2018 memorandum recognized that in certain circumstances a state may be able to establish that an alternative contribution threshold of 1 ppb is justifiable. Where a state relies on this alternative threshold, and where that state determined it was not linked at Step 2 using the alternative threshold, the EPA will evaluate whether the state provided a technically sound assessment of the appropriateness of using this alternative threshold based on the facts and circumstances underlying its application in the particular SIP submission.

4. Step 3 of the 4-Step Interstate Transport Framework

Consistent with the EPA's longstanding approach to eliminating significant contribution to nonattainment or interference with maintenance, at Step 3 of the 4-step interstate transport framework, states linked at Steps 1 and 2 are generally expected to prepare a multifactor assessment of potential emissions controls. The EPA's analysis at Step 3 in prior federal actions addressing interstate transport requirements has primarily focused on an evaluation of cost-effectiveness of potential emissions controls (on a marginal cost-per-ton basis), the total emissions reductions that may be achieved by requiring such controls (if applied across all linked upwind states), and an evaluation of the air quality impacts such emissions reductions would have on the downwind receptors to which a state is linked; other factors may potentially be relevant if adequately supported. In general, where the EPA's or alternative air quality and contribution modeling establishes that a state is linked at Steps 1 and 2, it will be insufficient at Step 3 for a state to merely point to its existing rules requiring control measures as a basis for approval. In general, the emissions-reducing effects of all existing emissions control requirements are already reflected in the air quality results of the modeling for Steps 1 and 2. If the state is shown to still be linked to one or more downwind receptor(s), states must provide a well-documented evaluation determining whether their emissions constitute significant contribution or interference with maintenance by evaluating additional available control opportunities by preparing a multifactor assessment. While the EPA has not prescribed a particular method for this assessment, the EPA expects states at a minimum to present a sufficient technical evaluation. This would typically include information on emissions sources, applicable control technologies, emissions reductions, costs, cost effectiveness, and downwind air quality impacts of the estimated reductions, before concluding that no additional emissions controls should be required.[37]

5. Step 4 of the 4-Step Interstate Transport Framework

At Step 4 of the 4-step interstate transport framework, states (or the EPA) develop permanent and federally enforceable control strategies to achieve the emissions reductions determined to be necessary at Step 3 to eliminate significant contribution to nonattainment or interference with maintenance of the NAAQS. For a state linked at Steps 1 and 2 to rely on an emissions control measure at Step 3 to address its interstate transport obligations, that measure must be included in the state's SIP so that it is permanent and federally enforceable.[38]

II. Arizona's Submission

On September 24, 2018, the Arizona Department of Environmental Quality (ADEQ) submitted to the EPA the ''Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2015 Ozone National Ambient Air Quality Standards'' (''the 2018 Ozone I–SIP submittal'') addressing the infrastructure requirements of CAA section 110(a)(2) for the 2015 ozone NAAQS.[39] In this proposed rulemaking, the EPA is evaluating the section of the 2018 Ozone I–SIP submittal addressing CAA section 110(a)(2)(D)(i)(I).

The 2018 Ozone I–SIP submittal describes the 4-step framework established by the EPA to address the good neighbor provision.[40] Arizona references the results of the ozone modeling completed by the EPA using CAMx version 6.40, made available in the March 2018 memorandum. Arizona noted that the modeling demonstrates that Arizona is not shown to contribute greater than 1 percent of the NAAQS (*i.e.,* 0.70 ppb) to any of the modeled nonattainment or maintenance receptors in other states.[41] Despite asserting that ''Arizona still maintains that the 1 percent threshold is poorly suited for determining contribution obligations in the Southwestern US,'' Arizona relies

[36] See 81 FR 74504, 74518. See also 86 FR 23054, 23085 (reviewing and explaining rationale from CSAPR) and 76 FR 48208, 48237–48238 (for selection of 1 percent threshold).

[37] As examples of general approaches for how such an analysis could be conducted for their sources, states could look to the CSAPR Update (81 FR 74504, 74539–74551), CSAPR (76 FR 48208, 48246–48263), CAIR (70 FR 25162, 25195–25229), or the NO_X SIP Call (63 FR 57356, 57399–57405). See also the Revised CSAPR Update (86 FR 23054, 23086–23116). Consistently across these rulemakings, the EPA has developed emissions inventories, analyzed different levels of control stringency at different cost thresholds, and assessed resulting downwind air quality improvements.

[38] See CAA section 110(a)(2)(D) (''Each such [SIP] shall . . . contain adequate provisions . . .''). See also CAA section 110(a)(2)(A); *Committee for a Better Arvin* v. *EPA,* 786 F.3d 1169, 1175–1176 (9th Cir. 2015) (holding that measures relied on by state to meet CAA requirements must be included in the SIP).

[39] Letter dated September 24, 2018, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Michael Stoker, Regional Administrator, EPA Region IX, Subject: ''Submittal of the Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2015 Ozone NAAQS.''

[40] 2018 Ozone I–SIP submittal, 12.

[41] Id. at 13.

on the 1 percent of the NAAQS contribution threshold at Step 2.[42] Based on the model results, Arizona finds that it does not contribute significantly to nonattainment or maintenance receptors in other states and that it is not necessary to identify emissions reductions or adopt any permanent or enforceable controls under the interstate transport provision for the 2015 ozone NAAQS.[43] Arizona also asserts that the Arizona SIP contains adequate provisions to ensure that air emissions in Arizona will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state in the future.[44]

The EPA notes that CAA sections 110(a)(1) and 110(l) and 40 CFR 51.102 require states to provide reasonable notice and an opportunity for a public hearing prior to adoption of SIP revisions. Section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. Any plan that the EPA does not affirmatively determine to be complete or incomplete will become complete by operation of law six months after the day of submittal. A finding of completeness does not approve the submittal as part of the SIP, nor does it indicate that the submittal is approvable. It does start a 12-month clock for the EPA to act on the SIP submittal.[45]

The 2018 Ozone I–SIP submittal documents the public review process followed by Arizona prior to its submittal to the EPA as a revision to the SIP. Appendix A of the 2018 Ozone I–SIP submittal includes documentation of a notice of public hearing and opportunity for comment on the SIP submittal. The notice of public hearing and opportunity for comment on the SIP submittal was provided on August 6 and 7, 2018. The public hearing for the SIP submittal was held on September 6, 2018. The public process documentation in Appendix A of the 2018 Ozone I–SIP submittal includes a meeting agenda, sign-in sheet, presiding officer certification, and hearing transcript for the September 6, 2018 public hearing and a responsiveness summary indicating that no oral or written comments were received by ADEQ during the 30-day public review period.

[42] Id.

[43] Id.

[44] Id. at 14.

[45] See CAA section 110(k)(2).

III. The EPA's Evaluation

The 2018 Ozone I–SIP submittal relies on the 4-step framework and the analytic year 2023 contribution modeling results provided in the March 2018 memorandum to conclude that Arizona does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

As described in section I of this proposal, the EPA performed air quality modeling to project design values and contributions for 2023 using the 2016v2 emissions platform. The EPA proposes to rely primarily on this updated modeling to evaluate Arizona's transport SIP submittal. The design values and contributions from the updated modeling were examined to determine if Arizona contributes at or above the threshold of 1 percent of the 2015 ozone NAAQS (0.70 ppb) to any downwind nonattainment or maintenance receptor.[46] The data[47] indicate that the highest contributions in 2023 from Arizona to downwind nonattainment and maintenance-only receptors are 0.40 ppb and 0.21 ppb, respectively.[48] The EPA's evaluation of measured and monitored data and contribution values in 2023 indicates that the contribution to ozone concentrations in other states from emissions in Arizona will not exceed the contribution threshold of 0.70 ppb. The results of the EPA's evaluation are consistent with the conclusion drawn by Arizona in the 2018 Ozone I–SIP submittal that emissions from sources in Arizona will not contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

IV. Proposed Action and Request for Public Comment

Based on the EPA's evaluation of the impact of air emissions from Arizona to downwind states using 2023 analytic year modeling as described in this notice, the EPA is proposing to approve chapter 2.4.1 of Arizona's 2018 Ozone I–SIP submittal as meeting the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS. The EPA is seeking public comment on the issues discussed in this proposed rule. We will accept comments from the public on this proposal for the next 30 days.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state plans 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);

[46] While the EPA does not, in this action, approve of the state's suggestion or rationale to rely on an alternative threshold, based on the state's contributions of less than 1 percent to projected downwind nonattainment or maintenance receptors, and the state's reliance on a 1 percent threshold in its submittal, the consideration of an alternative threshold is inconsequential to our action on this SIP submittal. The EPA is proposing to approve Arizona's SIP submission on the basis of the use of a 1 percent contribution threshold at Step 2.

[47] Design values and contributions at individual monitoring sites nationwide are provide in the file 2016v2_DVs_state_contributions.xlsx which is included in docket ID No. EPA–HQ–OAR–2021–0663.

[48] The EPA's analysis indicates that Arizona will have a 0.40 ppb impact at the projected nonattainment receptor in Jefferson County, Colorado (site ID 80590011), which has a monitored 2020 design value of 80 ppb, a 2023 projected average design value of 73.8 ppb, and a 2023 projected maximum design value of 74.4 ppb. Furthermore, the EPA's analysis indicates that Arizona will have a 0.21 ppb impact at the projected maintenance-only receptor in Clark County, Nevada (site ID 320030075), which has a monitored 2020 design value of 74 ppb, a 2023 projected average design value of 70.0 ppb, and a 2023 projected maximum design value of 71.0 ppb.

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: June 14, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–13377 Filed 6–23–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2021–0568; FRL–9779–01–OCSPP]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (21–3.5e)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances that were the subject of premanufacture notices (PMNs) and are also subject to Orders issued by EPA pursuant to TSCA. The SNURs require persons who intend to manufacture (defined by statute to include import) or process any of these chemical substances for an activity that is proposed as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the use, under the conditions of use for that chemical substance, within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required by that determination.

DATES: Comments must be received on or before July 25, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0568, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: William Wysong, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: *wysong.william@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. 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:

• Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import provisions promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA, which would include the SNUR requirements should these proposed rules be finalized. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after July 25, 2022 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Background

A. What action is the Agency taking?

EPA is proposing these SNURs under TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) for certain chemical substances that were the subject of PMNs. These proposed SNURs would require persons to notify EPA at least 90 days before commencing the manufacture or processing of any of these chemical substances for an activity proposed as a significant new use. Receipt of such notices would allow EPA to assess risks and, if

appropriate, to regulate the significant new use before it may occur.

The docket for these proposed SNURs, identified as docket ID number EPA–HQ–OPPT–2021–0568, includes information considered by the Agency in developing these proposed SNURs.

B. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four TSCA section 5(a)(2) factors listed in Unit III.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. Pursuant to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same significant new use notice (SNUN) requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). These requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN and before the manufacture or processing for the significant new use can commence, EPA must either determine that the use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination. If EPA determines that the use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, potential human exposures and environmental releases that may be associated with possible uses of these chemical substances, in the context of the four TSCA section 5(a)(2) factors listed in this unit.

The proposed rules include PMN substances that are subject to Orders issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). The TSCA Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs identify significant new uses as any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure to workers, the underlying TSCA Order usually requires that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL), and includes requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. No comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the 40 CFR 721.63 respirator requirements may request to do so under 40 CFR 721.30. EPA expects that persons whose 40 CFR 721.30 requests to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA Order for the same chemical substance.

IV. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for certain chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance that is identified in this unit as subject to this proposed rule:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Effective date of and basis for the TSCA Order.
- Potentially Useful Information.
- CFR citation assigned in the regulatory text section of the proposed rule.

The chemicals subject to these proposed SNURs are as follows:

PMN Number: P–18–143

Chemical Name: Fatty acids, tall-oil polymers with aminoalkyl, dialkyl alkane diamine, polyalkylene polyamine alkanepolyamine fraction, and tris-[(alkylamino) alkyl] phenol (generic).

CAS Number: Not available.

Effective Date of TSCA Order: April 27, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as an anti-corrosive primer for outdoor industrial applications. Based on available data on an analogue, EPA has identified concerns for systemic effects and reproduction/developmental toxicity. Based on analogue data for the low molecular weight fraction and information in the Safety Data Sheet, EPA has also identified concerns for corrosion to all tissues and skin sensitization. Based on comparison to analogous aliphatic amines, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- No release of the PMN substance resulting in surface water concentrations that exceed 1 ppb; and
- No use of the PMN substance in a consumer product.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11687.

PMN Number: P–18–154

Chemical Name: Isocyanic acid, polyalkylenepolycycloalkylene ester, 2-alkoxy alkanol and 1-alkoxy alkanol and alkylene diol blocked (generic).

CAS Number: Not available.

Effective Date of TSCA Order: August 2, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use will be as a crosslinking agent for coatings. Based on the expected function of the PMN substance as a crosslinking agent that can crosslink proteins and bind to DNA, EPA has identified concerns for skin sensitization, respiratory sensitization, and genotoxicity. Based on comparison to analogous carbamate esters, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- No use of the PMN substance in a consumer product;
- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and
- No release of the PMN substance resulting in surface water concentrations that exceed 1 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of genetic toxicity, skin sensitization, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11688.

PMN Number: P–18–273

Chemical Name: 1,4-Cyclohexanedicarboxylic acid, 1,4-bis(2-ethylhexyl) ester.

CAS Number: 84731–70–4.

Effective Date of TSCA Order: June 9, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be for polymer manufacturing. Based on test data on the PMN substance, EPA has identified concerns for thyroid effects. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- No use of the PMN substance other than the confidential use allowed in the Order;
- No domestic manufacture of the PMN substance (*i.e.,* import only);
- Use of personal protective equipment where there is a potential for dermal exposure; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of toxicokinetics testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11689.

PMN Number: P–18–290

Chemical Name: Carbomonocylic-oxazolidine (generic).

CAS Number: Not available.

Effective Date of TSCA Order: August 19, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be for gas scrubbing and wastewater deodorizing. Based on the potential release of a hydrolysis product of the PMN substance, EPA has identified concerns for systemic effects. Based on comparison to analogous chemical substances, EPA has identified concerns for eye and respiratory tract irritation. Based on test data on the PMN substance, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 285 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 10 where there is a potential for inhalation exposure;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and
- No release of the PMN substance resulting in surface water concentrations that exceed 285 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of eye irritation, specific target organ toxicity, and chronic aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's

restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11690.

PMN Number: P–19–73

Chemical Name: Propoxylated, ethoxylated alkoxyalkyl ether (generic).

CAS Number: Not available.

Effective Date of TSCA Order: April 22, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as a polymer coatings additive—low foaming wetting agent. Based on the surfactant properties and submitted test data on the PMN substance, EPA has identified concerns for irritation to the eyes, skin, lungs, and mucous membranes; skin sensitization; and lung effects. Based on comparison to structurally analogous chemical substances, EPA has also identified concerns for systemic toxicity. Based on submitted test data on the PMN substance and comparison to analogous nonionic surfactants, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 24 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 1,000 where there is a potential for inhalation exposure;
- No processing of the PMN substance for use in consumer products unless the concentration in consumer formulations is less than 1%;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and
- No release of the PMN substance resulting in surface water concentrations that exceed 24 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of pulmonary effects, eye damage, and specific target organ toxicity testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11691.

PMN Number: P–19–98

Chemical Name: Phosphoric acid, polymer with (hydroxyalkyl)-alkanediol and alkanediol (generic).

CAS Number: Not available.

Effective Date of TSCA Order: May 28, 2021.

Basis for TSCA Order: The PMN states that use of the substance will be as a flame retardant additive for intumescent coatings. Based on available data on a residual substance, EPA has identified concerns for neurotoxicity, developmental effects, and systemic effects. Based on phosphate esters, EPA has also identified concerns for reproductive toxicity, neurotoxicity, and systemic effects. Based on phosphoric acid residual, EPA has also identified concerns for corrosion to the skin, eyes, and respiratory tract. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS;
- Use of the PMN substance only as a flame retardant additive for intumescent coatings;
- No use of the PMN substance in a consumer product; and
- No release of the PMN substance resulting in surface water concentrations that exceed 500 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of neurotoxicity, skin corrosion, eye corrosion, reproductive toxicity, and specific target organ toxicity testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11692.

PMN Numbers: P–19–122 and P–20–83

Chemical Names: 2-Propenoic acid, 2-(hydrogenated animal-based nitrogen-substituted)ethyl ester (generic) (P–19–122) and 2-propenoic acid, nitrogen-substituted alkyl, N–C16–18-acyl derivs. (generic) (P–20–83).

CAS Number: Not available.

Effective Date of TSCA Order: March 17, 2021.

Basis for TSCA Order: The PMNs state that the generic (non-confidential) uses of the substances will be as reactant monomers in a polymer for industrial use. Based on the waterproofing properties of the PMN substances, EPA has identified concerns for lung effects. Based on comparison to structurally analogous chemical substances, EPA has also identified concerns for dermal irritation/sensitization, systemic toxicity, skin/eye corrosion, systemic effects, developmental toxicity, and male reproductive effects. Based on comparison to analogous acrylates, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
- No domestic manufacture (*i.e.,* import only);
- No use of the PMN substances in consumer applications;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and

• No release of the PMN substances resulting in surface water concentrations that exceed 1 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of chronic aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citations: 40 CFR 721.11693 (P–19–122) and 40 CFR 721.11694 (P–20–83).

PMN Number: P–20–5

Chemical Name: Modified graphene (generic).

CAS Number: Not available.

Effective Date of TSCA Order: August 13, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as an additive for plastics and resins. Based on analogue data, EPA has identified concerns for lung effects, immunotoxicity, and eye irritation. EPA was unable to estimate the environmental hazard of this new chemical substance. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

• Use of personal protective equipment where there is a potential for dermal exposure;

• Use of a NIOSH-certified particulate respirator with an APF of at least 50 where there is a potential for inhalation exposure;

• Implementation of dust controls that demonstrate an exposure reduction of at least 90% where workers are reasonably expected to be exposed by inhalation to dust from the substance;

• No processing or use of the PMN substance other than for the confidential use allowed in the Order;

• No domestic manufacture of the PMN substance (*i.e.,* import only);

• No use of the PMN substance in an application method that results in inhalation exposure to workers;

• No direct release of the PMN substance to air;

• Disposal of the PMN substance only by incineration or landfill; and

• No release of the PMN substance to water.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of eye irritation, pulmonary effects, specific target organ toxicity, carcinogenicity (lung), and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11695.

PMN Number: P–20–58

Chemical Name: Polysaccharide, polymer with unsaturated carboxylic acid and methacryloxyethyltrimethyl ammonium chloride, sodium salt, acid salt initiated (generic).

CAS Number: Not available.

Effective Date of TSCA Order: September 9, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as an additive for automatic dishwashing and hard surface cleaners. Based on comparison to analogous chemical substances, EPA has identified concerns for systemic effects. Based on comparison to analogous chemical substances, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 102 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

• Use of personal protective equipment where there is a potential for dermal exposure;

• Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and

• No release of the PMN substance resulting in surface water concentrations that exceed 102 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11696.

PMN Numbers: P–20–112, P–20–113, P–20–114, P–20–115, P–20–116, and P–20–117

Chemical Names: Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–112), Ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–113), Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–114), Ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–115), Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–116), and Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–117).

CAS Numbers: Not available.

Effective Date of TSCA Order: June 15, 2021.

Basis for TSCA Order: The PMNs state that the use of the substances will be as additives for polymers (*e.g.,* rubber, plastics, adhesives, coatings and sealants). Based on the metal content of the PMN substances, EPA has identified concerns for lung toxicity, acute toxicity, lung effects, systemic effects, developmental effects, carcinogenicity, and mutagenicity. Based on silica and metal components (nickel and vanadium), acid groups, and information in the SDS, EPA has identified concerns for irritation and sensitization. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- Submittal to EPA of metals content analysis of the confidential immediate precursor used to manufacture the PMN substances;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure or compliance with a NCEL of 0.05 mg/m^3 as an 8-hour time-weighted average to prevent inhalation exposure;
- No manufacture, processing, or use of the PMN substances other than at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency and ensure all air releases from each facility, including fugitive releases, are filtered through these pollution controls;
- Use of the PMN substances only for the uses described in the PMNs; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits in the Order without sampling and analyzing the confidential immediate precursor used to manufacture the PMN substances via EPA Method 6010B for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc.

CFR Citations: 40 CFR 721.11697 (P–20–112), 40 CFR 721.11698 (P–20–113), 40 CFR 721.11699 (P–20–114), 40 CFR 721.11700 (P–20–115), 40 CFR 721.11701 (P–20–116), and 40 CFR 721.11702 (P–20–117).

PMN Number: P–20–173

Chemical Name: Silsesquioxanes, alkyl, alkoxy- and hydroxy- terminated (generic).

CAS Number: Not available.

Effective Date of TSCA Order: June 10, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as a coating additive. Based on the reactivity of the PMN substance and a structural alert for alkoxysilanes and siloxanes, EPA has identified concerns for irritation to the skin, eyes, and respiratory tract and potential lung effects. Based on comparison to analogous neutral organics and alkoxysilanes, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 10 where there is a potential for inhalation exposure;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and
- No release of the PMN substance resulting in surface water concentrations that exceed 1 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11703.

PMN Number: P–21–10

Chemical Name: 1,3-Benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, 2-ethyl-2- (hydroxymethyl)-1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 1,3-isobenzofurandione, N-[[1,3,3-trimethyl-5-[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy]carbonyl] amino]cyclohexyl]methyl]carbamate N-[3,3,5-trimethyl-5-[[[[2-[(1-oxo-2-propen-1- yl)oxy]ethoxy] carbonyl]amino]methyl] cyclohexyl]carbamate

CAS Number: 2460376–09–2.

Effective Date of TSCA Order: July 1, 2021.

Basis for TSCA Order: The PMN states that the use of the substance will be in 3D printing. Based on structural alerts for acrylates, EPA has identified concerns for irritation to the skin, eyes, and respiratory tract; and skin sensitization. Based on structural alerts for bifunctional acrylates, EPA has identified a concern for respiratory sensitization for the low molecular weight species. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- No manufacture, processing, or use of the PMN substance in any manner that results in inhalation exposure;
- No use of the PMN substance in a consumer product; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of metabolism/pharmacokinetics, pulmonary effects, skin irritation, eye irritation, and skin sensitization testing may be potentially useful to characterize

the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11704.

PMN Number: P–21–13

Chemical Name: Methyl phenylethyl cyclopropanemethanol (generic).

CAS Number: Not available.

Effective Date of TSCA Order: May 20, 2021.

Basis for TSCA Order: The PMN states that use of the substance will be as a fragrance in fine fragrances; shampoos and body washes; household products such as laundry detergents and air fresheners; and deodorants and cosmetics. Based on submitted test data and comparison to analogous chemical substances, EPA has identified concerns for skin sensitization and irritation to the eyes and respiratory tract. Based on comparison to analogous neutral organic chemicals, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS;
- Use of the PMN substance in a consumer product only if the concentration of the PMN substance is less than 1%; and
- No release of the PMN substance resulting in surface water concentrations that exceed 1 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11705.

PMN Number: P–21–17

Chemical Name: [(Substituted-carbomonocyclic)amino] oxoalkenoic acid, inorganic salt (generic).

CAS Number: Not available.

Effective Date of TSCA Order: June 16, 2021.

Basis for TSCA Order: The PMN states that the use of the substance will be to improve physical properties in rubber products. Based on submitted test data, EPA has identified concerns for systemic effects and skin sensitization. Based on submitted test data, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 590 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified particulate respirator with an APF of at least 50 where there is a potential for inhalation exposure;
- No domestic manufacture of the PMN substance (*i.e.,* import only);
- No use of the PMN substance other than as an additive to improve physical properties in rubber products; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity and skin sensitization testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11706.

PMN Number: P–21–18

Chemical Name: Sulfonium, triphenyl-, heterocyclic compound-carboxylate (1:1) (generic).

CAS Number: Not available.

Effective Date of TSCA Order: March 24, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be for contained use for microlithography for electronic device manufacturing. Based on the physical/chemical properties of the PMN substance (as described in the New Chemical Program's PBT category at 64 FR 60194; November 1999) and test data on structurally similar substances, the PMN substance is a potentially persistent, bioaccumulative, and toxic (PBT) chemical. EPA estimates that the PMN substance will persist in the environment for more than 2 months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on the photoreactivity of the PMN substance, EPA has identified concerns for photosensitization. Based on comparison to analogous substances, EPA has identified concerns for eye corrosion, irritation, acute toxicity, liver toxicity, neurotoxicity, and reproductive (developmental) toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- No manufacture of the PMN substance beyond the time limits specified in the Order without submittal to EPA the results of certain testing described in the Testing section of the Order;
- Use of personal protective equipment where there is a potential for dermal exposure;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS;
- No modification of the processing or use of the PMN substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process;
- Use of the PMN substance only as described in the PMN;

• No domestic manufacture of the PMN substance (*i.e.,* import only);

• Import of the PMN substance only in solution, or in any form in sealed containers weighing 5 kilograms or less; and

• No exceedance of the confidential annual importation volume listed the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the physical/chemical properties, fate, bioaccumulation, environmental hazard, and human health effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits specified in the Order without performing the required Tier I and Tier II testing outlined in the Testing section of the Order.

CFR Citation: 40 CFR 721.11707.

PMN Numbers: P–21–23 and P–21–64

Chemical Names: Sulfonium, carbocyclic-, salt with 1-(alkyl) 2-[4-[polyhydro-2-carbomonocyclic-5-(polyfluoro-2-sulfoalkyl)-4,7-methano-1,3-benzodioxol-2-yl]carbomonocyclic oxy]acetate (1:1) (generic) (P–21–23) and sulfonium, triphenyl-, polyfluoro-polyhydrospiro[9H-carbopolycyclic-9,2′-[4,7]methano[1,3]benzodioxole]-5′-alkenesulfonic acid (1:1) (generic) (P–21–64).

CAS Numbers: Not available.

Effective Date of TSCA Order: April 20, 2021.

Basis for TSCA Order: The PMNs state that the generic (non-confidential) use of the substances will be for photolithography. Based on the physical/chemical properties of the PMN substances (as described in the New Chemical Program's PBT category at 64 FR 60194; November 1999) and test data on structurally similar substances, the PMN substances are potentially persistent, bioaccumulative, and toxic (PBT) chemicals. EPA estimates that the PMN substances will persist in the environment for more than 2 months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on the photoreactivity of the PMN substances, EPA has identified concerns for photosensitization. Based on comparison to analogous substances, EPA has identified concerns for eye corrosion, irritation, acute toxicity, liver toxicity, and neurotoxicity. Based on positive mutagenicity and the perfluoro anion analogue, EPA has identified concerns for reproductive (developmental) toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

• No manufacture of the PMN substances beyond the time limits specified in the Order without submittal to EPA the results of certain testing described in the Testing section of the Order;

• Use of personal protective equipment where there is a potential for dermal exposure;

• Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS;

• No modification of the processing or use of the PMN substances in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process;

• Use of the PMN substances only as described in the PMNs;

• No domestic manufacture of the PMN substances (*i.e.,* import only);

• Import of the PMN substances only in solution, or in any form in sealed containers weighing 5 kilograms or less; and

• No exceedance of the confidential annual importation volumes listed the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the physical/chemical properties, fate, bioaccumulation, environmental hazard, and human health effects of the PMN substances may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits specified in the Order without performing the required Tier I and Tier II testing outlined in the Testing section of the Order.

CFR Citations: 40 CFR 721.11708 (P–21–23) and 40 CFR 721.11709 (P–21–64).

PMN Number: P–21–27

Chemical Name: Heteropolycyclic, trihaloalkyl carbomonocycle-, hydroxy carbomonocyclic salt (generic).

CAS Number: Not available.

Effective Date of TSCA Order: April 20, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as an ingredient used in the manufacture of photoresists. Based on the physical/chemical properties of the PMN substance (as described in the New Chemical Program's PBT category at 64 FR 60194; November 1999) and test data on structurally similar substances, the PMN substance is a potentially persistent, bioaccumulative, and toxic (PBT) chemical. EPA estimates that the PMN substance will persist in the environment for more than 2 months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on the photoreactivity of the PMN substance, EPA has identified concerns for photosensitization. Based on comparison to analogous substances, EPA has identified concerns for eye corrosion, irritation, acute toxicity, liver toxicity, neurotoxicity, and reproductive (developmental) toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

• No manufacture of the PMN substance beyond the time limits specified in the Order without submittal to EPA the results of certain testing described in the Testing section of the Order;

• Use of personal protective equipment where there is a potential for dermal exposure;

• Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS;

• No modification of the processing or use of the PMN substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process;

• Use of the PMN substance only as described in the PMN;

• No domestic manufacture of the PMN substance (*i.e.,* import only);

• Import of the PMN substance only in solution, or in any form in sealed containers weighing 5 kilograms or less; and

• No exceedance of the confidential annual importation volume listed the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the physical/chemical properties, fate, bioaccumulation, environmental hazard, and human health effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits specified in the Order without performing the required Tier I and Tier II testing outlined in the Testing section of the Order.

CFR Citation: 40 CFR 721.11710.

PMN Number: P–21–42

Chemical Name: Sulfonium, tricarbocyclic-, 2-heteroatom-substituted-4-(alkyl)carbomonocyclic carboxylate (1:1) (generic).

CAS Number: Not available.

Effective Date of TSCA Order: April 1, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be for photolithography. Based on the physical/chemical properties of the PMN substance (as described in the New Chemical Program's PBT category at 64 FR 60194; November 1999) and test data on structurally similar substances, the PMN substance is a potentially persistent, bioaccumulative, and toxic (PBT) chemical. EPA estimates that the PMN substance will persist in the environment for more than 2 months and estimates a bioaccumulation factor of greater than or equal to 1,000. Based on the photoreactivity of the PMN substance, EPA has identified concerns for photosensitization. Based on comparison to analogous substances, EPA has identified concerns for eye corrosion, irritation, acute toxicity, liver toxicity, neurotoxicity, and reproductive (developmental) toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

• No manufacture of the PMN substance beyond the time limits specified in the Order without submittal to EPA the results of certain testing described in the Testing section of the Order;

• Use of personal protective equipment where there is a potential for dermal exposure;

• Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS;

• No modification of the processing or use of the PMN substance in any way that generates a vapor, dust, mist, or aerosol in a non-enclosed process;

• Use of the PMN substance only as described in the PMN;

• No domestic manufacture of the PMN substance (*i.e.,* import only);

• Import of the PMN substance only in solution, or in any form in sealed containers weighing 5 kilograms or less; and

• No exceedance of the confidential annual importation volume listed the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information about the physical/chemical properties, fate, bioaccumulation, environmental hazard, and human health effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. The submitter has agreed not to exceed the time limits specified in the Order without performing the required Tier I and Tier II testing outlined in the Testing section of the Order.

CFR Citation: 40 CFR 721.11711.

PMN Number: P–21–54

Chemical Name: 2-Propenoic acid, 2-methyl-, aminoalkyl ester, polymer with hydroxyalkyl alkenoate and octadecyl alkenoate, acetate (salts) (generic).

CAS Number: Not available.

Effective Date of TSCA Order: July 23, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as a carpet treatment additive. Based on structure alerts, EPA has identified concerns for lung waterproofing and irritation to the skin, eyes, and respiratory tract. Based on comparison to analogous polycationic polymers, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 52 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

• Use of personal protective equipment where there is a potential for dermal exposure;

• No use of the PMN substance in a product that is applied by a consumer;

• No manufacture or processing of the PMN substance in any manner that results in inhalation exposure;

• No use of the PMN substance in an application method that results in inhalation exposure;

• Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and

• No release of the PMN substance resulting in surface water concentrations that exceed 52 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, skin irritation, eye irritation, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11712.

PMN Number: P–21–63

Chemical Name: Heterocyclic-polycarboxylic acid, polyhaloaryl-polyhydro-alkyl-polyalkyl ester (generic).

CAS Number: Not available.

Effective Date of TSCA Order: August 10, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be as a component in herbicides. Based on test data on the PMN substance, EPA has identified concerns for acute toxicity, phototoxicity (skin irritation), reproductive effects, and developmental effects. Based on test data on the PMN substance, EPA predicts that toxicity to

aquatic organisms may occur at concentrations that exceed 18 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- No use of the PMN substance in a consumer product;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and
- No release of the PMN substance to water.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of aquatic toxicity testing may be potentially useful to characterize the environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11713.

PMN Number: P–21–65

Chemical Name: Alkenoic acid, reaction products with alkylamine-alkanediyl diacrylate polymer and [oxybis(alkylene)]bis[alkyl-alkanediol] (generic).

CAS Number: Not available.

Effective Date of TSCA Order: June 21, 2021.

Basis for TSCA Order: The PMN states that the use of the substance will be to improve the reactivity of ink formulation when cured under LED UV light. Based on structural alerts for cationic binding and for acrylates, EPA has identified concerns for lung effects and skin and eye irritation. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified particulate respirator with an APF of at least 1,000 where there is a potential for inhalation exposure;
- No use of the PMN substance in a spray application;
- No use of the PMN substance in a consumer product; and
- Establishment of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of specific target organ toxicity, pulmonary effects, skin irritation, eye damage, and skin sensitization testing may be potentially useful to characterize the health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11714.

PMN Number: P–21–125

Chemical Name: Nonane, branched.

CAS Number: 85408–10–2.

Effective Date of TSCA Order: September 17, 2021.

Basis for TSCA Order: The PMN states that the generic (non-confidential) use of the substance will be for contained use for microlithography for electronic device manufacturing. Based on the physical/chemical properties of an analogue, isooctane, EPA has identified concerns for aspiration. Based on test data for an analogue of a potential metabolite, EPA has identified concerns for skin irritation, eye irritation, and systemic, reproductive, and developmental effects. Based on comparison to analogous neutral organic substances, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

- Use of personal protective equipment where there is a potential for dermal exposure;
- Use of a NIOSH-certified particulate respirator with an APF of at least 50 where there is a potential for inhalation exposure or compliance with a NCEL of 0.72 mg/m3 as an 8-hour time-weighted average to prevent inhalation exposure;
- No use of the PMN substance other than for the confidential use allowed in the Order;
- Establishment of a hazard communication program, including human health and environmental precautionary statements on each label and in the SDS; and
- No release of the PMN substance to water.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially Useful Information: EPA has determined that certain information may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that will be designated by this SNUR. EPA has determined that the results of eye damage, reproductive toxicity, skin irritation, specific target organ toxicity, and aquatic toxicity testing may be potentially useful to characterize the health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions remain in effect until the Order is modified or revoked by EPA based on submission of this or other relevant information.

CFR Citation: 40 CFR 721.11715.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject to these proposed SNURs, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. As a general matter, EPA believes it is necessary to follow the TSCA Orders with a SNUR that identifies the absence of those protective measures as

significant new uses to ensure that all manufacturers and processors—not just the original submitter—are held to the same standard.

B. Objectives

EPA is proposing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants:

- To identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying TSCA Orders, consistent with TSCA section 5(f)(4).
- To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- To be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.

VI. Applicability of the Proposed Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this proposed rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA Orders have been issued for these chemical substances, and the PMN submitters are prohibited by the TSCA Orders from undertaking activities which would be designated as significant new uses. The identities of many of the chemical substances subject to this proposed rule have been claimed as confidential per 40 CFR 720.85. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this proposed rule are ongoing.

Therefore, EPA designates June 24, 2022 as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach is to ensure that a person cannot defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of that cutoff date, they would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *https://www.epa.gov/tsca-inventory.*

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, TSCA Order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known or reasonably ascertainable (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists potentially useful information for the SNURs listed in this document. Descriptions of this information is provided for informational purposes. The potentially useful information identified in Unit IV. will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use.

EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages dialog with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, visit *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce.*

In some of the TSCA Orders for the chemical substances identified in this proposed rule, EPA has established time limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of specified tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. The SNURs contain the same time limits as the TSCA Orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the time limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

Any request by EPA for the triggered and pended testing described in the TSCA Orders was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the PMN substances. Further, any such testing request on the part of EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models.

The potentially useful information listed in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data or other information may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this proposed rule. EPA's complete economic analysis is available in the docket for this rulemaking.

X. Statutory and Executive Order Reviews

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

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

This action proposes to establish SNURs for several new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection activities associated with SNURs have already been approved by OMB under the PRA and assigned OMB control number 2070–0012 (EPA ICR No. 574). This proposed rule does not contain any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including using automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to the RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of these SNURs would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 18 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this proposed SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132: Federalism

This action would not have a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

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

This action would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action would not significantly nor uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do 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 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this proposed rule is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

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

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 15, 2022.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, for the reasons stated in the preamble, EPA proposes to amend 40 CFR chapter I as set forth below:

PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.11687 through 721.11715 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

Sec.

* * * * *

721.11687 Fatty acids, tall-oil polymers with aminoalkyl, dialkyl alkane diamine, polyalkylene polyamine alkanepolyamine fraction, and tris-[(alkylamino) alkyl] phenol (generic).
721.11688 Isocyanic acid, polyalkylenepolycycloalkylene ester, 2-alkoxy alkanol and 1-alkoxy alkanol and alkylene diol blocked (generic).
721.11689 1,4-Cyclohexanedicarboxylic acid, 1,4-bis(2-ethylhexyl) ester.
721.11690 Carbomonocylic-oxazolidine (generic).
721.11691 Propoxylated, ethoxylated alkoxyalkyl ether (generic).
721.11692 Phosphoric acid, polymer with (hydroxyalkyl)-alkanediol and alkanediol (generic).
721.11693 2-Propenoic acid, 2-(hydrogenated animal-based nitrogen-substituted)ethyl ester.
721.11694 2-Propenoic acid, nitrogen-substituted alkyl, N-C16-18-acyl derivs. (generic).
721.11695 Modified graphene (generic).
721.11696 Polysaccharide, polymer with unsaturated carboxylic acid and methacryloxyethyltrimethyl ammonium chloride, sodium salt, acid salt initiated (generic).
721.11697 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–112)
721.11698 Ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–113)
721.11699 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–114)
721.11700 Ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–115)
721.11701 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–116)
721.11702 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–117)
721.11703 Silsesquioxanes, alkyl, alkoxy- and hydroxy- terminated (generic).
721.11704 1,3-Benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, 2-ethyl-2-(hydroxymethyl)- 1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 1,3-isobenzofurandione, N-[[1,3,3-trimethyl-5-[[[2-[(1-oxo-2- propen-1-yl) oxy]ethoxy]carbonyl]amino] cyclohexyl]methyl]carbamate N-[3,3,5-trimethyl-5-[[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy]carbonyl] amino]methyl]cyclohexyl]carbamate.
721.11705 Methyl phenylethyl cyclopropanemethanol (generic).
721.11706 [(Substituted-carbomonocyclic)amino] oxoalkenoic acid, inorganic salt (generic).
721.11707 Sulfonium, triphenyl-, heterocyclic compound-carboxylate (1:1) (generic).
721.11708 Sulfonium, carbocyclic-, salt with 1-(alkyl) 2-[4-[polyhydro-2-carbomonocyclic-5-(polyfluoro-2-sulfoalkyl)-4,7-methano-1,3-benzodioxol-2-yl]carbomonocyclic oxy]acetate (1:1) (generic).
721.11709 Sulfonium, triphenyl-, polyfluoro-polyhydrospiro[9H-carbopolycyclic-9,2′-[4,7]methano[1,3]benzodioxole]-5′-alkenesulfonic acid (1:1) (generic).
721.11710 Heteropolycyclic, trihaloalkyl carbomonocycle-, hydroxy carbomonocyclic salt (generic).
721.11711 Sulfonium, tricarbocyclic-, 2-heteroatom-substituted-4-(alkyl)carbomonocyclic carboxylate (1:1) (generic).
721.11712 2-Propenoic acid, 2-methyl-, aminoalkyl ester, polymer with hydroxyalkyl alkenoate and octadecyl alkenoate, acetate (salts) (generic).
721.11713 Heterocyclic-polycarboxylic acid, polyhaloaryl-polyhydro-alkyl-polyalkyl ester (generic).
721.11714 Alkenoic acid, reaction products with alkylamine-alkanediyl diacrylate polymer and [oxybis(alkylene)]bis[alkyl-alkanediol] salt (generic).
721.11715 Nonane, branched.

§ 721.11687 Fatty acids, tall-oil polymers with aminoalkyl, dialkyl alkane diamine, polyalkylene polyamine alkanepolyamine fraction, and tris-[(alkylamino) alkyl] phenol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acids, tall-oil polymers with aminoalkyl, dialkyl alkane diamine, polyalkylene polyamine alkanepolyamine fraction, and tris-[(alkylamino) alkyl] phenol (PMN P–18–143) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11688 Isocyanic acid, polyalkylenepolycycloalkylene ester, 2-alkoxy alkanol and 1-alkoxy alkanol and alkylene diol blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as isocyanic acid, polyalkylenepolycycloalkylene ester, 2-alkoxy alkanol and 1-alkoxy alkanol and alkylene diol blocked (PMN P–18–154) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin sensitization; respiratory sensitization; germ cell mutagenicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11689 1,4-Cyclohexanedicarboxylic acid, 1,4-bis(2-ethylhexyl) ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,4-cyclohexanedicarboxylic acid, 1,4-bis(2-ethylhexyl) ester (PMN P–18–273; CAS No. 84731–70–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11690 Carbomonocylic-oxazolidine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbomonocylic-oxazolidine (PMN P–18–290) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (5), (a)(6)(v) and (vi), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: eye irritation; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=285.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11691 Propoxylated, ethoxylated alkoxyalkyl ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as propoxylated, ethoxylated alkoxyalkyl ether (PMN P–19–73) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not

apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; serious eye damage; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to process the substance for use in a consumer product where the concentration of the substance is 1% or greater in the consumer product formulation.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=24.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11692 Phosphoric acid, polymer with (hydroxyalkyl)-alkanediol and alkanediol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phosphoric acid, polymer with (hydroxyalkyl)-alkanediol and alkanediol (PMN P–19–98) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(b), the concentration is set at 1.0%. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin corrosion; severe eye damage; reproductive toxicity; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance other than as a flame retardant additive for intumescent coatings.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=500.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11693 2-Propenoic acid, 2-(hydrogenated animal-based nitrogen-substituted)ethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2-propenoic acid, 2-(hydrogenated animal-based nitrogen-substituted)ethyl ester (PMN P–19–122) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin corrosion; serious eye damage; skin sensitization; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance in consumer applications.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11694 2-Propenoic acid, nitrogen-substituted alkyl, N-C16-18-acyl derivs. (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2-propenoic acid, nitrogen-substituted alkyl, N-C16-18-acyl derivs. (PMN P–20–83) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin corrosion, serious eye damage, skin sensitization, reproductive toxicity, and specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance in consumer applications.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11695 Modified graphene (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as modified graphene (PMN P–20–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured), embedded into a thermoset polymer resin as an intermediate step before curing, or embedded into a permanent solid polymer form that is not intended to undergo further processing, except mechanical processing or physical blending.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. Where workers are reasonably expected to be exposed by inhalation to dust from the substance, dust controls shall be implemented that demonstrate an exposure reduction of at least 90%. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k). It is a significant new use to use the substance in an application method that results in inhalation exposure to workers.

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2). It is a significant new use to release the substance directly to air.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (i) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

§ 721.11696 Polysaccharide, polymer with unsaturated carboxylic acid and methacryloxyethyltrimethyl ammonium chloride, sodium salt, acid salt initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polysaccharide, polymer with unsaturated carboxylic acid and methacryloxyethyltrimethyl ammonium chloride, sodium salt, acid salt initiated (PMN P–20–58) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: specific target organ toxicity. For the purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized

System and OSHA Hazard Communication Standard may be used.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=102.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11697 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–112).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (PMN P–20–112) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets). For purposes of § 721.63(b), the concentration is set at 0.1%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.05 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCEL approach are approved by EPA will be required to follow NCEL provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(ii) through (ix), (g)(2) and (g)(5). For purposes of § 721.72(e), the concentration is set at 0.1%. For purposes of § 721.72(g)(2), avoid skin contact; avoid breathing substance; avoid ingestion; use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m^3; use skin protection. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11698 Ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl] oxirane (generic) (P–20–113).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl] oxirane (generic) (PMN P–20–113) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets). For purposes of § 721.63(b), the concentration is set at 0.1%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.05 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCEL approach are approved by EPA will be required to follow NCEL provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(ii) through (ix), (g)(2) and (g)(5). For purposes of § 721.72(e),

the concentration is set at 0.1%. For purposes of § 721.72(g)(2), avoid skin contact; avoid breathing substance; avoid ingestion; use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m^3; use skin protection. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11699 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–114).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (PMN P–20–114) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets). For purposes of § 721.63(b), the concentration is set at 0.1%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.05 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCEL approach are approved by EPA will be required to follow NCEL provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(ii) through (ix), (g)(2) and (g)(5). For purposes of § 721.72(e), the concentration is set at 0.1%. For purposes of § 721.72(g)(2), avoid skin contact; avoid breathing substance; avoid ingestion; use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m^3; use skin protection. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11700 Ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl] oxirane (generic) (P–20–115).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ashes (residues), reactions products with substituted tricarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl] oxirane (generic) (PMN P–20–115) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general

and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets). For purposes of § 721.63(b), the concentration is set at 0.1%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.05 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCEL approach are approved by EPA will be required to follow NCEL provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(ii) through (ix), (g)(2) and (g)(5). For purposes of § 721.72(e), the concentration is set at 0.1%. For purposes of § 721.72(g)(2), avoid skin contact; avoid breathing substance; avoid ingestion; use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m^3; use skin protection. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11701 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–116).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (PMN P–20–116) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include. For purposes of § 721.63(b), the concentration is set at 0.1%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.05 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCEL approach are approved by EPA will be required to follow NCEL provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(ii) through (ix), (g)(2) and (g)(5). For purposes of § 721.72(e), the concentration is set at 0.1%. For purposes of § 721.72(g)(2), avoid skin contact; avoid breathing substance; avoid ingestion; use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m^3; use skin protection. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11702 Ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (P–20–117).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ashes (residues), reactions products with dicarboxylic acid, silicic acid (H4SiO4) tetra-Et ester and 2-[[3-(trialkoxysilyl)alkoxy]methyl]oxirane (generic) (generic) (PMN P–20–117) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets). For purposes of § 721.63(b), the concentration is set at 0.1%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.05 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCEL approach are approved by EPA will be required to follow NCEL provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1)(ii) through (ix), (g)(2) and (g)(5). For purposes of § 721.72(e), the concentration is set at 0.1%. For purposes of § 721.72(g)(2), avoid skin contact; avoid breathing substance; avoid ingestion; use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m^3; use skin protection. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (f) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11703 Silsesquioxanes, alkyl, alkoxy- and hydroxy- terminated (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as silsesquioxanes, alkyl, alkoxy- and hydroxy- terminated (PMN P–20–173) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10. For purposes of § 721.63(b), the concentration is set at 1.0%. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; serious eye damage; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may cause: aquatic toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (h), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11704 1,3-Benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, 2-ethyl-2- (hydroxymethyl)-1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 1,3-isobenzofurandione, N-[[1,3,3-trimethyl-5-[[[2-[(1-oxo-2- propen-1-yl)oxy]ethoxy]carbonyl]amino] cyclohexyl]methyl]carbamate N-[3,3,5-trimethyl-5-[[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy]carbonyl]amino]methyl] cyclohexyl]carbamate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,3-benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, 2-ethyl-2- (hydroxymethyl)-1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 1,3-isobenzofurandione, N-[[1,3,3-trimethyl-5-[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy] carbonyl]amino] cyclohexyl]methyl]carbamate N-[3,3,5-trimethyl-5-[[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy]carbonyl]amino] methyl]cyclohexyl]carbamate (PMN P–21–10; CAS No. 2460376–09–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation, eye irritation, skin sensitization, and respiratory sensitization. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substance in any manner that results in inhalation exposure.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11705 Methyl phenylethyl cyclopropanemethanol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as methyl phenylethyl cyclopropanemethanol (PMN P–21–13) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (5), (a)(6)(v) and (vi), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: eye irritation; skin sensitization. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to use the substance in consumer products unless the concentration of the substance is less than 1%.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11706 [(Substituted-carbomonocyclic)amino] oxoalkenoic acid, inorganic salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as [(substituted-carbomonocyclic)amino] oxoalkenoic acid, inorganic salt (PMN P–21–17) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f) (g)(1), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin sensitization; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance other than as an additive to improve physical properties in rubber products.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11707 Sulfonium, triphenyl-, heterocyclic compound-carboxylate (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonium, triphenyl-, heterocyclic compound-carboxylate (1:1) (PMN P–21–18) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; acute toxicity; skin sensitization; serious eye damage; specific target organ toxicity; neurotoxicity; genetic toxicity; reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11708 Sulfonium, carbocyclic-, salt with 1-(alkyl) 2-[4-[polyhydro-2-carbomonocyclic-5-(polyfluoro-2-sulfoalkyl)-4,7-methano-1,3-benzodioxol-2-yl]carbomonocyclic oxy]acetate (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonium, carbocyclic-, salt with 1-(alkyl) 2-[4-[polyhydro-2-carbomonocyclic-5-(polyfluoro-2-sulfoalkyl)-4,7-methano-1,3-benzodioxol-2-yl]carbomonocyclic oxy]acetate (1:1) (PMN P–21–23) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; acute toxicity; skin sensitization; serious eye damage; specific target organ toxicity; neurotoxicity; genetic toxicity; reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11709 Sulfonium, triphenyl-, polyfluoro-polyhydrospiro[9H-carbopolycyclic-9,2′-[4,7]methano[1,3]benzodioxole]-5′-alkenesulfonic acid (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonium, triphenyl-, polyfluoro-polyhydrospiro[9H-carbopolycyclic-9,2′-[4,7]methano[1,3]benzodioxole]-5′-alkenesulfonic acid (1:1) (PMN P–21–64) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; acute toxicity; skin sensitization; serious eye damage; specific target organ toxicity; neurotoxicity; genetic toxicity; reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11710 Heteropolycyclic, trihaloalkyl carbomonocycle-, hydroxy carbomonocyclic salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as heteropolycyclic, trihaloalkyl carbomonocycle-, hydroxy carbomonocyclic salt (PMN P–21–27) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; acute toxicity; skin sensitization; serious eye damage; specific target organ toxicity; neurotoxicity; genetic toxicity; reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11711 Sulfonium, tricarbocyclic-, 2-heteroatom-substituted-4-(alkyl)carbomonocyclic carboxylate (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as sulfonium, tricarbocyclic-,2-heteroatom-substituted-4-(alkyl)carbomonocyclic carboxylate (1:1) (PMN P–21–42) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted or adhered (during photolithographic processes) onto a semiconductor wafer surface or similar manufactured article used in the production of semiconductor technologies.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i) and (iii), (a)(3), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(2)(i) through (iii) and (v), (g)(3)(i) and (ii), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; acute toxicity; skin sensitization; serious eye damage; specific target organ toxicity; neurotoxicity; genetic toxicity; reproductive toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (t). It is a significant new use to import the substance other than in solution, unless in sealed containers weighing 5 kilograms or less. It is a significant new use to process the substance in any way that generates dust, mist, or aerosol in a non-enclosed process. It is a significant new use to manufacture the substance longer than 18 months.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11712 2-Propenoic acid, 2-methyl-, aminoalkyl ester, polymer with hydroxyalkyl alkenoate and octadecyl alkenoate, acetate (salts) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2-propenoic acid, 2-methyl-, aminoalkyl ester, polymer with hydroxyalkyl alkenoate and octadecyl alkenoate, acetate (salts) (PMN P–21–54) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been incorporated into an article as defined at § 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; and specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture or process the substance in any manner that results in inhalation exposure. It is a significant new use to use the substance in an application method that results in inhalation exposure. It is a significant new use to use the substance in a product that is applied by a consumer.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=52. Before totaling the releases of the substance to water from all operations at a site as described in 40 CFR 721.91(a)(5), you may subtract up to 90 percent for any releases that will be treated using primary and secondary wastewater treatment as defined in 40 CFR part 133.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11713 Heterocyclic-polycarboxylic acid, polyhaloaryl-polyhydro-alkyl-polyalkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as heterocyclic-polycarboxylic acid, polyhaloaryl-polyhydro-alkyl-polyalkyl ester (PMN P–21–63) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(b), the concentration is set at 1.0%.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; acute toxicity; reproductive toxicity; specific target organ toxicity. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11714 Alkenoic acid, reaction products with alkylamine-alkanediyl diacrylate polymer and [oxybis(alkylene)]bis[alkyl-alkanediol] salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkenoic acid, reaction products with alkylamine-alkanediyl diacrylate polymer and [oxybis(alkylene)]bis[alkyl-alkanediol] (PMN P–21–65) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (6) and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1,000. For purposes of § 721.63(a)(6), the airborne form(s) of the substance include: particulate (including solids or liquid droplets).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; specific target organ toxicity. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to use the substance in a spray application.

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11715 Nonane, branched.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as nonane, branched (PMN P–21–125; CAS No. 85408–10–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3) through (5), (a)(6)(v) and (vi), (b), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50. For purposes of § 721.63(b), the concentration is set at 1.0%.

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA Order for this substance. The NCEL is 0.72 mg/m^3 as an 8-hour time weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (f), (g)(1), (g)(3), and (g)(5). For purposes of § 721.72(e), the concentration is set at 1.0%. For purposes of § 721.72(g)(1), this substance may cause: skin irritation; eye irritation; reproductive toxicity; specific target organ toxicity; aspiration hazard. For purposes of § 721.72(g)(3), this substance may be: toxic to aquatic life. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

[FR Doc. 2022–13360 Filed 6–23–22; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 87, No. 121
Friday, June 24, 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.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Administration of Certain Payments to Chapter 7 Trustees

AGENCY: Administrative Office of the United States Courts.

ACTION: Notice of revision.

SUMMARY: The Administrative Office of the United States Courts has clarified the process governing certain payments to eligible chapter 7 bankruptcy trustees.

DATES: The revisions took effect on June 2, 2022.

FOR FURTHER INFORMATION CONTACT: Kyle Crockett, Clerks Administrator, Court Services Office, Administrative Office of the United States Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Room 4–500, Washington, DC 20544, Telephone (202) 502–1229, or by email at *AOml_BAIA2020@ao.uscourts.gov.*

SUPPLEMENTARY INFORMATION: The Administrative Office of the United States Courts has revised the regulations for trustee payments under 11 U.S.C. 330(e) to clarify the process by which chapter 7 bankruptcy trustees must certify eligibility for payments, and by which payments will be made, under that subsection. The revised regulations can be found in the Bankruptcy Case Policies section of the United States Courts website at *https://www.uscourts.gov/rules-policies/judiciary-policies/bankruptcy-case-policies.*

(Authority: 11 U.S.C. 330(e).)

Dated: June 21, 2022.

Gary D. Streeting,

Senior Attorney, Judicial Programs Division.

[FR Doc. 2022–13501 Filed 6–23–22; 8:45 am]

BILLING CODE 2210–55–P

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 (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden 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 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 July 25, 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.

The vaccination requirement issued pursuant to E.O. 14043, is currently the subject of a nationwide injunction. While that injunction remains in place, Department of Agriculture will not process requests for a medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043. Department of Agriculture will also not request the submission of any medical information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But Department of Agriculture may nevertheless receive information regarding a medical exception. That is because, if Department of Agriculture were to receive a request for an exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, Department of Agriculture will accept the request, hold it in abeyance, and notify the employee who submitted the request that implementation and enforcement of the COVID–19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place. In other words, during the pendency of the injunction, any information collection related to requests for medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 is not undertaken to implement or enforce the COVID–19 vaccination requirement.

Department of Agriculture

Title: Request for a Medical Exemption to the COVID–19 Vaccination Requirement

OMB Control Number: 0503–0027

Summary of Collection: Section 2 of E.O. 14043 mandates that each agency ''implement, to the extent consistent with applicable law, a program to require COVID–19 vaccination for all of its Federal employees, with exceptions only as required by law.'' This medical exemption form is necessary for USDA to determine legal exemptions to the vaccine requirement under the Rehabilitation Act. This includes the requisite confidentiality requirements, subject to the applicable Rehabilitation Act standards, and maintenance of supporting documents.

Need and Use of the Information: This information is being requested to promote the safety of the Federal workforce, the safety of Federal buildings, and others on site at agency facilities or those interacting with the public consistent with the COVID–19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force and guidance from the Centers for Disease Control and Prevention. To request a medical exemption from the COVID–19 vaccination requirement, an employee

must provide documentation from their medical provider.

Description of Respondents: Federal Employees and Medical Providers.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 333.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–13497 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0077]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of the international standard-setting activities of the World Organization for Animal Health, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standard-setting activities.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Enter APHIS–2021–0077 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2021–0077, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 7997039 before coming.

FOR FURTHER INFORMATION CONTACT: For general information on the topics covered in this notice, contact Mr. Eric Nichols, Director, Trade Support Team, APHIS–IS, Room 1627–S, USDA South Building, 14th Street and Independence Avenue SW, Washington, DC 20250; (202) 799–7122.

For specific information regarding standard-setting activities of the World Organization for Animal Health, contact Dr. Paul Gary Egrie, Office of International Affairs, Veterinary Services, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737; (301) 851–3304.

For specific information regarding the standard-setting activities of the International Plant Protection Convention, contact Dr. Marina Zlotina, IPPC Technical Director, International Phytosanitary Standards, Plant Protection and Quarantine (PPQ), APHIS, 4700 River Road Unit 130, Riverdale, MD 20737; (301) 851–2200.

For specific information on the North American Plant Protection Organization, contact Ms. Stephanie Dubon, Acting NAPPO Technical Director, International Phytosanitary Standards, PPQ, APHIS, 4700 River Road Unit 130, Riverdale, MD 20737; (301) 851–2180.

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established as the common international institutional framework for governing trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act (Pub. L. 103–465), which was signed into law on December 8, 1994. The WTO Agreements, which established the WTO, entered into force with respect to the United States on January 1, 1995. The Uruguay Round Agreements Act amended Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*). Section 491 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2578), requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing an annual notice in the **Federal Register** that provides the following information: (1) The SPS standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each SPS standard specified, a description of the consideration or planned consideration of that standard, a statement of whether the United States is participating or plans to participate in the consideration of that standard, the agenda for U.S. participation, if any, and the agency responsible for representing the United States with respect to that standard.

''International standard'' is defined in 19 U.S.C. 2578b as any standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the World Organization for Animal Health (WOAH) [1] regarding animal health; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC, or the Convention) and the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the United States-Mexico-Canada Agreement (USMCA) or the member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the Secretary of Agriculture as the official responsible for informing the public of the SPS standard-setting activities of Codex, WOAH, IPPC, and NAPPO. The United States Codex Office (USCO), in the United States Department of Agriculture's (USDA's) Trade and Foreign Affairs mission area, informs the public of standard-setting activities of Codex, and USDA's Animal and Plant Health Inspection Service (APHIS) informs the public of WOAH, IPPC, and NAPPO standard-setting activities.

USCO publishes an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex (86 FR 29987). Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. It is the principle international organization for establishing food standards that protect consumer health and promote fair practices in food trade.

APHIS is responsible for publishing an annual notice of WOAH, IPPC, and NAPPO activities related to international standards for plant and

[1] The World Organization for Animal Health internationally follows a British English spelling of ''organisation'' in its name; it was formerly the Office International des Epizooties, or OIE, but on May 28, 2022, the Organization announced that the acronym was changed from OIE to WOAH.

animal health and representing the United States with respect to these standards. Following are descriptions of the WOAH, IPPC, and NAPPO organizations and the standard-setting agenda for each of these organizations. We have described the agenda that each of these organizations will address at their annual general sessions, including standards that may be presented for adoption or consideration, as well as other initiatives that may be underway at the WOAH, IPPC, and NAPPO.

The agendas for these meetings are subject to change, and the draft standards identified in this notice may not be sufficiently developed and ready for adoption as indicated. Also, while it is the intent of the United States to support adoption of international standards and to participate actively and fully in their development, it should be recognized that the U.S. position on a specific draft standard will depend on the acceptability of the final draft. Given the dynamic and interactive nature of the standard-setting process, we encourage any persons who are interested in the most current details about a specific draft standard or the U.S. position on a particular standard-setting issue, or in providing comments on a specific standard that may be under development, to contact APHIS. Contact information is provided at the beginning of this notice under **FOR FURTHER INFORMATION CONTACT**.

WOAH Standard-Setting Activities

The WOAH was established in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 182 Members, each of which is represented by a delegate who, in most cases, is the chief veterinary officer of that country or territory. The WTO has recognized the WOAH as the international forum for setting animal health standards, reporting global animal disease events, and presenting guidelines and recommendations on sanitary measures relating to animal health.

The WOAH facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals by sharing scientific research among its Members. The major functions of the WOAH are to collect and disseminate information on the distribution and occurrence of animal diseases and to ensure that science-based standards govern international trade in animals and animal products. The WOAH aims to achieve these through the development and revision of international standards for diagnostic tests, vaccines, and the safe international trade of animals and animal products.

The WOAH provides annual reports on the global distribution of animal diseases, recognizes the free status of Members for certain diseases, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status, and provides animal disease control guidelines to Members. Various WOAH commissions and working groups undertake the development and preparation of draft standards, which are then circulated to Members for consultation (review and comment). Draft standards are revised accordingly and are presented to the WOAH World Assembly of Delegates (all the Members) for review and adoption during the General Session, which meets annually every May. Adoption, as a general rule, is based on consensus of the WOAH membership.

The most recent WOAH General Session occurred virtually from May 24 to 28, 2021. The Deputy Administrator for APHIS' Veterinary Services serves as the official U.S. Delegate to the WOAH. Information about WOAH draft Terrestrial and Aquatic Animal Health Code chapters may be found at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/export/international-standard-setting-activities-oie/regionalization/ct_international_standard_setting_activities_oie* or by contacting Dr. Paul Gary Egrie (see **FOR FURTHER INFORMATION CONTACT** above).

The corresponding chapters were adopted during the General Session in May 2021.

- Chapter 1.1., *Notification of diseases, infections and infestations, and provision of epidemiological information*.
- Chapter 1.4.3., *Animal health surveillance*.
- Chapter 1.6., *Procedures for self-declaration and for official recognition by the OIE*.
- Chapter 3.1., *Quality of Veterinary Services*.
- Chapter 3.2., *Evaluation of Veterinary Services*.
- Chapter 3.X., *New chapter on Veterinary Services*.
- Chapter 3.4., *Veterinary legislation*.
- Chapter 4.Y., *New chapter on official control programmes for listed and emerging diseases*.
- Articles 4.4.6 and 4.4.7., *Zoning and compartmentalization*.
- Chapter 7.Z., *New chapter on animal welfare and laying hen production systems*.
- Chapter 8.Y., *New chapter on infection with animal trypanosomes of African origin*.
- Article 9.4.5., *Infestation with Aethina tumida (small hive beetle)*.
- Chapter 10.4., *Infection with avian influenza viruses*.
- Chapter 10.5., *Avian mycoplasmosis (Mycoplasma gallisepticum)*.
- Articles 14.7.3., 14.7.7., 14.7.24., and 14.7.34., *Infection with peste des petits ruminants virus*.
- Chapter 15.2., *Infection with classical swine fever virus*.

IPPC Standard-Setting Activities

The IPPC is a multilateral convention adopted in 1952 to prevent the spread and introduction of pests of plants and plant products and to promote appropriate measures for their control. The WTO recognizes the IPPC as the standard setting body for plant health. Under the IPPC, the understanding of plant protection encompasses the protection of both cultivated and non-cultivated plants from direct or indirect injury by plant pests. The IPPC addresses the following activities: Developing, adopting, and implementing international standards for phytosanitary (plant health) measures (ISPMs); harmonizing phytosanitary activities through adopted standards; facilitating the exchange of official and scientific information among contracting parties; and providing technical assistance to developing countries that are contracting parties to the Convention.

The IPPC is deposited within the Food and Agriculture Organization of the United Nations and is an international agreement of 184 contracting parties. National plant protection organizations (NPPOs), in cooperation with regional plant protection organizations, the Commission on Phytosanitary Measures (CPM), and the Secretariat of the IPPC, implement the Convention. The IPPC continues to be administered at the national level by plant quarantine officials, whose primary objective is to safeguard plant resources from injurious pests. In the United States, the NPPO is the APHIS Plant Protection and Quarantine (PPQ) program.

The 15th Session of the CPM was held virtually from March 16 to April 1, 2021. The CPM adopted the IPPC Strategic Framework 2020–2030, which outlines major work directions for the Convention for the ensuing 10 years and creates a focus group to develop guidance for the framework's implementation by contracting parties.

The CPM adopted the following international phytosanitary standards in 2021. The United States develops its position on each of these draft standards

prior to the CPM session based on APHIS' analyses and other relevant information from other U.S. Government agencies and interested stakeholders:

- ISPM 5: *Glossary of phytosanitary terms* (2018 revisions).
- Revision of ISPM 8: *Determination of pest status in an area.*
- ISPM 44: *Requirements for the use of modified atmosphere treatments as phytosanitary measures.*
- ISPM 45: *Requirements for national plant protection organizations if authorizing entities to perform phytosanitary actions.*

The following phytosanitary treatments were adopted as Annexes to ISPM 28:

Phytosanitary treatments for regulated pests:

- PT 33: Irradiation treatment for *Bactrocera dorsalis*;
- PT 34: Cold treatment for *Ceratitis capitata* on *Prunus avium, Prunus salicina,* and *Prunus persica;*
- PT 35: Cold treatment for *Bactrocera tryoni* on *Prunus avium, Prunus salicina,* and *Prunus persica;*
- PT 36: Cold treatment for *Ceratitis capitata* on *Vitis vinifera*;
- PT 37: Cold treatment for *Bactrocera tryoni* on *Vitis vinifera*;
- PT 38: Irradiation treatment for *Carposina sasakii*; and
- PT 39: Irradiation treatment for the genus *Anastrepha.*

The CPM noted that the Standards Committee adopted (on behalf of the CPM) Diagnostic Protocol DP–29: ''*Bactrocera dorsalis,*'' as an Annex to ISPM 27: Diagnostic protocols for regulated pests. The CPM also adopted Recommendation R–09,''*Safe provision of food and other humanitarian aid.*''

The IPPC Standards Committee and Implementation and Capacity Development Committee continued working during the pandemic by virtually approving draft standards for consultation, selecting experts to expert drafting groups, and addressing pending standard setting and other plant health initiatives.

IPPC Standard-Setting Initiatives, Including Those Under Development

A number of expert working group (EWG) meetings and technical consultations took place virtually from October 2020 through September 2021 on the topics listed below. These IPPC projects are currently under development and intended for future adoption and publication. APHIS participated actively and fully in each of these working groups. APHIS developed its position on each of the topics prior to the working group meeting. The APHIS position was based on relevant scientific information and technical analyses, including information from other U.S. Government agencies and from interested stakeholders:

- EWG for revision of ISPM 4: *Requirements for the establishment of Pest Free Areas.*
- EWG for drafting a new Annex to ISPM 20 *(Guidelines for a phytosanitary import regulatory system):* ''*Use of specific import authorization.*''
- Developing ''*IPPC Guide to support the implementation of ISPM 15.*''
- Technical Panel on Diagnostic Protocols.
- Technical Panel on Phytosanitary Treatments.
- Technical Panel for the Glossary.
- Sea Container Task Force.

The IPPC electronic certification system (ePhyto) solution also progressed in 2021. There are currently 55 trading partners that are connected and actively sharing ePhytos through the system; the United Nations International Computing Centre and the ePhyto Steering Committee are developing and providing training on ePhyto; and preparations are under way to deploy features allowing industry systems to receive ePhytos. For more detailed information on the above, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above).

PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards, including through the use of APHIS Stakeholder Registry notices [2] and the APHIS public website. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during the consultation periods.

In 2021, 24 draft documents were open for consultation, including standards, phytosanitary treatments, a diagnostic protocol, a specification, outlines for implementation tools, and a CPM recommendation. APHIS posts links to draft standards on its website as they become available and provides information on the due dates for comments.[3] Additional information on IPPC standards (including the IPPC work program (list of topics),[4] calls for new standards, experts to serve on technical panels and other working groups, proposed phytosanitary treatments, the standard-setting process, and adopted standards) is available on the IPPC website.[5]

For the most current information on official U.S. participation in IPPC activities, including U.S. positions on standards being considered, contact Dr. Marina Zlotina (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken by the IPPC may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Dr. Zlotina.

NAPPO Standard-Setting Activities

NAPPO, a regional plant protection organization created in 1976 under the IPPC, coordinates the efforts among the United States, Canada, and Mexico to protect their plant resources from the entry, establishment, and spread of harmful plant pests, while facilitating safe intra- and inter-regional trade. As the NPPO of the United States, APHIS PPQ is the organization officially identified to participate in NAPPO. Through NAPPO, APHIS works closely with its regional counterparts and industries to develop harmonized regional standards and approaches for managing pest threats.

This critical work facilitates the safe movement of plants and plant products into and within the region. NAPPO conducts its work through priority-driven projects approved by the NAPPO Executive Committee via an annual work program. These projects are completed by expert groups, including subject matter experts from each member country and regional industry representatives. Project results and updates are provided during the NAPPO annual meeting as well as NAPPO governance meetings. Projects can include the development of positions, policies, technical documents, or the development or revision of regional standards for phytosanitary measures (RSPMs). Projects can also include implementation of standards or other capacity development activities such as workshops.

The PPQ Assistant Deputy Administrator, as the official U.S. delegate to NAPPO, intends to participate in the adoption of these regional plant health standards and projects on the work program once they are completed and ready for consideration.

[2] To sign up for the Stakeholder Registry, go to: *https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new.*

[3] For more information on the IPPC draft ISPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/international/sa_phytostandards/ct_draft_standards.*

[4] IPPC list of topics: *https://www.ippc.int/en/core-activities/standards-setting/list-topics-ippc-standards/.*

[5] IPPC website: *https://www.ippc.int/.*

Because of the COVID–19 pandemic, there was no annual meeting held in 2020. Despite the pandemic, NAPPO's Secretariat and its member countries, including regulatory, plant health, and industry officials, continue to actively progress on projects and initiatives under the NAPPO work program, taking advantage of teleconferencing and other virtual meeting tools. NAPPO governance committees, including NAPPO's Executive Committee and the Advisory and Management Committee, as well as expert groups, continue to communicate and meet virtually on a regular basis to actively progress on NAPPO strategic and work program initiatives. The PPQ Deputy Administrator is the U.S. member of the NAPPO Executive Committee. The NAPPO Executive Committee adopted three regional standards between October 1, 2020, and September 30, 2021: Revisions to RSPM 9 (Authorization of labs for phytosanitary testing), Revisions to RSPM 5 (NAPPO Glossary of phytosanitary terms), and Science and Technology Document 7 (Risks associated with the introduction of exotic tussock moth species (Lepidoptera: Erebidae: Lymantriinae) of potential concern to the NAPPO region).

NAPPO's Advisory and Management Committee continued working during the pandemic by virtually approving draft standards for consultation, selecting and onboarding experts to newly launched NAPPO expert groups, and addressing pending work program initiatives.

The NAPPO expert groups, including member countries' subject matter experts, in collaboration with NAPPO's Secretariat, significantly progressed or finalized the following regional standards from October 2020 through September 2021:

- Completed the development or revision and consultation of the following five regional standards: Revision of RSPM 22: Guidelines for construction and operation of a containment facility for insects and mites used as biological control agents; Revision of RSPM 35: Guidelines for the movement of propagative plant material of stone fruit, pome fruit, and grapevine into a NAPPO member country; Revision of RSPM 38: Importation of certain wooden and bamboo commodities into a NAPPO member country; Science & Technology document on Contaminating organisms affecting trade in wood commodities and forestry products; and a Position Document on Asian gypsy moth specified risk periods in Japan, Russia, Republic of Korea, and China.
- Issued via NAPPO's Phytosanitary Alert System: 24 Official Pest Reports from October 1, 2020, to September 30, 2021.

New NAPPO Standard-Setting Initiatives, Including Those in Development

The 2021 work program [6] includes topics being worked on by NAPPO expert groups and NAPPO's Advisory and Management Committee. APHIS actively and fully participates in the development and approval of the NAPPO work program. The APHIS position on each topic is guided and informed by the best technical and scientific information available, as well as on relevant input from stakeholders. The United States will consider its position on any draft standard after it reviews a prepared draft.

The information in this notice contains all the information available to APHIS PPQ on NAPPO standards or projects under development or consideration. For updates on meeting times and for information on the expert groups that may become available following publication of this notice, visit the NAPPO website or contact Ms. Stephanie Dubon (see **FOR FURTHER INFORMATION CONTACT** above).

PPQ actively works to achieve broad participation by States, industry, and other stakeholders in the development and use of international and regional plant health standards, including through the use of APHIS Stakeholder Registry notices [7] and the APHIS public website. Plant health stakeholders are strongly encouraged to comment on draft standards, documents, and specifications during consultation periods. APHIS posts links to draft standards on its website as they become available and provides information on the due dates for comments.[8] Additional information on NAPPO standards (including the NAPPO work program, calls for projects, expert groups, the standard-setting process, and adopted standards) is available on the NAPPO website.[9]

For the most current information on official U.S. participation in NAPPO activities, including U.S. positions on standards being considered, contact Ms. Stephanie Dubon (see **FOR FURTHER INFORMATION CONTACT** above). Those wishing to provide comments on any of the areas of work being undertaken at NAPPO may do so at any time by responding to this notice (see **ADDRESSES** above) or by providing comments through Ms. Dubon.

Done in Washington, DC, this 7th day of June 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–13530 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–34–P

[6] NAPPO work program: *https://nappo.org/english/governance/work-program.*

[7] To sign up for the Stakeholder Registry, go to: *https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new.*

[8] For more information on the IPPC draft ISPM consultation: *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/international/sa_phytostandards/ct_draft_standards.*

[9] NAPPO website: *http://nappo.org.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0007]

Concurrence With WOAH Risk Designations for Bovine Spongiform Encephalopathy

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to concur with the World Organization for Animal Health's (WOAH) bovine spongiform encephalopathy (BSE) risk designations for Bolivia and the United Kingdom's zone of Jersey. WOAH recognizes the country of Bolivia and the United Kingdom's zone of Jersey as being of negligible risk for BSE. We are taking this action based on our review of information supporting the WOAH's risk designations for these regions.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Senior Staff Officer, Regionalization Evaluation Services, Strategy and Policy, Veterinary Services, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737; (301) 851–3316; email: *AskRegionalization@usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 92 subpart B, ''Importation of Animals and Animal Products; Procedures for Requesting BSE Risk Status Classification With Regard To Bovines'' (referred to below as the regulations), set forth the process by which the Animal and Plant Health Inspection Service (APHIS) classifies regions for bovine spongiform encephalopathy (BSE) risk. Section 92.5 of the regulations provides that all countries of the world are considered by APHIS to be in one of three BSE risk categories: Negligible risk, controlled risk, or undetermined risk. These risk categories are defined in § 92.1. Any region that is not classified by APHIS as

presenting either negligible risk or controlled risk for BSE is considered to present an undetermined risk. The list of those regions classified by APHIS as having either negligible risk or controlled risk can be accessed on the APHIS website at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions.* The list can also be obtained by writing to APHIS at Regionalization Evaluation Services, 4700 River Road Unit 38, Riverdale, MD 20737.

Under the regulations, APHIS may classify a region for BSE in one of two ways. One way is for regions that have not received a risk classification from the World Organization for Animal Health (WOAH) [1] to request classification by APHIS. The other way is for APHIS to concur with the classification given to a country or region by WOAH.

If WOAH has classified a region as either BSE negligible risk or BSE controlled risk, APHIS will seek information to support concurrence with the WOAH classification. This information may be publicly available information, or APHIS may request that regions supply the same information given to WOAH. APHIS will announce in the **Federal Register**, subject to public comment, its intent to concur with a WOAH classification.

In accordance with this process, we published a notice [2] in the **Federal Register** on June 25, 2021 (86 FR 33635, Docket No. APHIS 2021–0007), in which we announced our intent to concur with the WOAH risk classifications of the following regions:

- *Country of negligible risk for BSE:* Bolivia.
- *Zone of negligible risk for BSE:* United Kingdom's zone of Jersey.

We solicited comments on the notice for 60 days ending on August 24, 2021. We did not receive any comments by this date.

Therefore, in accordance with the regulations in § 92.5, we are announcing our decision to concur with the WOAH risk classifications for Bolivia and the United Kingdom's zone of Jersey.

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

[1] The World Organization for Animal Health internationally follows a British English spelling of ''organisation'' in its name; it was formerly the Office International des Epizooties, or OIE, but on May 28, 2022, the Organization announced that the acronym was changed from OIE to WOAH.

[2] To view the notice, go to *www.regulations.gov* and enter APHIS–2021–0007 in the Search field.

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 13th day of June 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–13529 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection: Comment Request—EmpowHR/Person Model Non-Employee Data Sheet—FNS–775

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is an existing collection in use without an OMB control number. The purpose of this information collection request is to continue the use of the form FNS–775, to automate the form, and to revise the title from ''Background Investigation Request for Contractor Employees'' to ''EmpowHR/Person Model Non-Employee Data Sheet.'' This form will continue to provide for the collection of Personal Identifiable Information (PII) required to conduct background investigation which is a pre-requisite for all non-FNS employees (contractor, intern, volunteers, etc.) to be granted a security clearance for employment at all FNS locations.

DATES: Written comments must be received on or before August 23, 2022.

ADDRESSES: Comments may be sent to: Lawrence Laurato, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314. Comments may be sent via email to *lawrence.laurato@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Lawrence Laurato at 703–305–2411.

SUPPLEMENTARY INFORMATION: 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: EmpowHR/Person Model Non-Employee Data Sheet.

Form Number: FNS–775.

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Type of Request: This is an existing collection in use without an OMB control number.

Abstract: The data collected for FNS–775 titled EmpowHR/Person Model Non-Employee Data Sheet is used to input the USDA, Food and Nutrition Service's non-employee (contractor, intern, volunteer, etc.) information into EmpowHR/Person Model. The data collected is for the specific purpose of sponsorship for the agency's Personal Identity Verification (PIV) credential and background investigation required for access to agency facilities, systems, and information.

Affected Public: (a) Individual/Households; (b) Business or Other For Profit; (e) Federal Government;

Respondent type: All USDA FNS non-employee affiliates.

Estimated Number of Respondents: 750.

The respondents are agency non-employee affiliates at all FNS locations across the nation, inclusive of the FNS Headquarters in Alexandria, VA and at the seven (7) FNS regional offices across the USA. The estimated annual number of respondents who will be required to provide personal data for the FNS–775 for a requisite background investigation request are 750.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 750.

Estimated Time per Response: 0.167 of an hour. Each respondent takes

approximately 0.167 of an hour, or 10 minutes, to provide the required information.

Estimated Total Annual Burden on Respondents: 125.25 hours.

See the table below for estimated total annual burden for each type of respondent.

Affected public	Respondent type	Form No.	Number of respondents	Number of responses annually per respondent	Total annual responses	Estimate of burden hours per response	Total annual burden hours
Individuals/Households.	Agency non-employee affiliates.	FNS 775	750	1	750	0.167	125.25
Business			.....	1	.....	0.167	
Federal Government.			.....	1	.....	0.167	
Annualized Totals.	.....	.....	750	1	750	0.167	125.25

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–13514 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—FNS Generic Clearance for the FNS Fast Track Clearance for the Collection of Routine Customer Feedback

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection to collect qualitative customer and stakeholder feedback in an efficient and timely manner with an accompanying increase in burden hours. An additional example of the type of information collection that this generic clearance covers has been included.

DATES: Written comments must be received on or before August 23, 2022.

ADDRESSES: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the Agency's functions, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the proposed information collection burden, 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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Jamia Franklin and Maureen Lydon, Planning and Regulatory Affairs Office, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, 5th floor, Alexandria, VA 22314. Comments may also be sent via email to *Jamia.Franklin@usda.gov* and *Maureen.Lydon@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Jamia Franklin at (703) 305–2403 or via email at *Jamia.Franklin@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: FNS Generic Clearance for the FNS Fast Track Clearance for the Collection of Routine Customer Feedback.

OMB Number: 0584–0611.

Expiration Date: September 30, 2022.

Type of Request: Revision of a currently approved information collection request.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient and timely manner. By ''qualitative feedback,'' we mean information that provides useful insights on perceptions and opinion but are not statistical surveys yielding quantitative results that can be generalized to the population. This feedback will continue to: (1) provide insights into customer or stakeholder perceptions, experiences and expectations, (2) provide an early warning of issues with service and, (3) focus attention on areas where communication, training or changes in operations might improve delivery of products or services. This collection allows for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It also allows feedback to contribute directly to the improvement of program management.

The solicitation of feedback targets areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses are assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will continue to only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service

improvement and program management purposes and is not intended for release outside of the agency;

• Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

• Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data usage require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results. As a general matter, information collections do not result in any new system of records containing privacy information and does not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

A variety of instruments and platforms are used to collect information from respondents. This includes but is not limited to customer feedback surveys, comment cards, focus groups, and quick census or surveys obtaining customer feedback on a variety of Food and Nutrition Service (FNS) programs or portions thereof including the Child Nutrition (CN) program, the Supplemental Nutrition Assistance Program (SNAP), Food Distribution Programs, nutrition policy and promotion, and the Special Supplemental Nutrition Program for Women, Infants and Children and any associated challenges in implementing programs or subsets of programs. The annual burden hours requested (670,000) are based on the number of collections we could conduct over the requested period for this clearance.

ESTIMATED ANNUAL REPORTING BURDEN

Type of collection	Number of respondents	Annual frequency per response	Hours per response	Total hours
Customer Feedback Surveys	15,000	2	1	30,000
Comment Cards	7,500	2	1	15,000
Focus Groups	7,500	2	1	15,000
Quick census or surveys	305,000	2	1	610,000
Total	335,000	2	1	670,000

Annual Reporting Burden Estimates

Affected Public: Individuals and Households, Businesses and Organizations, State, Local and/or Tribal Government.

Estimated Number of Respondents: 335,000.

Estimated Number of Responses per Respondent: 2.

Estimated Annual responses: 670,000.

Estimated time per response: Up to 60 minutes.

Burden hours: 670,000.

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–13504 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

El Dorado County Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The El Dorado County Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as to make recommendations on recreation fee proposals for sites on the Eldorado National Forest and Lake Tahoe Basin Management Unit within El Dorado county, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *www.fs.usda.gov/main/eldorado/workingtogether/advisorycommittees.*

DATES: The meeting will be held on August 3, 2022, 3:30 p.m.–5:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Jeff Marsolais, Designated Federal Officer (DFO), by phone at 530–303–2412 or email at *jeffrey.marsolais@usda.gov* or Jennifer Chapman, RAC Coordinator at 530–957–9660 or email at *jennifer.chapman@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–

877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Discuss Title II projects and other RAC updates;

2. Approve meeting minutes; and

3. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Jennifer Chapman, 100 Forni Road, Placerville, CA 95667; or by email to *jennifer.chapman@usda.gov.* Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: June 21, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–13552 Filed 6–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Shasta Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Shasta Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as to make recommendations on recreation fee proposals for sites on the Shasta-Trinity National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/detail/stnf/workingtogether/advisory committees/?cid=fseprd931585.*

DATES: The meeting will be held on July 20, 2022, 9:30 a.m.–11:30 a.m., Pacific Daylight Time. All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Monique Rea, RAC Coordinator, by phone at 916–580–5651 or via email at *monique.rea@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Conduct Roll call;

2. Comments from the Designated Federal Offical (DFO);

3. Discuss RAC Processes and Procedures;

4. Discuss, recommend, and approve projects;

5. Public comment period; and

6. Closing comments from the DFO.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Monique Rea, RAC Coordinator, 360 Main Street, Weaverville, California 96002 or by email to *monique.rea@usda.gov.* Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: June 21, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–13553 Filed 6–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rural Nevada Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Rural Nevada Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as to make recommendations on recreation fee proposals for sites on the Humboldt-Toiyabe National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information about Secure Rural Schools Program can be found on the following website: *https://www.fs.usda.gov/working-with-us/secure-rural-schools.*

DATES: The meeting will be held on July 21, 2022, 1:00 p.m.–3:00 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting is open to the public and will be held virtually via Microsoft Teams. On the date and time of the meeting, participants may click here to join the meeting or or dial 1–202–650–0123 and use access code 708816609#.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Jose Noriega, Designated Federal Officer (DFO), by phone at 775–289–0176 or email at *jose.noriega@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review Title II project proposals from Humboldt County and make recommendations on those proposals; and
2. Review status updates on existing approved projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Jose Noriega, DFO, Ely Ranger District, 825 Avenue E, Ely, NV 89301 or by email to *jose.noriega@usda.gov.* Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: June 21, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–13557 Filed 6–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Northeast Oregon Forests Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Northeast Oregon Forests Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as to make recommendations on recreation fee proposals for sites on the Malheur, Umatilla, and Wallowa-Whitman National Forests, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following websites:

- Malheur National Forest: *https://www.fs.usda.gov/main/malheur/workingtogether/advisorycommittees*
- Umatilla National Forest: *https://www.fs.usda.gov/main/umatilla/workingtogether/advisorycommittees*
- Wallowa-Whitman National Forest: *https://www.fs.usda.gov/main/wallowa-whitman/workingtogether/advisorycommittees*

DATES: The meeting will be held on July 11, 2022, 01:00 p.m.–04:30 p.m., Pacific Daylight Time. All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting will be held at Eastern Oregon University, located at One University Boulevard, Zebel Building, Room 101, La Grande, OR 97850. This location is dependant on county COVID–19 status at the time of the meeting. The public may also join virtually via telephone and/or video

conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Doug McKay, Designated Federal Officer (DFO), by phone at 541–303–3977 or email at *douglas.mckay@usda.gov* or Darcy Weseman, RAC Coordinator, at 541–278–3722 or email at *darcy.weseman@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Elect a Chairperson;
2. Member Orientation; and
3. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Doug McKay, P.O. Box 7, 117 S Main St., Heppner, OR or by email to *douglas.mckay@usda.gov.* Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: June 21, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–13554 Filed 6–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee

AGENCY: Forest Service, Agiculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will hold two public meetings according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as to make recommendations on recreation fee proposals for sites on the Shasta Trinity National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisory committees.*

DATES: The meetings will be held on July 11, 2022, and July 25, 2022, both taking place from 4:30 p.m.–6:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings are open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

FOR FURTHER INFORMATION CONTACT: Monique Rea, RAC Coordinator, by phone at 916–580–5651 or via email at *monique.rea@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The meeting agenda will include:

1. Roll call;
2. Comments from the Designated Federal Official (DFO);
3. Review, discuss, and approve minutes from the May 9, 2022 RAC meeting;
4. Discuss, recommend, approve projects;
5. Review process for project recommendations;
6. Discuss RAC funding;
7. Public comment period; and
8. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting dates to be scheduled on the agenda for a particiular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Monique Rea, RAC Coordinator, 360 Main Street, Weaverville, California 96093 or by email to *monique.rea@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity,

in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: June 21, 2022.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2022–13558 Filed 6–23–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–22–BUSINESS–0009; OMB Control No.: 0570–0021]

60-Day Notice of Proposed Information Collection: Intermediary Relending Program

AGENCY: Rural Business Cooperative Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture (USDA) Rural Business-Cooperative Service announces its' intention to request an extension of a currently approved information collection and invites comments on this information collection.

DATES: Comments on this notice must be received by August 23, 2022.

ADDRESSES: Comments may be submitted by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Business-Cooperative Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RBS–22–BUSINESS–0009 to submit or view public comments and to view supporting and related materials available electronically. 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 ''User Tips'' link.

FOR FURTHER INFORMATION CONTACT: Robin M. Jones, Management Analyst, Rural Development Innovation Center—Regulations Management Division, United States Department of Agriculture, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 772–1172. Email: *robin.m.jones@usda.gov.*

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 the following information collection that Rural Business-Cooperative Service is submitting to OMB as extension to an existing collection with Agency adjustment.

Title: Intermediary Relending Program.

OMB Control Number: 0570–0021.

Expiration Date of Approval: November 30, 2022.

Type of Request: Extension of a currently approved information collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7.5 hours per response.

Respondents: Non-profit corporation, public agencies, Indian tribes and cooperatives.

Estimated Number of Respondents: 140.

Estimated Number of Responses per Respondent: 13.

Estimated Number of Responses: 1,224.

Estimated Total Annual Burden on Respondents: 11,790 hours.

Abstract: The Rural Business-Cooperative Service's Intermediary Relending Program regulations contain various requirements for information from the intermediaries, and some requirements may cause the intermediary to seek information from ultimate recipients. The information requested is necessary for RBS to be able to process applications in a responsible manner, make prudent credit and program decisions, and effectively monitor the intermediaries' activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. It includes information to identify the intermediary; describe the intermediary's experience and expertise; describe how the intermediary will operate its revolving loan fund; provide for debt instruments, loan agreements, and security; and other material necessary for prudent credit decisions and reasonable program monitoring.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Copies of this information collection can be obtained from Robin M. Jones, Rural Development Innovation Center—Regulations Management Division, at (202) 772–1172. Email: *robin.m.jones@usda.gov.*

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. 2022–13548 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–22–SFH–0014; OMB Control No. 0575–0082]

60-Day Notice of Proposed Information Collection: Complaints and Compensation for Construction Defects

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture (USDA) Rural Housing Service announces its' intention to request an extension of a currently approved information collection and invites comments on this information collection.

DATES: Comments on this notice must be received by August 23, 2022 to be assured of consideration.

ADDRESSES: Comments may be submitted by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Housing Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RHS–22–SFH–0014'' to submit or view public comments and to view supporting and related materials available electronically. 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 ''User Tips'' link.

FOR FURTHER INFORMATION CONTACT: Robin M. Jones, Management Analyst, Rural Development Innovation Center—Regulations Management Division, United States Department of Agriculture, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 772–1172. Email: *robin.m.jones@usda.gov.*

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 the following information collection that Rural Housing Service is submitting to OMB as extension to an existing collection with Agency adjustment.

Title: RD Instruction 1924–F, ''Complaints and Compensation for Construction Defects.''

OMB Control Number: 0575–0082.

Expiration Date of Approval: November 30, 2022.

Type of Request: Extension of a currently approved information collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .32 hours per response.

Respondents: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 125.

Estimated Total Annual Burden on Respondents: 40 hours.

Abstract: The Complaints and Compensation for Construction Defects program under Section 509C of Title V of the Housing Act of 1949, as amended, provides funding to eligible persons who have structural defects with their Agency financed homes to correct these problems. Structural defects are defects in the dwelling, installation of a manufactured home, or a related facility or a deficiency in the site or site development which directly and significantly reduces the useful life, habitability, or integrity of the dwelling or unit. The defect may be due to faulty material, poor workmanship, or latent causes that existed when the dwelling or unit was constructed. The period in which to place a claim for a defect is within 18 months after the date that financial assistance was granted. If the defect is determined to be structural and is covered by the builder's/dealer's-contractor's warranty, the contractor is expected to correct the defect. If the contractor cannot or will not correct the defect, the borrower may be compensated for having the defect corrected, under the Complaints and Compensation for Construction Defects program. Provisions of this subpart do not apply to dwellings financed with Section 502 Guaranteed loans. The reporting burden covered by this collection of information consists of reporting requirements and forms burden to support a request for funding to eligible persons who have structural defects with their Agency financed homes to correct these problems.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Copies of this information collection can be obtained from Robin M. Jones, Rural Development Innovation Center—Regulations Management Division, at (202) 772–1172. Email: *robin.m.jones@usda.gov.*

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. 2022–13555 Filed 6–23–22; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of public 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 (FACA), that the South Dakota State Advisory Committee to the Commission will convene a meeting on Monday, July 11, 2022, at 3:30 p.m. (CT). The purpose of the meeting is for briefing planning on the topic of voting rights.

DATES: Monday, July 11, 2022, at 3:30 p.m. (CT).

ADDRESSES:

Public Web Conference Zoom Link (Video and Audio): https://tinyurl.com/2s3vrwbn; password, if needed: USCCR–SD.

If Joining by Phone Only, Dial: 1–551–285–1373; Meeting ID: 160 180 1850#.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota at *kfajota@usccr.gov* or 434–515–2395.

SUPPLEMENTARY INFORMATION: The meeting is available to the public through the web link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with conference details found through registering at the web link above. To request other accommodations, please email *kfajota@usccr.gov* at least 10 business days prior to the meeting for which accommodations are requested.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Kayla Fajota at *kfajota@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Monday, July 11, 2022, From 3:30 p.m. (CT)

I. Welcome and Roll Call
II. Announcements and Updates
III. Approval of Minutes
IV. Planning Meeting: Voting Rights Briefing Discussion and Planning
V. Public Comment
VI. Next Steps
VII. Adjournment

Dated: June 16, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–13346 Filed 6–23–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Form ED–840P, Petition by a Firm for Certification of Eligibility To Apply for Trade Adjustment Assistance, and Adjustment Proposals

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice of Information Collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 23, 2022.

ADDRESSES: Interested persons are invited to submit written comments via email to Miriam Nettles-Kearse, Lead Program Analyst, U.S. Department of Commerce, at *taac@eda.gov.* Please reference OMB Control Number 0610–0091 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Miriam Nettles-Kearse, Lead Program Analyst, U.S. Department of Commerce, (202) 849–0941 or at *taac@eda.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

EDA administers the Trade Adjustment Assistance for Firms (TAAF) Program, which is authorized under chapters 3 and 5 of title II of the Trade Act of 1974, as amended (19 U.S.C. 2341–2356) (Trade Act), through a national network of non-profit and university-affiliated Trade Adjustment Assistance Centers (TAACs), each of which serves a different geographic region. EDA certifies firms as eligible to participate in the TAAF Program and provides funding to allow eligible client-firms to receive adjustment assistance through the TAACs. The information collected on Form ED–840P, and relevant supporting documentation is used to determine whether a firm is eligible to participate in the TAAF Program. In accordance with the Trade Act and EDA's regulations as set out at 13 CFR part 315, EDA must verify that the following have occurred: (1) A significant reduction in the number or proportion of the workers in the firm, a reduction in the workers' wage or work hours, or an imminent threat of such reductions; (2) sales or production of the firm have decreased absolutely, or sales or production, or both, of any article or service accounting for at least 25 percent of the firm's sales or production has decreased absolutely; and (3) an increase in imports of articles or services like or directly competitive with those produced or provided by the petitioning firm, which has contributed importantly to the decline in employment and sales or production of that firm. Additionally, to document the connection of increased imports to declining employment and sales or production, the firm must demonstrate that its customers have reduced purchases from the firm in favor of buying items or services from foreign suppliers. The use of Form ED–840P standardizes and limits the information collected as part of the certification process and eases the burden on applicants and reviewers alike.

In addition, after being certified as eligible for TAAF Program assistance following submission of Form ED–840P, firms must create an EDA-approved adjustment proposal in order to receive financial assistance under the TAAF Program. The adjustment proposal is each firm's business plan to remain competitive in the current global economy. Each adjustment proposal must meet certain requirements as set out in the Trade Act and EDA's regulation at 13 CFR 315.11. This notice also includes an estimate of the amount of time a firm spends to research and compile information for adjustment proposals.

Finally, the statutory authorization for the TAAF program is sunsetting in two stages. First, on July 1, 2021, the TAAF program reverted to more limited eligibility criteria. Second, as of June 30, 2022, assistance may not be provided to new firms. After that date, assistance may only be provided to firms that have previously submitted a petition under the TAAF program. EDA wishes to extend the current information collection for the TAAF program so that EDA may continue to review and approve adjustment proposals from certified firms, and in case the TAAF program is re-authorized by Congress.

II. Method of Collection

Form ED–840P may be obtained in Portable Document Format (PDF) from EDA or the TAACs upon request. TAACs are responsible for preparing the petition for certification on the firm's behalf. Although there is no form associated with adjustment proposals, they must meet the requirements for adjustment proposals set out in EDA's regulation at 13 CFR 315.11. Both petitions for certification on Form ED–840P and adjustment proposals may be submitted electronically or via email to *taac@eda.gov.*

III. Data

OMB Control Number: 0610–0091.
Form Number(s): ED–840P.
Type of Review: Extension of a current information collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 300 (150 petitions for certification and 150 adjustment proposals).

Estimated Time per Response: 53 hours for petitions for certification and 120 hours for adjustment proposals.

Estimated Total Annual Burden Hours: 25,950 (7,950 hours for petitions for certification and 18,000 for adjustment proposals).

Estimated Total Annual Cost to Public: $1,531,569 ($469,209 for petitions for certification and $1,062,360 for adjustment proposals; cost assumes application of U.S. Bureau of Labor Statistics third quarter 2021 mean hourly employer costs for employee compensation for professional and related occupations of $59.02).

Respondent's Obligation: Mandatory.

Legal Authority: Chapters 3 and 5 of title II of the Trade Act of 1974, as amended (19 U.S.C. 2341–2356).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–13571 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States-Mexico-Canada Agreement (USMCA), Article 10.12; Binational Panel Review: Notice of Panel Decision

AGENCY: United States Section, USMCA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of Panel Decision.

SUMMARY: On June 14, 2022, the Binational Panel issued its Decision in the matter of Certain Gypsum Board, Sheet, or Panel originating in or exported from the United States of America. The Binational Panel affirmed the Canadian Intentional Trade Tribunal's Final Determination.

FOR FURTHER INFORMATION CONTACT: Vidya Desai, United States Secretary, USMCA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Article 10.12 of Chapter 10 of USMCA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to provide judicial review of the trade remedy determination being challenged and then issue a binding Panel Decision. There are established *Rules of Procedure for Article 10.12 (Binational Panel Reviews),* which were adopted by the three governments for panels requested pursuant to Article 10.12(2) of USMCA. The notice of this Binational Panel's Decision is being published pursuant to Rule 74. For the complete Rules, please see *https://can-mex-usa-sec.org/secretariat/agreement-accord-acuerdo/usmca-aceum-tmec/rules-regles-reglas/article-article-articulo_10_12.aspx?lang=eng.*

Dated: June 21, 2022.

Vidya Desai,

U.S. Secretary, USMCA Secretariat.

[FR Doc. 2022–13524 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Ruling Applications Filed in Antidumping and Countervailing Duty Proceedings

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) received scope ruling applications, requesting that scope inquiries be conducted to determine whether identified products are covered by the scope of antidumping duty (AD) and/or countervailing duty (CVD) orders and that Commerce issue scope rulings pursuant to those inquiries. In accordance with Commerce's regulations, we are notifying the public of the filing of the scope ruling applications listed below in the month of May 2022.

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Terri Monroe, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–1384.

Notice of Scope Ruling Applications

In accordance with 19 CFR 351.225(d)(3), we are notifying the public of the following scope ruling applications related to AD and CVD orders and findings filed in or around the month of May 2022. This notification includes, for each scope application: (1) identification of the AD and/or CVD orders at issue (19 CFR 351.225(c)(1)); (2) concise public descriptions of the products at issue, including the physical characteristics (including chemical, dimensional and technical characteristics) of the products (19 CFR 351.225(c)(2)(ii)); (3) the countries where the products are produced and the countries from where the products are exported (19 CFR 351.225(c)(2)(i)(B)); (4) the full names of the applicants; and (5) the dates that the scope applications were filed with Commerce and the name of the ACCESS scope segment where the scope applications can be found.[1] This notice

[1] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52316 (September 20, 2021) (*Final Rule*) ("It is our expectation that the **Federal Register** list will include, where appropriate, for each scope application the following data: (1) identification of the AD and/or CVD orders at issue; (2) a concise public summary of the product's description, including the physical characteristics (including chemical, dimensional

does not include applications which have been rejected and not properly resubmitted. The scope ruling applications listed below are available on Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), at *https://access.trade.gov.*

Scope Ruling Applications

Certain Artist Canvas from the People's Republic of China (China) (A–570–899); EVACPET Fabrics (EVACPET);[2] produced in and exported from China; submitted by RV Print Factory LLC (RV Print); May 2, 2022;[3] ACCESS scope segment ''EVACPET Fabrics.''

Wooden Bedroom Furniture from China (A–570–890); upholstered furniture;[4] produced in and exported from China; submitted by Amini Innovation Corporation (Amini); May 19, 2022; ACCESS scope segment ''Amini Upholstered Furniture.''

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from China (A–570–601); Rear Loaded Knuckles (Loaded Knuckles) produced in and exported from China;[5] submitted by Dorman Products, Inc. (Dorman); May 23, 2022; ACCESS scope segment ''Loaded Knuckles.''

Ceramic Tile from China (A–570–108; C–570–109); produced in and exported from China;[6] submitted by Elysium Tiles, Inc. (Elysium); May 24, 2022; ACCESS scope segments ''Elysium Composite Tile.''

Notification to Interested Parties

This list of scope ruling applications is not an identification of scope inquiries that have been initiated. In accordance with 19 CFR 351.225(d)(1), if Commerce has not rejected a scope ruling application nor initiated the scope inquiry within 30 days after the filing of the application, the application will be deemed accepted and a scope inquiry will be deemed initiated the following day—day 31.[7] Commerce's practice generally dictates that where a deadline falls on a weekend, Federal holiday, or other non-business day, the appropriate deadline is the next business day.[8] Accordingly, if the 30th day after the filing of the application falls on a non-business day, the next business day will be considered the ''updated'' 30th day, and if the application is not rejected or a scope inquiry initiated by or on that particular business day, the application will be deemed accepted and a scope inquiry will be deemed initiated on the next business day which follows the ''updated'' 30th day.[9]

In accordance with 19 CFR 351.225(m)(2), if there are companion AD and CVD orders covering the same merchandise from the same country of origin, the scope inquiry will be conducted on the record of the AD proceeding. Further, please note that pursuant to 19 CFR 351.225(m)(1), Commerce may either apply a scope ruling to all products from the same country with the same relevant physical characteristics, (including chemical, dimensional, and technical characteristics) as the product at issue, on a country-wide basis, regardless of the producer, exporter, or importer of those products, or on a company-specific basis.

For further information on procedures for filing information with Commerce through ACCESS and participating in scope inquiries, please refer to the Filing Instructions section of the Scope Ruling Application Guide, at *https://access.trade.gov/help/Scope_Ruling_Guidance.pdf.* Interested parties, apart from the scope ruling applicant, who wish to participate in a scope inquiry and be added to the public service list for that segment of the proceeding must file an entry of appearance in accordance with 19 CFR 351.103(d)(1) and 19 CFR 351.225(n)(4). Interested parties are advised to refer to the case segment in ACCESS as well as 19 CFR 351.225(f) for further information on the scope inquiry procedures, including the timelines for the submission of comments.

Please note that this notice of scope ruling applications filed in AD and CVD proceedings may be published before any potential initiation, or after the initiation, of a given scope inquiry based on a scope ruling application identified in this notice. Therefore, please refer to the case segment on ACCESS to determine whether a scope ruling application has been accepted or rejected and whether a scope inquiry has been initiated.

Interested parties who wish to be served scope ruling applications for a particular AD or CVD order may file a

and technical characteristics) of the product; (3) the country(ies) where the product is produced and the country from where the product is exported; (4) the full name of the applicant; and (5) the date that the scope application was filed with Commerce.'')

[2] The products subject to RV Print's request include two fabrics. Fabric No. 1 of the scope ruling request is polyester (polyethylene terephthalate) fabric woven (*i.e.,* warp and weft) filament fiber that has been coated with ethylene-vinyl acetate (EVA), amide lubricants, mineral oil, titanium dioxide, silicon dioxide, and calcium carbonate. Fabric No. 2 of the scope ruling request is polyester (polyethylene terephthalate) fabric woven (*i.e.,* warp and weft) filament fiber that has been coated with ethylene-vinyl acetate (EVA), amide lubricants, mineral oil, titanium dioxide, silicon dioxide totaling, and calcium carbonate. EVACPET is produced in and exported from China. The declared country of origin is China. EVACPET is properly classified under 5903.90.2500 which provides for ''Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 5902: Other, Of man-made fibers: Other: Other.''

[3] Although this application was filed on ACCESS on Friday, April 29, 2022, it was filed after 5:00 p.m. Eastern Time, therefore we consider it to have been submitted on the next business day, Monday, May 2, 2022 for purposes of calculating deadlines in this segment.

[4] The products subject to Amini's request are eighteen pieces of highly decorative, upholstered furniture and seven upholstered mirrors sold through four different Amini collections. Each piece has a main common element of upholstered vinyl fabric and backing wrapped completely around each piece of furniture, along with fully upholstered velvet fabric drawers, such that no exposed wood framing is visible anywhere on the piece (including the back side). Amini's upholstered furniture have common decorate elements made of crystal, glass, steel, and/or acrylics. Amini's upholstered furniture is produced and exported from China. Amini's upholstered furniture is imported under HTSUS 9403.89.6015 and its mirrors are imported under HTSUS 7009.92.5090.

[5] The products subject to Dorman's request are Loaded Knuckles. A rear loaded knuckle consists of a suspension knuckle that has been pre-assembled with multiple attached components, which contributes to a vehicle's steering, suspension, drivetrain, and braking systems by holding the vehicle wheel in a relative position to the vehicle's frame, while permitting controlled degrees of freedom required for steering and suspension jounce. The rear loaded knuckles that are the subject of this scope request are produced in and exported from China and are classifiable under HTSUS tariff item 8708.80.6590.

[6] The products subject to Elysium's request are composite marble tiles made up of multiple layers of material. The tile is produced in six sizes—300 by 300 mm, 300 by 600 mm, 600 by 600 mm, 800 by 400 mm, 800 by 800 mm, and 1200 by 600 mm. The tile is approximately 12 to 15 mm thick. The base, or bottom, layer is made from porcelain, a vitrified ceramic, which if imported by itself, would be subject to the scope of the order. The second, or middle, layer consists of an aviation grade epoxy glue which is used to permanently bind the base layer and the top layer. The third layer consists of top facing material made from nature stone, primarily marble. Once installed, the end user only sees the top facing natural stone. The product is produced in and exported from China. The declared country of origin is China. The composite marble tile is classified on entry under HTSUS code 6907.40.90.51.

[7] In accordance with 19 CFR 351.225(d)(2), within 30 days after the filing of a scope ruling application, if Commerce determines that it intends to address the scope issue raised in the application in another segment of the proceeding (such as a circumvention inquiry under 19 CFR 351.226 or a covered merchandise inquiry under 19 CFR 351.227), it will notify the applicant that it will not initiate a scope inquiry, but will instead determine if the product is covered by the scope at issue in that alternative segment.

[8] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[9] This structure maintains the intent of the applicable regulation, 19 CFR 351.225(d)(1), to allow day 30 and day 31 to be separate business days.

request to be included on the annual inquiry service list during the anniversary month of the publication of the AD or CVD order in accordance with 19 CFR 351.225(n) and Commerce's procedures.[10]

Interested parties are invited to comment on the completeness of this monthly list of scope ruling applications received by Commerce. Any comments should be submitted to James Maeder, Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, via email to *CommerceCLU@trade.gov.*

This notice of scope ruling applications filed in AD and CVD proceedings is published in accordance with 19 CFR 351.225(d)(3).

Dated: June 17, 2022.

Scot Fullerton,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–13508 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–274–808]

Urea Ammonium Nitrate Solutions From the Republic of Trinidad and Tobago: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that urea ammonium nitrate solutions (UAN) from the Republic of Trinidad and Tobago (Trinidad and Tobago) are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published the *Preliminary Determination.*[1] On March 8, 2022, Commerce published the *Amended Preliminary Determination.*[2] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[3]

Period of Investigation

The period of investigation is April 1, 2020, through March 31, 2021.

Scope of the Investigation

The products covered by this investigation are UAN from Trinidad and Tobago. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination.* Therefore, no changes were made to the scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

[1] *See Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 5783 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Amended Preliminary Determination of Sales at Less Than Fair Value,* 87 FR 12935 (March 8, 2022) (*Amended Preliminary Determination*), and accompanying Ministerial Error Memorandum.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[4]

Changes Since the Amended Preliminary Determination

Based on our analysis of the comments received and additional information obtained since our *Amended Preliminary Findings,* we made a certain change to the margin calculation for Methanol Holdings (Trinidad) Ltd. (MHTL) after the *Amended Preliminary Determination.* For a discussion of this change, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero, *de minimis,* or any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated an estimated weighted-average dumping margin for the sole mandatory respondent, MHTL, that is not zero, *de minimis,* or based entirely on facts otherwise available. Because the only individually calculated dumping margin is not zero, *de minimis,* or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for MHTL is the dumping margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

The estimated weighted-average dumping margins are as follows:

[4] *See* Commerce's Letter, In Lieu of On-Site Verification Questionnaire, dated February 17, 2022; MHTL's Letter, ''Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: MHTL's Response to the Department's In Lieu of Verification Questionnaire,'' dated February 25, 2022; and MHTL's Letter, ''Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: MHTL's Response to the Department's Revised Database Questionnaire,'' dated March 14, 2022.

Exporter/producer	Estimated weighted-average dumping margin (percent)
Methanol Holdings (Trinidad) Ltd	111.71
All Others	111.71

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all appropriate entries of UAN, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 2, 2022, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act, we will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price in this final determination, as follows: (1) the cash deposit rate for each of the respondents listed in the table above is the company-specific cash deposit rate listed for the respondent in the table; (2) if the exporter is not a respondent listed in the table above, but the producer is, then the cash deposit rate is the company-specific cash deposit rate listed for the producer of the subject merchandise in the table above; and (3) the cash deposit rate for all other producers and exporters is the ''all others'' cash deposit rate listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. However, Commerce did not make an affirmative determination for countervailable export subsidies in the companion CVD investigation. Therefore, there is no offset to the estimated weighted-average dumping margin by the CVD rate for export subsidies.

International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibiters and soluble micro or macronutrients (UAN).

Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country.

The scope also includes UAN that is commingled with UAN from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Changes Since the *Amended Preliminary Determination*
V. Discussion of the Issues
  Comment 1: Particular Market Situation (PMS)
  (A) Natural Gas
  (B) Electricity
  Comment 2: Constructed Value (CV) Profit Calculation
  Comment 3: Financial Expense Ratio Calculation
VI. Recommendation

[FR Doc. 2022–13567 Filed 6–23–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–912]

Acrylonitrile-Butadiene Rubber From the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that acrylonitrile-butadiene rubber (AB rubber) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021.

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Melissa Porpotage, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1413.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published its *Preliminary Determination.*[1] Commerce invited interested parties to comment on the *Preliminary Determination.*

For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope Comments

On January 26, 2022, we issued the Preliminary Scope Decision Memorandum.[3] Interested parties submitted case and rebuttal briefs concerning the scope of this investigation.[4] For a summary of the product coverage comments and rebuttal responses submitted to the record of this investigation, and accompanying analysis of all comments timely received, *see* the Final Scope Memorandum.[5] Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Preliminary Determination.*[6] The scope in the Appendix reflects these changes.

Scope of the Investigation

The product covered by this investigation is AB rubber from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[7]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Methodology—Adverse Facts Available (AFA)

For purposes of this final determination, we relied, in part, on facts available pursuant to section 776(a)(2)(A) of the Act. As discussed in the Issues and Decision Memorandum, because one respondent, LG Chemical, Ltd. (LG Chem), did not act to the best of its ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act. LG Chem did not respond to Commerce's initial antidumping duty questionnaire and we have continued to use an adverse inference in the selection of facts available for determining the dumping rate for this company, pursuant to section 776(d) of the Act. For further information, see the section ''Use of Adverse Facts Available'' in the accompanying Issues and Decision Memorandum.

Changes From the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculation for Kumho Petrochemical Co., Ltd. (Kumho) since the *Preliminary Determination. See* the Issues and Decision Memorandum for a discussion of these changes.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. In this investigation, Commerce assigned an estimated weighted-average dumping margin based entirely on facts available, *i.e.,* under section 776 of the Act, to LG Chem. Therefore, the only estimated weighted-average dumping margin that is not zero, *de minimis,* or based entirely on facts otherwise available is the margin calculated for Kumho. Thus, the estimated weighted-average dumping margin calculated for Kumho is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination of Critical Circumstances, in Part

For the *Preliminary Determination,* in accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce found that critical circumstances exist, in part, with respect to imports of AB rubber from Korea. Our final determination remains unchanged. Accordingly, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist for LG Chem and companies covered by the ''all others'' rate, but do not exist for Kumho.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Kumho Petrochemical Co., Ltd	18.80
LG Chemical, Ltd	35.31
All Others	18.80

[1] *See Acrylonitrile-Butadiene Rubber from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 5796 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Investigation of Acrylonitrile-Butadiene Rubber from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated January 26, 2022 (Preliminary Scope Decision Memorandum).

[4] *See* ARLANXEO Emulsion Rubber France S.A.S.'s Letter, ''Scope Brief,'' dated February 25, 2022; *see also* Zeon Chemicals L.P. and Zeon GP, LLC (collectively, the petitioner)'s Letter, ''Petitioner's Rebuttal Scope Brief,'' dated March 4, 2022.

[5] *See* Memorandum, ''Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Final Scope Decision Memorandum,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

[6] *See Preliminary Determination,* 87 FR at 5792. Specifically, we added language to the scope that clarified that AB rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. *See* Final Scope Memorandum.

[7] *See* Commerce's Letter, In Lieu of Verification Questionnaire, dated February 14, 2022; *see also* Kumho's Letter, ''Response to the Verification Questionnaire,'' dated February 22, 2022.

Disclosure

Commerce intends to disclose its calculations performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Consistent with the *Preliminary Determination,* Commerce will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after February 2, 2022, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.* Further, in accordance with section 733(e)(2)(A) of the Act, Commerce will instruct CBP to continue the suspension of liquidation of entries of subject merchandise, as described in Appendix I, produced and/or exported by LG Chem or companies covered by the all-others rate which entered, or were withdrawn from warehouse, for consumption on or after November 4, 2021, which is 90 days before the date of publication in the **Federal Register** of the affirmative *Preliminary Determination.*

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the following: (1) the cash deposit rate for the respondents listed in the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because Commerce's final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from Korea no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the February 2, 2022, effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice serves as a reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. AB Rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.,* carbon black, silica, clay); reinforcement agents (*e.g.,* fibers, carbon black, silica); vulcanization agents (*e.g.,* sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as HNBR) produced by subsequent dissolution and hydrogenation of AB Rubber; (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Use of Adverse Facts Available
IV. Changes Since the *Preliminary Determination*
V. Discussion of the Issues
Comment 1: Reclassification of Fumigation Expenses
Comment 2: Market Rate for Affiliated Input Purchases from Hanju Co. Ltd. (Hanju)
Comment 3: Short-Term Interest Income Offset

VI. Recommendation

[FR Doc. 2022–13561 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–274–809]

Urea Ammonium Nitrate Solutions From the Republic of Trinidad and Tobago: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of urea ammonium nitrate solutions (UAN) from the Republic of Trinidad and Tobago (Trinidad and Tobago). The period of investigation is January 1, 2020, through December 31, 2020.

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas Martin or Ariela Garvett, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936 or (202) 482–3609, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2021, Commerce published the *Preliminary Determination.*[1] For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Period of Investigation

The period of investigation is January 1, 2020, through December 31, 2020.

Scope of the Investigation

The products covered by this investigation are UAN from Trinidad and Tobago. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination.* Therefore, no changes were made to the scope of the investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II to this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[3] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verifications to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.[4]

Changes Since the Preliminary Determination

After evaluating the comments received from interested parties and record information, we have made no changes to the net countervailable subsidy rates calculated for Methanol Holdings (Trinidad) Limited (MHTL), the sole mandatory respondent in this investigation. For a discussion of these comments, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual estimated countervailable subsidy rate for MHTL. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for MHTL, the only individually examined producer/exporter in this investigation. Because the only individually calculated rate is not zero, *de minimis,* or based entirely on facts otherwise available, the rate calculated for MHTL is the rate assigned to all other producers and exporters not individually examined in this investigation, pursuant to section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Methanol Holdings (Trinidad) Limited	1.83
All Others	1.83

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal**

[1] *See Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With the Final Antidumping Duty Determination,* 86 FR 68640 (December 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[4] *See* MHTL's Letter, ''Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: MHTL's Response to the Department's In Lieu of Verification Questionnaire,'' dated December 21, 2021; *see also* Government of Trinidad and Tobago's Letter, ''Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: GoTT's Response to the Department's In Lieu of Verification Questionnaire,'' dated January 19, 2022.

Register, in accordance with 19 CFR 351.224(b). However, because there are no changes from the *Preliminary Determination,* there are no new calculations to disclose.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination,* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, that were entered or withdrawn from warehouse, for consumption, on or after December 3, 2021, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for subject merchandise entered, or withdrawn from warehouse, on or after April 2, 2022, but to continue the suspension of liquidation of all entries of subject merchandise between December 3, 2021, and April 1, 2022.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of UAN from Trinidad and Tobago. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured or threatened with material injury. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibiters and soluble micro or macronutrients (UAN).

Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country.

The scope also includes UAN that is commingled with UAN from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of this investigation.

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Subsidies Valuation
V. Analysis of Programs
VI. Analysis of Comments
Comment 1: Whether Commerce Should Revise the Natural Gas Benchmark Calculation for MHTL's Methanol Facilities
Comment 2: Whether Commerce Should Use Separate Natural Gas Benchmarks for MHTL's Ammonia, Urea, and Melamine (AUM) and Methanol Facilities
Comment 3: Whether Certain Affiliated Companies are Cross-Owned with and Provided Primarily Dedicated Inputs to MHTL
Comment 4: Whether Commerce Should Include the Rate Calculated for the Import Duty Exemptions Program in the Cash Deposit Instructions for MHTL
VII. Recommendation

[FR Doc. 2022–13568 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–855]

Acrylonitrile-Butadiene Rubber From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that acrylonitrile-butadiene rubber (AB rubber) from Mexico is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021.

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Faris Montgomery, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–1537, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published the *Preliminary Determination* in the LTFV investigation of AB rubber from Mexico, in which we also postponed the final determination until June 17, 2022.[1] Commerce invited interested parties to comment on the *Preliminary Determination;*[2] we

[1] *See Acrylonitrile-Butadiene Rubber from Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 5790 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *Id.*

received no comments from interested parties. However, as a result of the minor corrections presented to Commerce in the sole mandatory respondent's response to the in lieu of on-site verification questionnaire, Commerce has made certain changes to the *Preliminary Determination,* as discussed below.

Scope Comments

On January 26, 2022, we issued the Preliminary Scope Decision Memorandum.[3] Interested parties submitted case and rebuttal briefs concerning the scope of this investigation.[4] For a summary of the product coverage comments and rebuttal responses submitted to the record of this investigation, and accompanying analysis of all comments timely received, *see* the Final Scope Memorandum.[5] Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Preliminary Determination.*[6] The scope in the appendix reflects these changes.

Scope of the Investigation

The product covered by this investigation is AB rubber from Mexico. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[7]

Changes Since the Preliminary Determination

Based on Industrias Negromex S.A. de C.V.'s (Negromex's) in lieu of on-site verification questionnaire response,[8] we accepted minor corrections to Negromex's reported sales data [9] and included these changes in the margin calculations for the final determination.[10]

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. Section 735(c)(5)(B) of the Act provides that, if the estimated weighted-average dumping margins for all individually investigated exporters and producers are zero, *de minimis,* or determined entirely under section 776 of the Act, then Commerce may use any reasonable method to establish the estimated all-others rate, including averaging the estimated weighted-average dumping margins determined for the individually investigated exporters and producers.

In this investigation, Commerce calculated an estimated weighted-average dumping margin for the sole mandatory respondent Negromex, that is not zero, *de minimis,* or based entirely on facts otherwise available. Accordingly, the estimated weighted-average dumping margin calculated for Negromex is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Industrias Negromex S.A. de C.V.	18.45
All Others	18.45

Disclosure

Commerce intends to disclose the calculations performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Consistent with the *Preliminary Determination,*[11] Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of AB rubber from Mexico, as described in the Appendix to this notice, which are entered, or withdrawn from warehouse, for consumption on or after February 2, 2022, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not

[3] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated January 26, 2022 (Preliminary Scope Decision Memorandum).

[4] *See* ARLANXEO Emulsion Rubber France S.A.S.'s Letter, ''Scope Brief,'' dated February 25, 2022; and Zeon Chemicals L.P. and Zeon GP, LLC (collectively, the petitioner)'s Letter, ''Petitioner's Rebuttal Scope Brief,'' dated March 4, 2022.

[5] *See* Memorandum, ''Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Final Scope Decision Memorandum,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

[6] *See Preliminary Determination,* 87 FR at 5792. Specifically, we added language to the scope that clarified that AB Rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. *See* Final Scope Memorandum.

[7] *See* Commerce's Letter, ''In Lieu of On-Site Verification Questionnaire,'' dated March 2, 2022.

[8] *See* Negromex's Letter, ''In Lieu of Verification Questionnaire Response,'' dated March 10, 2022.

[9] *See* Negromex's Letter, ''Post-Verification Data Corrections,'' dated May 9, 2022.

[10] For a discussion of the minor verification corrections accepted for the final determination, *see* memorandum, ''Final Determination Calculation Memorandum for Industrias Negromex S.A. de C.V.,'' dated concurrently with this notice.

[11] *See Preliminary Determination,* 87 FR at 5791.

disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of AB Rubber from Mexico no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the February 2, 2022, effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. AB Rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.,* carbon black, silica, clay); reinforcement agents (*e.g.,* fibers, carbon black, silica); vulcanization agents (*e.g.,* sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as HNBR) produced by subsequent dissolution and hydrogenation of AB Rubber; (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

[FR Doc. 2022–13562 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–831]

Urea Ammonium Nitrate Solutions From the Russian Federation: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that urea ammonium nitrate solutions (UAN) from the Russian Federation (Russia) are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Krisha Hill or Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037 or (202) 482–4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published the *Preliminary Determination* in this investigation.[1] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[2]

Period of Investigation

The period of investigation (POI) is April 1, 2020, through March 31, 2021.

Scope of the Investigation

The products covered by this investigation are UAN from Russia. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination.* We made no changes to the scope of the investigation.

Use of Adverse Facts Available

Pursuant to section 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we have continued to base the dumping margins for PJSC Kuibyshev Azot and SBU Azot upon facts otherwise available, with adverse inferences, because these companies

[1] *See Urea Ammonium Nitrate Solutions from the Russian Federation: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 5785 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

failed to timely respond to Commerce's quantity and value questionnaire.

Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.[3]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and additional information obtained since our preliminary determination, we made certain changes to the dumping margin calculation for Public Joint Stock Company Acron (Acron) after the *Preliminary Determination.* Additionally, since we based the adverse facts available (AFA) rate for PJSC Kuibyshev Azot and SBU Azot on the highest non-aberrational transaction margin calculated for either mandatory respondent, and that margin has changed due to changes in our calculations at the final determination, we have revised the AFA dumping margin assigned to PJSC Kuibyshev Azot and SBU Azot to equal the highest non-aberrational transaction margin calculated for either mandatory respondent for the final determination. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any dumping margins that are zero or *de minimis* or any dumping margins determined entirely under section 776 of the Act. Commerce calculated individual estimated weighted-average dumping margins for Acron and EuroChem,[4] the mandatory respondents in this investigation, that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate by weight averaging the estimated weighted-average dumping margins that it calculated for the individually examined respondents. Commerce weight averaged these dumping margins by the publicly-ranged total values of their sales of subject merchandise to the United States during the POI.[5]

Final Determination

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)[6]
Public Joint Stock Company Acron	8.16	8.02
Azot, Joint Stock Company/Joint Stock Company "Nevinnomyssky Azot"/Mineral and Chemical Company EuroChem, Joint Stock Company/EuroChem Trading Rus, Limited Liability Company	23.98	23.98
PJSC Kuibyshev Azot *	122.93	122.84
SBU Azot *	122.93	122.84
All Others	14.91	14.82

* Rate is based on facts otherwise available with an adverse inference.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection

[3] *See* Commerce's Letter to Acron on February 14, 2022 (Acron's ILOV Questionnaire); *see also* Commerce's Letter to EuroChem on February 15, 2022 (EuroChem's ILOV Questionnaire); Acron's Letter, "Urea Ammonium Nitrate Solutions from the Russian Federation: Response to Questionnaire in Lieu of Verification," dated February 24, 2022; and EuroChem's Letter, "Urea Ammonium Nitrate Solutions from the Russian Federation," dated February 24, 2022.

[4] We used "EuroChem" to refer to the collapsed entity comprising the following companies: Azot, Joint Stock Company (*i.e.,* NAK Azot), Joint Stock Company "Nevinnomyssky Azot" (*i.e.,* Nevinka), Mineral and Chemical Company EuroChem, Joint Stock Company, and EuroChem Trading Rus, Limited Liability Company.

[5] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others Rate Calculation Memorandum.

[6] *See* Memorandum, "Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: Final Calculations and Analysis for PJSC Acron," dated concurrently with this memorandum; *see also* Memorandum, "Less-Than-Fair-Value Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: Preliminary Calculations and Analysis for EuroChem," dated January 26, 2022; and Memorandum, "Final Determination Calculation for the All-Others," dated concurrently with this memorandum.

(CBP) to continue the suspension of liquidation of all appropriate entries of UAN, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 2, 2022, the date of publication of the *Preliminary Determination* in this investigation in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act, we will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price in this final determination, as follows: (1) the cash deposit rate for each of the respondents listed in the table above is the company-specific cash deposit rate listed for the respondent in the table; (2) if the exporter is not a respondent listed in the table above, but the producer is, then the cash deposit rate is the company-specific cash deposit rate listed for the producer of the subject merchandise in the table above; and (3) the cash deposit rate for all other producers and exporters is the ''All Others'' cash deposit rate listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

In the event that a countervailing duty (CVD) order is issued, and suspension of liquidation is resumed in the companion CVD investigation of UAN from Russia, Commerce will instruct CBP to require, for this antidumping duty investigation, cash deposits adjusted by the amount of export subsidies, as appropriate. These adjustments are reflected in the final column of the rate table, above. Until such suspension of liquidation is resumed in the companion CVD investigation, and so long as suspension of liquidation continues under this antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the estimated weighted-average dumping margin column in the rate table, above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibiters and soluble micro or macronutrients (UAN).

Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country.

The scope also includes UAN that is commingled with UAN from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Sections in the Issues and Decision Memorandum

I. Summary
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V. Discussion of the Issues
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Comment 2: Whether to Base Acron's Dumping Margin on Adverse Facts Available
Comment 3: Whether Commerce Made Certain Ministerial Errors
Comment 4: Whether to Base EuroChem's Dumping Margin on Adverse Facts Available (AFA)
Comment 5: Whether Commerce Should Grant EuroChem a Difference in Quantity Adjustment
Comment 6: Whether Commerce Should Grant EuroChem a Constructed Export Price (CEP) Offset
Comment 7: Whether to Apply the Cohen's *d* Test to EuroChem's Sales
Comment 8: Proper Enforcement of Antidumping Duty Laws
VI. Recommendation

[FR Doc. 2022–13566 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–832]

Acrylonitrile-Butadiene Rubber From France: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that acrylonitrile-butadiene rubber (AB rubber) from France is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2020, through March 31, 2021.

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Patrick Barton, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0012.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2022, Commerce published its *Preliminary*

Determination.[1] Commerce invited interested parties to comment on the *Preliminary Determination.*

For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2] The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Affirmative Determination of Critical Circumstances, in Part

In the *Preliminary Determination,* Commerce preliminarily determined, pursuant to section 733(e) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances do not exist with respect to imports of AB rubber produced and exported by Arlanxeo Emulsion Rubber France S.A.S. (Arlanxeo France). However, we preliminarily determined that critical circumstances exist with respect to imports of AB rubber produced and exported by all other producers and exporters from France. For this final determination, we continue to find that critical circumstances do not exist for Arlanxeo France and do exist for all other producers and exporters from France, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206. For a full description of methodology and results of Commerce's final affirmative critical circumstances analyses, *see* Issues and Decision Memorandum.

Scope Comments

On January 26, 2022, we issued the Preliminary Scope Decision Memorandum.[3] Interested parties submitted case and rebuttal briefs concerning the scope of this investigation.[4] For a summary of the product coverage comments and rebuttal responses submitted to the record of this investigation, and accompanying analysis of all comments timely received, *see* the Final Scope Memorandum.[5] Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Preliminary Determination.*[6] The scope in the Appendix I reflects these changes.

Scope of the Investigation

The product covered by this investigation is AB rubber from France. For a complete description of the scope of this investigation, *see* Appendix I.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.[7]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised in the Issues and Decision Memorandum is attached to this notice as Appendix II.

Changes From the Preliminary Determination

Based on our analysis of the comments received, we made certain changes to the margin calculation for Arlanxeo France since the *Preliminary Determination. See* the Issues and Decision Memorandum for a discussion of these changes.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers or exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis,* or determined entirely under section 776 of the Act. In this investigation, Commerce calculated an individual estimated weighted-average dumping margin for Arlanxeo France, the sole mandatory respondent, that is not zero, *de minimis,* or based entirely on facts otherwise available. Consequently, the rate calculated for Arlanxeo France is assigned as the rate for all other producers or exporters, pursuant to section 735(c)(5)(A) of the Act.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Arlanxeo Emulsion Rubber France S.A.S	81.86
All Others	81.86

Disclosure

Commerce intends to disclose the calculations performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Consistent with the *Preliminary Determination,* Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of AB rubber from France, as described in Appendix I of this notice, which were entered or withdrawn from warehouse for consumption on or after February 2, 2022, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**.

Section 735(c)(4) of the Act provides that if there is an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or

[1] *See Acrylonitrile-Butadiene Rubber from France: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 87 FR 5787 (February 2, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of Acrylonitrile-Butadiene Rubber from France,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Preliminary Scope Decision Memorandum,'' dated January 26, 2022 (Preliminary Scope Decision Memorandum).

[4] *See* ARLANXEO Emulsion Rubber France S.A.S.'s Letter, ''Scope Brief,'' dated February 25, 2022; *see also* Zeon Chemicals L.P. and Zeon GP, LLC (collectively, the petitioner)'s Letter, ''Petitioner's Rebuttal Scope Brief,'' dated March 4, 2022.

[5] *See* Memorandum, ''Antidumping Duty Investigations of Acrylonitrile-Butadiene Rubber from France, the Republic of Korea, and Mexico: Final Scope Decision Memorandum,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

[6] *See Preliminary Determination,* 87 FR at 5792. Specifically, we added language to the scope that clarified that AB rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. *See* Final Scope Memorandum.

[7] *See* Commerce's Letter, ''In Lieu of Verification Questionnaire,'' dated March 17, 2022; *see also* Arlanxeo France's Letter, ''Acrylonitrile-Butadiene Rubber from France, Case No. A–427–832: Arlanxeo's In Lieu of On Site Verification Questionnaire Response,'' dated March 25, 2022.

after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. As noted above, Commerce finds that critical circumstances exist for imports of subject merchandise produced and/or exported by all other producers and exporters of AB rubber from France. Therefore, in accordance with section 735(c)(4) of the Act, suspension of liquidation shall continue to apply to unliquidated entries of subject merchandise produced or exported by all other producers or exporters that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the following: (1) the cash deposit rate for the individual companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a company identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers or exporters will be equal to the all-others estimated weighted-average dumping margin listed in the table above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because the final determination in this investigation is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of AB rubber from France no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Order

This notice will serve as the only reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber (AB Rubber). AB Rubber is a synthetic rubber produced by the emulsion polymerization of butadiene and acrylonitrile with or without the incorporation of a third component selected from methacrylic acid or isoprene. AB Rubber products that include a third component that is not methacrylic acid or isoprene are not covered by the scope. This scope covers AB Rubber in solid or non-aqueous liquid form. The scope also includes carboxylated AB Rubber.

Excluded from the scope of this investigation is AB Rubber in latex form (commonly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 4002.51.0000). Latex AB Rubber is commonly either (a) acrylonitrile/butadiene polymer in latex form or (b) acrylonitrile/butadiene/methacrylic acid polymer in latex form. The broader definition of latex refers to a water emulsion of a synthetic rubber obtained by polymerization.

Also excluded from the scope of this investigation is: (a) AB Rubber containing additives incorporated during the compounding, mixing, molding, or use of AB Rubber comprising greater than twenty percent of the total weight of the product. Additives would include, but are not limited to, fillers (*e.g.,* carbon black, silica, clay); reinforcement agents (*e.g.,* fibers, carbon black, silica); vulcanization agents (*e.g.,* sulfur, sulfur complexes, peroxide); or AB Rubber containing extension oils making up greater than forty percent of the total weight of the product. Such products would be generally classified under HTSUS subheading 4005; (b) AB Rubber containing polyvinyl chloride (PVC) making up greater than twenty percent of total weight of the product; (c) hydrogenated AB Rubber (commonly referred to as HNBR) produced by subsequent dissolution and hydrogenation of AB Rubber; (d) reactive liquid polymers containing acrylonitrile and butadiene with amine, epoxy, carboxyl or methacrylate vinyl chemical functionality.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by modifying physical form or packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the AB Rubber.

The merchandise subject to this investigation is classified in the HTSUS at subheading 4002.59.0000. While the HTSUS subheading numbers are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Final Affirmative Determination of Critical Circumstances, in Part
IV. Changes Since the *Preliminary Determination*
V. Discussion of the Issues
  Comment 1: Whether to Include Stabilizer Type as a Physical Characteristic
  Comment 2: Whether Certain Home Market Sales are Outside of the Ordinary Course of Trade
  Comment 3: Whether to Include Further Manufactured Sales in the Margin Calculations
  Comment 4: Whether to Exclude Fixed Overhead Volume Variance Costs from the Margin Calculations
  Comment 5: Whether to Use the Quarterly Cost Methodology
VI. Recommendation

[FR Doc. 2022–13560 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–821–832]

Urea Ammonium Nitrate Solutions From the Russian Federation: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of urea ammonium nitrate solutions (UAN) from the Russian Federation (Russia).

DATES: Applicable June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson (Public Joint Stock Company Acron (Acron)) or John Hoffner and Laura Griffith (the EuroChem Companies), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4793, (202) 482–3315, or (202) 482–6430, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2021, Commerce published its *Preliminary Determination.*[1] Subsequently, on February 17, 2022, Commerce released its Post-Preliminary Analysis.[2] For a complete description of the events that followed the *Preliminary Determination* and Post-Preliminary Analysis, *see* the Issues and Decision Memorandum.[3] The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Period of Investigation

The period of investigation is January 1, 2020, through December 31, 2020.

Scope of the Investigation

The products covered by this investigation are UAN from Russia. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination.* Therefore, no changes were made to the scope of the investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II to this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on the facts otherwise available on the record pursuant to section 776(a) of the Act. Additionally, as discussed in the Issues and Decision Memorandum, because a respondent did not act to the best of its ability in responding to Commerce's requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act. For further information, *see* the section ''Use of Facts Otherwise Available and Adverse Inferences'' in the Issue and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verifications to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.[5]

Changes Since the Preliminary Determination and Post-Preliminary Analysis

Based on our review and analysis of the comments received from parties, we made certain changes to the respondents' preliminary subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual estimated countervailable subsidy rate for Acron and the EuroChem Companies. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an ''all-others'' rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

Commerce has calculated individual estimated countervailable subsidy rates for Acron and the EuroChem Companies[6] that are not zero, *de minimis,* or based entirely on facts otherwise available. We, therefore, calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for

[1] *See Urea Ammonium Nitrate Solutions from the Russian Federation: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with the Final Antidumping Duty Determination,* 86 FR 68635 (December 3, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Post-Preliminary Analysis in Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation,'' dated February 17, 2022 (Post-Preliminary Analysis).

[3] *See* Memorandum, ''Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See* Commerce's Letters, ''Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: Supplemental Questionnaire in Lieu of On-Site Verification for the Government of the Russian Federation,'' dated February 22, 2022; ''Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: Supplemental Questionnaire in Lieu of On-Site Verification for Acron,'' dated February 22, 2022; and ''Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: Verification Questionnaire for the EuroChem Companies,'' dated February 25, 2022.

[6] For purposes of this investigation, the EuroChem Companies are: MCC EuroChem; Nevinka; and NAK Azot.

the merchandise under consideration,[7] in accordance with section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent ad valorem)
EuroChem Companies [8]	6.27
Public Joint Stock Company Acron [9]	9.66
All Others	8.47

Disclosure

Commerce intends to disclose to interested parties the calculations and analysis performed in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of the publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.244(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after December 3, 2021, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after April 2, 2022, but to continue the suspension of liquidation of all entries of subject merchandise between December 3, 2021, and April 1, 2022.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of UAN from Russia. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured or threatened with material injury. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: June 17, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation is all mixtures of urea and ammonium nitrate in aqueous or ammonia solution, regardless of nitrogen concentration by weight, and regardless of the presence of additives, such as corrosion inhibiters and soluble micro or macronutrients (UAN).

Subject merchandise includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, adding or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country.

The scope also includes UAN that is commingled with UAN from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The covered merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3102.80.0000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II—List of Topics Discussed in the Issue and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Subsidies Valuation
V. Benchmark and Interest Rates
VI. Use of Facts Otherwise Available and Adverse Inferences
VII. Analysis of Programs
VIII. Analysis of Comments
- Comment 1: Whether Commerce Should Apply a Tier-One Benchmark for Natural Gas
- Comment 2: Whether Kazakh Exports to Russia Are World Market Prices Available to Purchasers in Russia
- Comment 3: Whether Kazakhstan's Natural Gas Market Is Distorted by Government of Russia (GOR) or Government of Kazakhstan (GOK) Involvement Thereby Making Prices for Kazakh Exports of Natural Gas Ineligible for Use as a Tier-Two Benchmark
- Comment 4: Whether Commerce Should Select the International Energy Agency

[7] With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, ''Countervailing Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation: All Others Rate for Final Determination All-Others Rate Calculation Memorandum,'' dated concurrently with, and hereby adopted by, this notice.

[8] Commerce determines that the following companies are cross-owned with Joint Stock Company Nevinnomyssky Azot (Nevinka): Mineral and Chemical Company EuroChem, Joint Stock Company (MCC EuroChem); and Azot, Joint Stock Company (NAK Azot).

[9] Commerce determines that the following companies are cross-owned with Public Joint Stock Company Acron: Joint Stock Company Acron Group; and Acron Switzerland AG.

(IEA) Industry Natural Gas Prices as a Tier-Three Benchmark
Comment 5: Whether Commerce Should Apply Adverse Facts Available (AFA) to Find PJSC Rosneft Oil Company (Rosneft) a Government Authority
Comment 6: Whether the Provision of Natural Gas Is *De Facto* Specific
Comment 7: Whether Commerce Should Attribute the Benefit from Subsidies to All Affiliated EuroChem Companies
Comment 8: Whether Commerce Will Implement the Ministerial Error Correction
IX. Recommendation

[FR Doc. 2022–13565 Filed 6–23–22; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes product(s) previously furnished by such agencies.

DATES: Comments must be received on or before: July 24, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) and service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s): MR 1191—Tri Angle Mop
Designated Source of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: Military Resale-Defense Commissary Agency
Distribution: C-List
Mandatory for: The requirements of military commissaries and exchanges in accordance with the 41 CFR 51–6.4

Service(s)

Service Type: Mail and Courier Services
Mandatory for: U.S. Customs and Border Protection, Port of JFK Mailroom, Jamaica, NY and Port of New York/Newark Mailroom, Newark, NJ
Designated Source of Supply: The Corporate Source, Inc., Garden City, NY
Contracting Activity: U.S. CUSTOMS AND BORDER PROTECTION, BORDER ENFORCEMENT CTR DIV

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
2520–01–398–4589—Parts Kit, Hydraulic Transmission, Utility Trucks
Designated Source of Supply: Goodwill Industries—Knoxville, Inc., Knoxville, TN
Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH

Michael R. Jurkowski,
Acting Director, Business Operations.

[FR Doc. 2022–13510 Filed 6–23–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* July 24, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 2/18/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping, or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.
2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Base Supply Center
Mandatory for: Hanscom Air Force Base
Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: DEPT OF THE AIR FORCE, FA2835 AFLCMC HANSCOM PZI

Deletions

On 12/23/2021, 1/21/2022, and 1/28/2022, the Committee for Purchase From

People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
MR 343—Handheld Spiralizer
MR 13007—Julienne Peeler
MR 13008—Melon Baller
Designated Source of Supply: CINCINNATI ASSOCIATION FOR THE BLIND AND VISUALLY IMPAIRED, Cincinnati, OH
Contracting Activity: Military Resale-Defense Commissary Agency

NSN(s)—Product Name(s):
4240–00–NSH–0019—Hearing Protection, Behind-the-Head Earmuff, NRR 29Db, PR
4240–00–SAM–0026—Hearing Protection, Behind-the-Head Earmuff, NRR 29Db, CS/10
4240–00–SAM–0025—Hearing Protection, Over-the-Head Earmuff, NRR 30dB, CS/10
Designated Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–13511 Filed 6–23–22; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Revise Collection 3038–0096 (Swap Data Recordkeeping and Reporting Requirements) and Collection 3038–0070 (Real-Time Public Reporting)

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed revision of collections of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the collections of information mandated by certain Commission regulations related to Swap Data Recordkeeping and Reporting Requirements and Real-Time Public Reporting.

DATES: Comments must be submitted on or before August 23, 2022.

ADDRESSES: You may submit comments, identified by ''Swap Data Recordkeeping and Reporting Requirements, OMB Control No. 3038–0096,'' and/or ''Real-Time Public Reporting, OMB Control No. 3038–0070,'' as applicable, by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Tom Guerin, Special Counsel, Division of Data, at (202) 836–1933 or *tguerin@cftc.gov,* or Paul Chaffin, Attorney Advisor, Division of Data, at (202) 418–5185 or *pchaffin@cftc.gov,* Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* 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 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 revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. 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.[1]

Title: ''Swap Data Recordkeeping and Reporting Requirements'' (OMB Control No. 3038–0096) and ''Real-Time Public Reporting'' (OMB Control No. 3038–0070). This is a request for revisions to currently approved information collections.

Abstract: Pursuant to section 2(a)(13)(G) of the Commodity Exchange Act (''CEA''), all swaps, whether cleared or uncleared, must be reported to SDRs.[2] CEA section 21(b) directs the Commission to prescribe standards for swap data recordkeeping and reporting.[3] Part 45 of the Commission's regulations implements the swap data reporting rules. Section 2(a)(13) of the CEA authorizes and requires the Commission to promulgate regulations for the real-time public reporting of swap transaction and pricing data.[4] Part 43 of the Commission's regulations implements the real-time public reporting rules. Regulations 45.14 and 43.3(e) require that if a SEF, DCM, or reporting counterparty determines that it will fail to timely correct an error in swap data or swap transaction and pricing data, respectively, it shall notify

[1] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8(b)(3)(vi).

[2] 7 U.S.C. 2(a)(13)(G).

[3] See 7 U.S.C. 24a(b)(1)–(3).

[4] 7 U.S.C. 2(a)(13)(E).

staff of its determination that it will fail to timely correct the error.[5]

On June 10, 2022, DOD published a ''Swap Data Error Correction Notification Form,'' which sets out the form and manner for notifications pursuant to regulations 45.14 and 43.3(e) and enumerates information sufficient to provide an initial assessment of the scope of the error or errors that were discovered and any initial remediation plan for correcting the error or errors, if an initial remediation plan exists.[6] The Swap Data Error Correction Notification Form requests, among other things: (1) identifying information for the swap execution facility (''SEF''), designated contract market (''DCM''), or reporting counterparty making the notification; (2) clarification whether errors relate to previously reported and/or unreported swaps; (3) unique swap identifiers and/or unique transaction identifiers for transactions representative of the error or errors; (4) the asset classes to which the error or errors pertain; (5) the number of transactions impacted by the error or errors; (6) the percentage of the SEF, DCM, or reporting counterparty's reported swap transactions affected by the error and that percentage for each impacted asset class; (7) the date the SEF, DCM, or reporting counterparty discovered the error or errors and a description of how discovery came about; (8) an indication whether the issues underlying the error or errors are still producing new errors; and (9) any initial remediation plan or, if no initial remediation plan exists, an indication of when the SEF, DCM, or reporting counterparty expects to have a remediation plan. The Swap Data Error Correction Notification Form, which will be required for error data notifications after December 5, 2022, is appended to CFTC Letter 22–06 and is available as a stand-alone form on the Commission's website.[7]

As the Swap Data Error Correction Notification Form provides the form and manner and specifies sufficient information required to satisfy previously-approved information collections under regulations 45.14 and 43.3(e), the Commission does not believe it imposes any new collection of information. The information collections under Information Collection 3038–0096 and Information Collection 3038–0070 are each necessary to obtain information detailing the cause, nature, and scope of swap data errors.

With respect to the collections of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[8]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

- Collection 3038–0096 (Swap Data Recordkeeping and Reporting)

Burden Statement: The Commission estimates that the respondent burden for this collection is as follows:

Respondents/Affected Entities: SEFs, DCMs, and reporting counterparties.

Estimated Number of Respondents: 1,742.

Estimated Average Burden Hours per Respondent: 6.[9]

Estimated Total Annual Burden Hours: 10,452.

Frequency of collection: As needed.

The Commission does not anticipate any capital costs or annual operating and maintenance costs associated with this collection.

- Collection 3038–0070 (Real-Time Reporting)

Burden Statement: The Commission estimates that the respondent burden for this collection is as follows:

Respondents/Affected Entities: SEFs, DCMs, and reporting counterparties.

Estimated Number of Respondents: 1,742.

Estimated Average Burden Hours per Respondent: 6.[10]

Estimated Total Annual Burden Hours: 10,452.

Frequency of collection: As needed.

The Commission does not anticipate any capital costs or annual operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 17, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–13485 Filed 6–23–22; 8:45 am]

BILLING CODE 6351–01–P

[5] 17 CFR 45.14(a)(1); 17 CFR 43.3(e)(1). Commission regulations referred to herein are found at 17 CFR Ch. 1.

[6] See CFTC Letter 22–06.

[7] See Swap Data Error Correction Notification Form, available at *https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/DF_17_Recordkeeping/index.htm.*

[8] 17 CFR 145.9.

[9] The Commission estimates that each SEF, DCM, and reporting counterparty will, on average, need to provide notice to the Commission under regulation 45.14(a) once per year and that each instance will require 6 burden hours.

[10] The Commission estimates that each SEF, DCM, and reporting counterparty will, on average, need to provide notice to the Commission under regulation 43.3(e) once per year and that each instance will require 6 burden hours.

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees—Army Education Advisory Committee

AGENCY: Department of Defense (DoD).

ACTION: Renewal of a Federal Advisory Committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the Army Education Advisory Committee (AEAC).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The AEAC 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 Committee's Designated Federal Officer (DFO) are

found at *https://www.facadatabase.gov/FACA/apex/FACAPublic AgencyNavigation.*

The AEAC provides the Secretary of Defense, Deputy Secretary of Defense (''the DoD Appointing Authority''), and the Secretary of the Army independent advice and recommendations on U.S. Army educational matters. The AEAC will focus on matters pertaining to the educational doctrinal, and research policies and activities of the U.S. Army's educational programs, to include the U.S. Army's joint professional military education programs. The AEAC will assess and provide independent advice and recommendations across the spectrum of educational policies, school curricula, educational philosophy and objectives, program effectiveness, facilities, staff and faculty, instructional methods, and other aspects of the organization and management of these programs. The AEAC will also provide independent advice and recommendations on matters pertaining to the Army Historical Program and the role and mission of the U.S. Army Center of Military History, particularly as they pertain to the study and use of military history in Army schools. The AEAC shall be composed of no more than 15 members. The membership will include: (a) no more than 11 individuals who are eminent authorities in the fields of defense, management, leadership, and academia, including those who are deemed to be historical scholars; (b) the Chief Historian of the Army, U.S. Army, Center of Military History; and (c) the Chairs of the United States Army War College Board of Visitors Subcommittee, Command and General Staff College Board of Visitors Subcommittee, and Defense Language Institute Foreign Language Board of Visitors Subcommittee, who are eminent authorities in the fields of defense, management, leadership, and academia.

Individual AEAC 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 AEAC. No member, unless approved according to DoD policy and procedures, may serve more than two consecutive terms of service on the AEAC, or serve on more than two DoD Federal advisory committees at one time.

AEAC members who are not full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Uniformed Services will be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. AEAC members who are full-time or permanent part-time Federal civilian officers or employees, or active duty members of the Uniformed Services, will be appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All members of the AEAC are appointed to provide advice on the basis of 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 AEAC-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements to the AEAC membership about the AEAC's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the AEAC. All written statements shall be submitted to the DFO for the AEAC, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: June 21, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13547 Filed 6–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0065]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Defense (DoD) is establishing a new Department-wide system of records titled, ''Counterintelligence Functional Services,'' DoD–0010. This system of records covers DoD's maintenance of records about counterintelligence functional services (CIFS). The purpose of CIFS is to protect Department resources and personnel from foreign adversaries who seek to exploit sensitive information, operations, and agency programs to the detriment of the U.S. Government. The DoD is issuing a Notice of Proposed Rulemaking, which proposes to exempt this system of records from certain provisions of the Privacy Act, elsewhere in today's issue of the **Federal Register**.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before July 25, 2022. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: https://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Privacy and Civil Liberties Division, Directorate for Privacy, Civil Liberties and Freedom of Information, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700; *OSD.DPCLTD@mail.mil;* (703) 571–0070.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is establishing ''Counterintelligence Functions Services (CIFS),'' DoD–0010, as a DoD-wide Privacy Act system of records. A DoD-wide System of Records Notice (SORN) supports multiple DoD paper or electronic recordkeeping systems operated by more than one DoD component that maintain the same kind of information about individuals for the same purpose. Establishment of DoD-wide SORNs helps DoD standardize the rules governing the collection, maintenance, use, and sharing of personal information in key areas across the enterprise. DoD-wide SORNs also reduce duplicative and overlapping SORNs published by separate DoD components. The creation of DoD-wide

SORNs is expected to make locating relevant SORNs easier for DoD personnel and the public, and create efficiencies in the operation of the DoD privacy program.

The Counterintelligence (CI) mission is critical to the protection of DoD personnel, installations, and activities; the Defense Industrial Base (DIB); and the National Industrial Security Program (NISP). To further this mission, the Department is authorized to gather individuals' information to protect against espionage, intelligence activities, sabotage, or assassinations conducted by foreign entities or international terrorists. CIFS activities include support to the following CI missions: counter-espionage; international terrorism; and support to force protection, research, development, and acquisition. CIFS also include CI incident assessments and required CI reporting that is conducted throughout DoD. CI activities not covered under this SORN are CI investigations and CI collection activities; those activities are conducted within the Department solely by the Military Department Counterintelligence Organizations (MDCOs). The CIFS SORN records contain information on both Federal employees, uniformed service members, contractors, and members of the public. The CIFS system of records contains data derived from government records (Federal, state, and local) and information collected directly from the public.

Additionally, DoD is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act elsewhere in today's issue of the **Federal Register**.

II. Privacy Act

Under the Privacy Act, a ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, DoD has provided a report of this system of records to the OMB and to Congress.

Dated: June 21, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

''Counterintelligence Functional Services (CIFS),'' DoD–0010.

SECURITY CLASSIFICATION:

Unclassified; Classified.

SYSTEM LOCATION:

A. Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301–1000, and other Department installations, offices, or mission locations.

B. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301–6000.

SYSTEM MANAGER(S):

A. Director for Defense Counterintelligence, Law Enforcement & Security, Office of the Under Secretary of Defense for Intelligence & Security, 1000 Defense, Pentagon, Washington, DC 20301–1100 who is also responsible for implementing policy for the CIFS program within DoD.

B. The three Military Department Counterintelligence Organizations (MDCOs): Air Force Office of Special Investigations (AFOSI), Naval Criminal Investigation Services (NCIS), and U.S. Army Intelligence and Security Command (INSCOM), each of which supports certain Department components in the operation of the CIFS program. Department components are assigned to and supported by the three MDCOs; or through their designated units. Although AFOSI, NCIS and INSCOM may conduct CIFS on behalf of units assigned to them, most CIFS activities are conducted by the components themselves with support by the MDCOs. DoD components include the Military Departments of the Army, Air Force (including the U.S. Space Force), and Navy (including the U.S. Marine Corps), field operating agencies, major commands, field commands, installations, and activities. To contact the system manager at the DoD component with oversight of the records, go to *www.FOIA.gov* to locate the contact information for each component's Freedom of Information Act (FOIA) office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Agency Act of 1959, as amended (Pub. L. 86–36) (codified at 50 U.S.C. 3601 *et seq.*); the Foreign Intelligence Surveillance Act (FISA), as amended (Pub. L. 95–511) (codified at 50 U.S.C. 1801 *et seq.*); 44 U.S.C. Subchapter II (3551–3559), Information Security (Federal Information Security Modernization Act of 2014 (FISMA); 50 U.S.C. 3381, Coordination of Counterintelligence Activities; Executive Order (E.O.) 12333, as amended, United States intelligence activities; E.O. 13526, Classified National Security Information; National Security Directive 42, National Policy for the Security of National Security Telecommunications and Information Systems; E.O. 9397 (SSN), as amended by E.O. 13478.

PURPOSE(S) OF THE SYSTEM:

A. To manage the CI Awareness and Reporting program; provide briefings on concerns of treason, spying, espionage, sabotage, terrorism, subversion, sedition, and other suspicious matters of related CI interest for threat identification and mitigation.

B. To provide CI support (such as information collection, records review and agency coordination) to assess threats against DoD operations, data, personnel, facilities, and systems. CI support is integrated into all DoD missions, specifically including the following mission areas and programs: arms control and other international weapons treaties; counter-proliferation and countering weapons of mass destruction; DoD foreign visitors program and foreign personnel exchange programs; counterintelligence screening of military applicants; DoD antiterrorism and force protection programs; military operations and exercises; cyber operations; DoD insider threat program; critical infrastructure protection; operations security programs; research, development, and acquisition programs; and other defense and national security activities as assigned to the DoD in accordance with applicable law and policy.

C. To conduct CI Incident Assessments; examine information of CI interest and determine whether a CI investigation may be warranted; liaise, conduct coordination and de-conflict assessments with intelligence, security, military, and law enforcement (LE) agencies in the area of operations.

D. To conduct specialized technical services such as analysis of information technology from auditing and monitoring for systems; provide polygraph and credibility assessment support, surveillance and technical surveillance countermeasures (TSCM) activities, and digital and biometric forensics activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in, mentioned in, and/or subject to CI reporting requirements or CI incident assessments; individuals to whom reporting pertains; individuals within DoD's investigatory jurisdiction,

including military and civilian employees or individuals employed by contractors. Records may also include information about other types of individuals not covered by the system, such as complainants, sources, subjects, and witnesses.

CATEGORIES OF RECORDS IN THE SYSTEM:

CIFS records include CI awareness and reporting records, threat assessment records, incident assessment records, and records produced as a result of CI specialized technical services. These records may contain the following data elements as necessary.

A. Personal information such as: names, social security numbers, DoD/ID numbers, employee identification numbers, date and place of birth, addresses, contact information; biometric information, fingerprints and retinal data; medical/psychological information; travel identification information (passport, visa, resident alien), driver's license information (state, number, and expiration date, etc.); biographic information, family and dependent information; gender, race/ethnicity, and property information.

B. Employment Information such as: position/title, rank/grade, duty station; work address, email address, supervisor's name and contact information; military records, personnel security information, employment personnel files, financial information (to include tax identification information), financial reports and transaction data; and education and training records.

Note: This system of records does not encompass records collected, used, and maintained for CI investigations or CI collection activities.

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from: Individuals, government sources (Federal, state, local, tribal and foreign), social media, periodicals, newspapers, information from commercial databases; and information from classified sources to include intelligence reports, security sources, law enforcement information, and correspondence.

USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a Routine Use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) 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.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute, treaty, or authorized mission.

K. To third parties during the course of an authorized inquiry to the extent necessary to obtain information pertinent to the inquiry, provided disclosure is appropriate to the proper performance of the official duties of the DoD official making the disclosure.

L. To U.S. Government officials for the purpose of addressing compromises of classified information including the information compromised, implications of disclosure of intelligence sources and methods, investigative data on compromises, and statistical and substantive analysis of the data.

M. To U.S. Government agencies or organizations for the purpose of performing audit or oversight operations as authorized by law or executive order, but only such information as is necessary and relevant to such audit or oversight function.

N. To appropriate Federal, state, local, territorial, tribal, foreign or international agencies having jurisdiction over the substance of the allegations or a related investigative interest in criminal law enforcement investigations, including statutory violations, counter-intelligence, counter-espionage and counter-terrorist activities and other security matters for the purpose of executing or enforcing laws designed to protect the national security or homeland security of the United States, to include activities described in 6 U.S.C. 485(a)(5), Domestic Security; 6 U.S.C. 482, Facilitating homeland security information sharing procedures; Intelligence Reform and Terrorism Protection Act of 2004; and E.O. 13388, Further Strengthening the Sharing of Terrorism Information to Protect Americans.

O. To designated officers, contractors, and employees of Federal, state, local, territorial, tribal, international, or foreign agencies for the purpose of the hiring, detailing, liaising, or retention of

an individual, the conduct of a suitability or security investigation, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the agency's decision on the matter and that the employer is appropriately informed about information that relates to or may impact an individual's suitability or eligibility.

P. To Federal and foreign government intelligence or counterterrorism agencies or components when DoD becomes aware of an indication of a threat or potential threat to national or international security, or when such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

Q. To a criminal, civil, or regulatory law enforcement authority (whether Federal, state, local, territorial, tribal, international, or foreign) when the information is necessary for collaboration, coordination, and de-confliction of investigative matters, to avoid duplicative or disruptive efforts, and for the safety of officers who may be working on related investigations.

R. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations in response to a subpoena from a court of competent jurisdiction.

S. To a court, prosecutor, and/or defense attorney in satisfaction of the agency's obligations under the Jencks Act, 18 U.S.C. 3500; *Giglio* v. *United States,* 405 U.S. 150 (1972); or *Brady* v. *Maryland,* 373 U.S. 83 (1963).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records may be stored locally on digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by personal and employment data elements that may identify the individual to whom the reporting pertains, including, but not limited to, name, social security number, DoD/ID or employment identification number, and email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and disposed of in accordance with National Archives and Records Administration Schedules and authorized DoD Component Records Disposition Schedules. The retention period for specific records may be obtained by contacting the system manager for the Component.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DoD safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. Additionally, DoD has established security audit and accountability policies and procedures which support the safeguarding of PII and detection of potential PII incidents. DoD routinely employs safeguards such as the following to information systems and paper recordkeeping systems: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; physical token as required; physical and technological access controls governing access to data; network encryption to protect data transmitted over the network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should follow the procedures in 32 CFR part 310. Individuals should address written inquiries to the DoD office with oversight of the records, as the component has Privacy Act responsibilities concerning access, amendment, and disclosure of the records within this system of records. The public may identify the contact information for the appropriate DoD office through the following website: *www.FOIA.gov.* Signed written requests should contain the name and number of this system of records notice along with the full name, current address, and email address of the individual. Please provide additional identifying information for the records, if relevant, DoD ID Number or Defense Benefits Number, date of birth, and telephone number of the individual. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend or correct the content of records about them should follow the procedures in 32 CFR part 310.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

DoD has exempted records maintained in this system from 5 U.S.C. 552a(c)(3); (d)(1), (2), (3) and (4); (e)(1); (e)(4)(G), (H) and (I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), as applicable. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 310. In addition, when exempt records received from other systems of records become part of this system, DoD also claims the same exemptions for those records that are claimed for the prior system(s) of records of which they were a part, and claims any additional exemptions set forth here.

HISTORY:

None.

[FR Doc. 2022–13573 Filed 6–23–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0088]

Agency Information Collection Activities; Comment Request; Health Education Assistance Loan (HEAL) Program Regs

AGENCY: Federal Student Aid (FSA), 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 August 23, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0088. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

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: Health Education Assistance Loan (HEAL) Program Regs.

OMB Control Number: 1845–0125.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Individuals and Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 129,945.

Total Estimated Number of Annual Burden Hours: 24,120.

Abstract: This is a request for an extension of OMB approval of information collection requirements associated with the Health Education Assistance Loan (HEAL) Program regulations for reporting, recordkeeping and notifications, currently approved under OMB No. 1845–0125. There has been no change to the regulatory language. The previous filing totals were incorrectly summed and the correct totals are presented here.

Dated: June 21, 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. 2022–13559 Filed 6–23–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15094–001]

Ohio Power and Light, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Application:* Notice of Intent (NOI) to File License Application and Request to Use the Traditional Licensing Process (TLP).

b. *Project No.:* 15094–001.

c. *Date filed:* April 22, 2022.

d. *Submitted by:* Ohio Power and Light, LLC (Ohio Power and Light).

e. *Name of Project:* Robert C. Byrd Hydroelectric Project.

f. *Location:* The project would be located on the Ohio River, at the existing U.S. Army Corps of Engineers' (Corps) Robert C. Byrd Locks and Dam, near the Town of Gallipolis, in Gallia County, Ohio and the Town of Gallipolis Ferry, Mason County, West Virginia. The project would occupy 5 acres of federal land administered by the Corps.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Roy Powers, Chief Operations Officer, Current Hydro, LLC, Post Office Box 224, Rhinebeck, NY 12572. Phone: (914) 805–2522, Email: *Roy@currenthydro.com.*

i. *FERC Contact:* Andy Bernick, Phone: (202) 502–8880, Email: *andrew.bernick@ferc.gov.*

j. Ohio Power and Light filed its request to use the TLP on April 22, 2022 and provided public notice of its request on April 30, 2022. In a letter dated June 16, 2022, the Director of the Division of Hydropower Licensing approved Ohio Power and Light's request to use the TLP.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the West Virginia Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Ohio Power and Light as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Ohio Power and Light filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*https://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERC OnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

o. The applicant states its unequivocal intent to submit an application for an original license for Project No. 15094.

p. Register online at *https://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 16, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13465 Filed 6–23–22; 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: EC22–75–000.
Applicants: Crete Energy Venture, LLC, Lincoln Generating Facility, LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Crete Energy Venture, LLC, et al.
Filed Date: 6/15/22.
Accession Number: 20220615–5195.
Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: EC22–76–000.
Applicants: Rolling Hills Generating Holdings, LLC, Rolling Hills Generating, L.L.C.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Rolling Hills Generating Holdings, LLC, et al.
Filed Date: 6/15/22.
Accession Number: 20220615–5204.
Comment Date: 5 p.m. ET 7/6/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–145–000.
Applicants: Buffalo Ridge Wind, LLC.
Description: Buffalo Ridge Wind, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/16/22.
Accession Number: 20220616–5128.
Comment Date: 5 p.m. ET 7/7/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–51–000.
Applicants: BP Energy Company.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 6/16/22.
Accession Number: 20220616–5090.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–1668–001.
Applicants: Northern Indiana Public Service Company LLC.
Description: Tariff Amendment: Amendment to NIPSCO–AEP Indiana Dark Fiber Lease to be effective 3/21/2022.
Filed Date: 6/15/22.
Accession Number: 20220615–5158.
Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–1860–001.
Applicants: Midcontinent Independent System Operator, Inc., Big Rivers Electric Corporation.
Description: Tariff Amendment: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.17(b): 2022–06–15_Amendment of BREC Attachment A to be effective 6/1/2022.
Filed Date: 6/15/22.
Accession Number: 20220615–5141.
Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2124–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii): MAIT submits one ECSA, SA No. 6150 to be effective 8/16/2022.
Filed Date: 6/16/22.
Accession Number: 20220616–5059.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2126–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits three ECSAs, SA Nos. 6342, 6344 and 6347 to be effective 8/16/2022.
Filed Date: 6/16/22.
Accession Number: 20220616–5068.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2127–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA/CSA, SA Nos. 5889 and 5931;Queue Nos. AC2–186, AC2–187, AC2–188 to be effective 1/6/2021.
Filed Date: 6/16/22.
Accession Number: 20220616–5078.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2128–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Prairie Switch Wind 1st A&R Generation Interconnection Agreement to be effective 6/1/2022.
Filed Date: 6/16/22.
Accession Number: 20220616–5085.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2129–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Wilsonville Solar LGIA Termination Filing to be effective 6/16/2022.
Filed Date: 6/16/22.
Accession Number: 20220616–5091.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2130–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Wilsonville Solar (Douglas Solar) LGIA Termination Filing to be effective 6/16/2022.
Filed Date: 6/16/22.
Accession Number: 20220616–5092.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2132–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original UCSA, Service Agreement No. 6507; Queue No. MISO J793 to be effective 10/19/2021.
Filed Date: 6/16/22.
Accession Number: 20220616–5108.
Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2133–000.
Applicants: American Electric Power Service Corporation, Ohio Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per

35.13(a)(2)(iii): AEP submits one Facilities Agreement re: ILDSA, SA No. 1336 to be effective 8/16/2022.

Filed Date: 6/16/22.

Accession Number: 20220616–5115.

Comment Date: 5 p.m. ET 7/7/22.

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: June 16, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13468 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD22–3–000]

Before Commissioners: Richard Glick, Chairman; James P. Danly, Allison Clements, Mark C. Christie, and Willie L. Phillips; North American Electric Reliability Corporation; Order Approving Modifications to the Compliance Section of Reliability Standard CIP–014

1. On February 16, 2022, the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted a petition seeking approval of Reliability Standard CIP–014–3, which would modify the compliance section of Reliability Standard CIP–014–2 (Physical Security). The proposed modification would eliminate a provision requiring that all evidence demonstrating compliance with this Reliability Standard should be retained at the transmission owner's or transmission operator's facility. As discussed in this order, we approve NERC's petition.

I. Background

A. Section 215 and Mandatory Reliability Standards

2. Section 215 of the Federal Power Act (FPA) requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. The ERO is obligated to file each Reliability Standard or modification to a Reliability Standard that it proposes to be made effective with the Commission.[1] Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[2] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[3] and subsequently certified NERC.[4]

B. Currently Effective Reliability Standard CIP–014–2

3. Reliability Standard CIP–014–2, which applies to transmission owners and transmission operators, is designed to ''identify and protect Transmission stations and Transmission substations, and their associated primary control centers, that if rendered inoperable or damaged as a result of a physical attack could result in widespread instability, uncontrolled separation, or Cascading within an Interconnection.'' [5] Pursuant to the Reliability Standard, transmission owners must perform an initial and subsequent risk assessments to identify the transmission stations and substations that, if rendered inoperable or damaged could result in instability, uncontrolled separation, or cascading within an Interconnection, and is subject to a third party verification. Transmission owners that control identified facilities must conduct an evaluation of the potential threats and vulnerabilities of a physical attack to transmission stations and substation, as well as primary control centers, develop and implement a documented physical security plan and have a third-party review of the evaluation.

C. NERC Petition for Modifications to the Compliance Section of Reliability Standard CIP–014

4. NERC proposes to remove section C.1.1.4., Additional Compliance Information, from the compliance section of the currently effective Reliability Standard CIP–014–2 (Physical Security) that requires all evidence demonstrating compliance with this Reliability Standard to be retained at the transmission owner's or transmission operator's facility in order to protect the entity's confidential information.[6] NERC states that the proposed change applies only to the compliance section of Reliability Standard CIP–014–2, and proposes no changes in the mandatory and enforceable Requirements of Reliability Standard CIP–014–2. According to NERC, the provision presents challenges to effective and efficient compliance monitoring and is not necessary to protect the confidentiality of Reliability Standard CIP–014–2 compliance evidence.[7]

5. NERC states that the ''Additional Compliance Information'' provision in the compliance section of CIP–014 was added to address heightened concerns regarding the protection of CIP–014 evidence. However, NERC has determined that it should no longer treat CIP–014 evidence any differently than other sensitive evidence it collects during its Compliance Monitoring and Enforcement Program (CMEP) activities.[8] With the advent of the ERO Secure Evidence Locker (SEL), NERC asserts that it has a secure means of collecting and analyzing CIP–014 evidence in the same manner as any other sensitive evidence collected as part of CMEP activities.[14]

6. NERC explains that if the change is approved, it will no longer treat Reliability Standard CIP–014 evidence any differently than other sensitive evidence it collects during its compliance activities.[9] NERC plans to use its SEL to support data and information handling, and it explains that it has developed the SEL for temporary storage of all registered entity compliance evidence.[10] According to NERC, the SEL enables a registered entity to securely submit evidence

[1] 16 U.S.C. 824o(d)(1).

[2] *Id.* 824o(e).

[3] *Rules Concerning Certification of the Elec. Reliability Org.; & Procedures for the Establishment, Approval, & Enforcement of Elec. Reliability Standards,* Order No. 672, 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 71 FR 19814 (April 18, 2006),114 FERC ¶ 61,328 (2006).

[4] *N. Am. Elec. Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[5] NERC Reliability Standard CIP–014–2 (Physical Security), Purpose.

[6] NERC Petition at 1. Section C.1.1.4., Additional Compliance Information states:

Confidentiality: To protect the confidentiality and sensitive nature of the evidence for demonstrating compliance with this standard, all evidence will be retained at the Transmission Owner's and Transmission Operator's facilities.

[7] NERC Petition at 1.

[8] *Id.* at 5–6.

[9] *Id.*

[10] *Id.* at 6.

through an encrypted session; the evidence is encrypted immediately upon submission, securely isolated per registered entity, never extracted, never backed up, and subject to proactive and disciplined destruction policies. NERC submits that the SEL provides security advantages to ensure proper protection and chain-of-custody management of the submitted evidence for CIP–014 compliance.

7. NERC requests that the modification to the Reliability Standard become effective on the date of Commission approval.

II. Notice of Filing and Responsive Pleadings

8. Notice of NERC's February 16, 2022 Petition was published in the **Federal Register**, 87 FR 11061 (Feb. 28, 2022), with interventions and protests due on or before March 15, 2022. The Edison Electric Institute (EEI) filed a timely motion to intervene and comments. On March 21, 2022, NERC submitted a request to submit reply comments and reply comments (NERC Answer). On March 30, 2022, EEI filed a motion for leave to answer and answer (EEI Answer).

9. EEI opposes NERC's petition and maintains that Reliability Standard CIP–014 requires data collection for industry's most sensitive assets and, therefore, the compliance provision should be retained so that NERC continues to review compliance evidence for this Reliability Standard only on-site at the registered entities for the most sensitive data.[11] EEI explains that the information retained under this compliance requirement is of a critical and highly sensitive nature, and some information provided for Reliability Standard CIP–014 compliance is only available to a small set of personnel on a need-to-know basis within EEI member companies.[12] According to EEI, its members go to great lengths to protect the identity of the assets and other sensitive information by using alternative anonymous names both in internal and external discussions. Further, EEI expresses security concerns related to the use of SEL, arguing that the SEL increases the risk of aggregated industry information falling into the hands of a nation state or bad actor.[13] EEI argues that ease of access cannot take precedence over the safety, security, and reliability of the electric grid.

10. NERC asserts in its answer that the proposed modification would not decrease the protection of any highly sensitive compliance evidence, but it is needed to ensure compliance monitoring with Reliability Standard CIP–014.[14] Among other arguments, NERC explains that there will be limited CIP–014 evidence aggregated in the SEL at any given time.[15] Further, NERC elaborates that a registered entity may choose to develop its own SEL rather than use NERC's SEL, or use NERC's exceptions process, which allows registered entities to collaborate with the compliance authority on alternative submittal methods.

11. Finally, NERC states that over the last two years, due to pandemic restrictions, in some instances registered entities refused on-site access for compliance monitoring.[16] In addition, certain entities also refused to allow a review of evidence using a secure videoconferencing platform. NERC believes that ''[t]he end result was increased risk, in certain instances, because [NERC and the Regional Entities] had no mechanism with which to monitor compliance with CIP–014 until the entity, at its own discretion, lifted its pandemic-related restriction.'' [17]

12. In its answer, EEI argues that more flexibility should be given to registered entities to select the most secure methods for providing CIP–014 compliance data. In particular, EEI states that, if agreed to by a registered entity's Compliance Enforcement Authority, ''secure videoconferencing is an attractive and equally effective and efficient alternative to using the ERO SEL and one that EEI members would welcome.'' [18] EEI notes, however, that certain entities may prefer to use their own videoconferencing tools, as opposed to an ERO-based tool, ''because in doing so they have an understanding of, and confidence in, the security measures that have been implemented.'' [19] Further, because many registered entities' corporate security access management programs require training, background checks, and monitoring of third-party access, EEI believes that some registered entities may be unable to use their own SEL to submit compliance information if NERC or Regional Entity compliance personnel are unable or unwilling to meet their SEL security access requirements.[20] EEI also expresses concern with the length of time NERC will keep compliance information in the SEL, as entities have no way of verifying whether it has been deleted.

III. Determination

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2021), EEI's timely, unopposed motion to intervene serve to make it a party to this proceeding.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.213(a)(2) (2021), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept NERC's and EEI's answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

15. As discussed below, we find that the proposed removal of the evidence retention provision in section C.1.1.4 of the compliance section of Reliability Standard CIP–014–2 is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The modification will allow NERC to monitor compliance more effectively without compromising the confidentiality of sensitive information. Accordingly, we approve NERC's petition.

16. Reliability Standard CIP–014–2, compliance section C.1.1.4., Additional Compliance Information, currently requires compliance personnel and auditors (and enforcement staff if a potential noncompliance is identified) to be physically present at an entity's facility to review evidence of compliance. As NERC's petition explains, this requirement presented challenges during the pandemic, when auditors could not access certain entities' facilities in person and in some instances were prevented from reviewing the evidence remotely.[21]

17. We recognize that Reliability Standard CIP–014–2 requires data collection for industry's sensitive assets and that therefore the data should be handled in a secure manner. However, while section C.1.1.4 may have provided necessary protection in the past, we are persuaded by NERC's explanation that its SEL now offers a secure and more flexible alternative for compliance evidence collection and review for Reliability Standard CIP–014–2.

18. Moreover, we are not persuaded by EEI's comments seeking to retain the

[11] EEI Comments at 1.

[12] *Id.* at 5.

[13] *Id.*

[14] NERC Answer at 1.

[15] *Id.* at 2–3.

[16] *Id.* at 3–4.

[17] *Id.* at 4.

[18] EEI Answer at 2.

[19] *Id.*

[20] *Id.* at 2–3.

[21] NERC Petition at 7; NERC Answer at 3.

on-site viewing requirement. First, contrary to EEI's suggestion in its comments, the use of the SEL is not novel and untested. In NERC's petition requesting funding for the SEL, which was filed in June 2020, NERC explained that the use of an evidence locker was a practice already in place for at least two Regional Entities to collect evidence associated with Critical Infrastructure Protection (CIP) Reliability Standards.[22] Before deciding to implement the SEL, NERC consulted with industry and discussed security concerns related to evidence collection.[23] Also, NERC has been using the SEL to access compliance evidence for the other CIP Reliability Standards, which indicates that it is a well-established and secure method of evidence review. Restricting auditor review to on-site only when there is a secure alternative impairs the auditor's ability to perform in-depth review of the evidence and could result in increased risk due to lack of adequate or timely compliance monitoring.

19. Further, we are not persuaded by EEI's argument that the SEL increases the risk of aggregated industry information falling into the hands of a nation-state or bad actor. Once evidence is submitted through an SEL encrypted session, it is immediately encrypted and cannot be extracted, is not backed up, and is subject to proactive and disciplined destruction policies, as well as being separated by registered entity.[24] NERC explained that it will remove the information from the SEL when the CMEP engagement concludes.[25]

20. Finally, as stated by NERC, entities can structure their own SELs that adhere to their security measure requirements. EEI argues that some registered entities may be unable to use their own SELs to submit compliance information if NERC or Regional Entity compliance personnel are unable or unwilling to meet the SEL security access requirements.[26] However, EEI provides no specific evidence of such situations for other CIP compliance monitoring engagements or whether they have led to increased risk of evidence being compromised. We find unpersuasive EEI's objections to NERC's offering of a flexible approach to accommodate entities.

21. Therefore, we find that the removal of the evidence retention provision in section C.1.1.4 of the compliance section of Reliability Standard CIP–014–2 will allow NERC to monitor compliance more effectively without compromising the confidentiality of sensitive information. Accordingly, we approve NERC's petition and accept the proposed Reliability Standard CIP–014–3, to become effective on the date of issuance of this order.

IV. Information Collection Statement

22. In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Commission is soliciting public comment on revisions to the information collection FERC–725U, Mandatory Reliability Standards for the Bulk Power System; CIP Reliability Standards; which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements. Comments on the collection of information are due within 60 days of the date this order is published in the **Federal Register**. Respondents subject to the filing requirements of this order will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

23. The information collection requirements are subject to review by the OMB under section 3507(d) of the Paperwork Reduction Act of 1995.[27] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[28] The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

24. The number of respondents below is based on an estimate of the NERC compliance registry for transmission owners and transmission operator. The Commission based its paperwork burden estimates on the NERC compliance registry as of May 6, 2022. According to the registry, there are 326 transmission owners and 18 transmission operators not also registered as transmission owners. The estimate is based on a zero change in burden from the current standard to the standard approved in this Order. The Commission based the burden estimate on staff experience, knowledge, and expertise.

25. For the new Reliability Standard CIP–014–3, the burden for entities remains the same as they will still need to provide the same evidence to demonstrate compliance whether it is kept on-site or loaded electronically into the SEL. No comments were received that expressed a change in the manhour burden associated with the use of SEL.

26. *Burden Estimates:* The Commission estimates the changes in the annual public reporting burden and cost[29] as indicated below:

FERC–725U—(Mandatory Reliability Standards: Reliability Standard CIP–014) Change in Burden

	Number of respondents[30] (1)	Number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hours & cost per response (4)	Total burden hours & total cost (3) * (4) = (5)	Average cost per respondent (5) ÷ (1)
Change Annual Reporting and Recordkeeping.	344	1	344	32.71 hrs.; $2,845.77	11,252.24 hrs.; $978,944.88	$2,845.77
Total FERC–725U	344	1	344	32.71 hrs.; $2,845.77	11,254.24 hrs.; $978,944.88	2,845.77

[22] NERC, Request of the North American Electric Reliability Corporation to expend funds to develop the ERO Enterprise Secure Evidence Locker, Docket No. RR19–8–001, at 4 (filed June 8, 2020) (NERC 2020 Filing); *N. Am. Elec. Reliability Corp.,* Docket No. RR19–8–001 (June 22, 2020) (delegated order).

[23] NERC 2020 Filing at 5.

[24] NERC Answer at 2.

[25] *Id.* at 2–3.

[26] *Id.*

[27] 44 U.S.C. 3507(d).

[28] 5 CFR 1320 (2021).

[29] FERC staff estimates that industry costs for salary plus benefits are similar to Commission costs. The FERC 2021 average salary plus benefits for one FERC full-time equivalent (FTE) is $180,703/year (or $87.00/hour) posted by the Bureau of Labor Statistics for the Utilities sector (available at *https://www.bls.gov/oes/current/naics3_221000.htm*).

[30] The total number (344) of transmission owners (326) plus transmission operators (18) not also registered as owners, this represents the unique US entities (taken from data as of May 6, 2022).

Titles: FERC–725U, Mandatory Reliability Standards for the Bulk Power System; CIP Reliability Standards.

Action: Compliance update with no changes to Existing Collections of Information, FERC–725U.

OMB Control Nos.: 1902–0274(FERC–725U).

Respondents: Business or other for profit, and not for profit institutions.

Frequency of Responses: On occasion.

Necessity of the Information: Reliability Standard CIP–014–3 (Physical Security) is part of the implementation of the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk Power system. Specifically, the revised standard only changes the how the evidence is stored.

Internal Review: The Commission has reviewed NERC's proposal and determined that its action is necessary to implement section 215 of the FPA.

27. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663].

28. All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

29. Comments concerning the information collections and requirements approved and associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection.

30. Please refer to the appropriate OMB Control Number(s) 1902–0274(FERC–725U) in your submission.

V. Document Availability

31. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

32. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

33. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission orders:

Reliability Standard CIP–014–3 is hereby approved, as discussed in the body of this order.

Issued: June 16, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13464 Filed 6–23–22; 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: EC22–77–000.

Applicants: Wisconsin River Power Company, Wisconsin Power and Light Company, Wisconsin Public Service Corporation.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Wisconsin River Power Company, et al.

Filed Date: 6/16/22.

Accession Number: 20220616–5185.

Comment Date: 5 p.m. ET 7/7/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–146–000.

Applicants: Invenergy Nelson Expansion LLC.

Description: Invenergy Nelson Expansion LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 6/17/22.

Accession Number: 20220617–5043.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: EG22–147–000.

Applicants: Invenergy Nelson LLC.

Description: Invenergy Nelson LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 6/17/22.

Accession Number: 20220617–5049.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: EG22–148–000.

Applicants: West Texas Solar Project II LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of West Texas Solar Project II LLC.

Filed Date: 6/17/22.

Accession Number: 20220617–5075.

Comment Date: 5 p.m. ET 7/8/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2366–001.

Applicants: Lincoln Generating Facility, LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT & Request for Waiver to be effective N/A.

Filed Date: 6/17/22.

Accession Number: 20220617–5048.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER11–3110–001.

Applicants: Crete Energy Venture, LLC.

Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT & Request for Waiver to be effective N/A.

Filed Date: 6/17/22.

Accession Number: 20220617–5046.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER21–55–000.

Applicants: Mesquite Power, LLC.

Description: Refund Report: Refund Report—Mesquite Power, LLC (ER21–55–et al.) to be effective N/A.

Filed Date: 6/17/22.

Accession Number: 20220617–5154.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER21–60–000.

Applicants: PacifiCorp.

Description: Refund Report: April 18 Order Refund Report for ER21–60 to be effective N/A.

Filed Date: 6/17/22.

Accession Number: 20220617–5098.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–983–001.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Compliance filing: ISO New England Inc. submits tariff filing per 35: ISO–NE Response to Commission Request for Additional Information to be effective N/A.

Filed Date: 6/17/22.

Accession Number: 20220617–5073.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2134–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2022–06–16–PSCo–TSGT–WAPA–Load to Move from PSCoBA to WACM–694–0.0.0 to be effective 6/17/2022.

Filed Date: 6/16/22.

Accession Number: 20220616–5167.

Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2135–000.

Applicants: Covanta Delano, Inc.

Description: Tariff Amendment: Notice of Cancellation to be effective 6/17/2022.

Filed Date: 6/16/22.

Accession Number: 20220616–5169.

Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2136–000.

Applicants: Associated Electric Cooperative, Inc.

Description: Request for Waiver of Tariff Provisions, et al. of Associated Electric Cooperative, Inc.

Filed Date: 6/16/22.

Accession Number: 20220616–5190.

Comment Date: 5 p.m. ET 7/7/22.

Docket Numbers: ER22–2137–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 5359; Queue Nos. AB1–141/AB1–142 to be effective 4/9/2019.

Filed Date: 6/17/22.

Accession Number: 20220617–5028.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2138–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 6082; Queue No. AF1–039 to be effective 4/30/2021.

Filed Date: 6/17/22.

Accession Number: 20220617–5037.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2139–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 607R42 Evergy Kansas Central, Inc. NITSA NOA to be effective 6/1/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5054.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2140–000.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Amendment: Termination of PG&E Llagas Energy Storage SGIA (SA 387) to be effective 8/17/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5076.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2141–000.

Applicants: Sun Mountain Solar 1, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Tariff Application with Expedited & Confidential Treatment to be effective 8/16/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5085.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2142–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LA, Kramer Junction 6–7 (Resurgence 2) TOT695–TOT696 to be effective 6/18/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5088.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2143–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LA, Kramer Junction 3–5 (Resurgence 1) TOT692–TOT694 to be effective 6/18/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5093.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2144–000.

Applicants: Invenergy Nelson Expansion LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 8/17/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5097.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2145–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to the Tariff and RAA RE: Update AEP and its affiliate company names to be effective 12/31/9998.

Filed Date: 6/17/22.

Accession Number: 20220617–5103.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2146–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to the CTOA RE: Update AEP and its affiliate company names to be effective 12/31/9998.

Filed Date: 6/17/22.

Accession Number: 20220617–5104.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2147–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Tri-State, Empire Const Agmt at Pinto (Rev 2) to be effective 8/17/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5109.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2148–000.

Applicants: Blooming Grove Wind Energy Center LLC.

Description: Baseline eTariff Filing: Reactive Power Rate Schedule to be effective 6/18/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5115.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2149–000.

Applicants: Tampa Electric Company.

Description: § 205(d) Rate Filing: Amended and Restated RS 103 DEF Dale Mabry—Morgan Road to be effective 9/1/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5118.

Comment Date: 5 p.m. ET 7/8/22.

Docket Numbers: ER22–2150–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2022–06–17_Request for Extension of Schedule 29 and 29A Waivers to be effective N/A.

Filed Date: 6/17/22.

Accession Number: 20220617–5127.

Comment Date: 5 p.m. ET 6/24/22.

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: June 17, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13516 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–40–006]

Spire STL Pipeline LLC ; Notice of Availability of the Draft Environmental Impact Statement for the Spire Stl Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the continued operation of the Spire STL Pipeline Project (Spire STL), proposed by Spire STL Pipeline LLC (Spire) in the above-referenced docket. Spire requests the Commission to reissue a Certificate of Public Convenience and Necessity authorizing operation of the Spire STL.

The draft EIS assesses the potential environmental effects of the continued operation of the Spire STL in accordance with the requirements of the National Environmental Policy Act (NEPA). FERC staff concludes that impacts from the continued operation of the Spire STL would be less than significant, with the exception of climate change impacts resulting from GHG emissions that are not characterized as significant or insignificant.

The draft EIS addresses the potential environmental effects of the continued operation of the following project facilities:

- 59.2 miles of 24-inch-diameter pipeline in Scott, Greene, and Jersey Counties, Illinois and St. Charles and St. Louis Counties, Missouri;
- 6.0 miles of 24-inch-diameter pipeline (the North County Extension) in St. Louis County, Missouri; and
- three new meter stations—the Rockies Express Pipeline LLC (REX) Receipt Station in Scott County, Illinois and the Laclede/Lange Delivery Station and Chain of Rocks station in St. Louis County, Missouri.

The Commission mailed a copy of the *Notice of Availability* of the draft EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The draft EIS is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the draft EIS may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*) select ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.* CP17–40). Be sure you have selected an appropriate date range. 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.

The draft EIS is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the draft EIS may do so. Your comments should focus on draft EIS's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. To ensure consideration of your comments on the proposal in the final EIS, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on August 8, 2022.

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. 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.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP17–40–006) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/ferc-online/ferc-online/how-guides.* Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Questions?

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link. 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 that 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. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Issued: June 16, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13466 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP21–564–002.
Applicants: High Island Offshore System, L.L.C.
Description: Refund Report: Settlement Refund Report (RP21–564-) to be effective N/A.
Filed Date: 6/16/22.
Accession Number: 20220616–5054.
Comment Date: 5 p.m. ET 6/28/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

Filings Instituting Proceedings

Docket Numbers: RP22–982–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Wobbe Number Modification (South Pueblo Project) to be effective 11/1/2022.
Filed Date: 6/15/22.
Accession Number: 20220615–5053.
Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: RP22–984–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate TSA (PSC0—33319000–TF1CIG) to be effective 11/1/2022.
Filed Date: 6/15/22.
Accession Number: 20220615–5074.
Comment Date: 5 p.m. ET 6/27/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding. The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13467 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–19–000]

Commission Information Collection Activities (FERC–919 and FERC–919A); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–919, (Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities), and FERC–919A, (Data Collection for Analytics and Surveillance and Market-Based Rate Purposes).

DATES: Comments on the collection of information are due August 23, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–19–000) by one of the following methods:

Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:
  - *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (including courier) delivery:* Deliver to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–919, (Refinements to Policies and Procedures for Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities), and FERC–919A, (Data Collection for Analytics and Surveillance and Market-Based Rate Purposes).

OMB Control No.: FERC–919 (1902–0234), FERC–919A (1902–0317).

Type of Request: Three-year extension of these information collection requirements for all collections described below with no changes to the current reporting requirements.

Please note: FERC–919A is a temporary collection number and will be combined into FERC–919.

Abstract: The FERC–919 collection is necessary to ensure that market-based rates charged by public utilities are just and reasonable as mandated by Federal Power Act (FPA) sections 205 and 206. Section 205 of the FPA requires just and reasonable rates and charges. Section 206 allows the Commission to revoke a seller's market-based rate authorization if it determines that the seller may have gained market power since it was originally granted market-based rate authorization by the Commission. FERC–919, as stated in 18 Code of Federal Regulations (CFR) Part 35, Subpart H,[1] the Commission codifies market-based rate standards for generating electric utilities for use in the Commission's determination of whether a wholesale seller of electric energy, capacity, or ancillary services qualify for market-based rate authority. Subpart H mandates that sellers submit market power analyses and related filings (descriptions below). Market power analyses must address both horizontal and vertical market power.

Horizontal Market Power Analysis

This demonstrates a lack of horizontal market power, the Commission requires two indicative market power screens: the uncommitted pivotal supplier screen (which is based on the annual

[1] *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities,* Order No. 697, 72 FR 39904 (Jul. 20, 2007), 119 FERC ¶ 61,295 (2007).

peak demand of the relevant market) and the uncommitted market share screen applied on a seasonal basis. The Commission presumes sellers that fail either screen to have market power and such sellers may submit a delivered price test analysis or alternative evidence to rebut the presumption of horizontal market power. If a seller fails to rebut the presumption of horizontal market power, the Commission sets the just and reasonable rate at the default cost-based rate unless it approves different mitigation based on case specific circumstances. When submitting horizontal market power analyses, a seller must submit the horizontal market power analysis into a relational database for it to be retrievable in conformance with the instructions posted on the Commission's website.[2] A seller must also include all supporting materials referenced in the indicative screens.

Vertical Market Power Analysis

To demonstrate a lack of vertical market power, if a public utility with market-based rates, or any of its affiliates, owns, operates or controls transmission facilities, that public utility must:

- Have on file a Commission-approved Open Access Transmission Tariff[3]
- Submit a description of its ownership or control of, or affiliation with an entity that owns or controls:
  - Intrastate natural gas transportation, intrastate natural gas storage or distribution facilities
  - Physical coal supply sources and ownership or control over who may access transportation of coal supplies
- Make an affirmative statement that it and its affiliates have not erected and will not erect barriers to entry into the relevant market

Asset Appendix

In addition to the market power analyses, a seller must submit an asset appendix in the relational database with its initial application for market-based rate authorization or updated market power analysis, and all relevant changes in status filings. The asset appendix must:

- List, among other things, all affiliates that have market-based rate authority.
- List all generation assets owned (clearly identifying which affiliate owns which asset) or controlled (clearly identifying which affiliate controls which asset) by the corporate family by balancing authority area, and by geographic region, and provide the in-service date and nameplate and/or seasonal ratings by unit.
- Must reflect all electric transmissions and natural gas interstate pipelines and/or gas storage facilities owned or controlled by the corporate family and the location of such facilities.
- List all long-term power purchases and sales agreements attributed to a seller and its affiliates by the corporate family by balancing authority area, and by geographic region, and provide the start date and end date.

Triennial Market Power Analysis

Sellers that own or control 500 megawatts or more of generation and/or that own, operate or control transmission facilities, are affiliated with any entity that owns, operates or controls transmission facilities in the same region as the seller's generation assets, or with a franchised public utility in the same region as the seller's generation assets are required to file updated market power analyses every three years. The updated market power analyses must demonstrate that a seller does not possess horizontal market power.

Change in Status Filings

Concerning changes in status filings, the Commission requires that sellers file notices of such changes no later than each quarter after the change in status occurs. The Commission also requires that each seller must include an appendix in the relational database identifying specified assets with each pertinent change in status notification filed.

Relational Database Updates

A Seller must report on a monthly basis changes to its previously-submitted relational database information, excluding updates to the horizontal market power screens. These submissions must be made by the 15th day of the month following the change. These submissions include the asset appendix information described above, as well as other market-based information concerning seller category, operating reserves authorization, identification of its ultimate upstream affiliate(s), mitigation, and other limitations.

Exemptions From Submitting Updated Market Power Analyses

Wholesale power marketers and wholesale power producers that are not affiliated with franchised public utilities or transmission owners, that do not own transmission, and that do not, together with all of their affiliates, own or control 500 megawatts or more of generation in a relevant region are not required to submit updated market power analyses. The Commission determines which sellers are in this category through information filed by the utility either when the seller files its initial application for market-based rate authorization or through a separate filing made to request such a determination.

Type of Respondents: Public utilities, wholesale electricity sellers.

Estimate of Annual Burden:[4] The Commission estimates the total annual burden and cost[5] for this information collection as follows.

[2] *See Data Collection for Analytics and Surveillance and Mkt.-Based Rate Purposes,* Order No. 860, 168 FERC ¶ 61,039 (2019), *order on reh'g,* Order No. 860–A, 170 FERC ¶ 61,129 (2020).

[3] A part of the associated burden is reported separately in information collections FERC–516 (OMB Control Number: 1902–0096).

[4] "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 CFR 1320.3.

[5] The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures for May 2021 posted by the Bureau of Labor Statistics for the Utilities sector (available at *http://www.bls.gov/oes/current/naics2_22.htm#13-0000*) and scaled to reflect benefits using the relative importance of employer costs in employee compensation from May 2021 (available at *https://www.bls.gov/oes/current/naics2_22.htm*). The hourly estimates for salary plus benefits are:

Economist (Occupation Code: 19–3011), $75.75.

Electrical Engineer (Occupation Code: 17–2071), $72.15.

Legal (Occupation Code: 23–0000), $142.25.

The average hourly cost (salary plus benefits), weighting all of these skill sets evenly, is $96.72. The Commission rounds it to $97/hour.

FERC–919—REFINEMENTS TO POLICIES AND PROCEDURES FOR MARKET BASED RATES FOR WHOLESALE SALES OF ELECTRIC ENERGY

Requirement	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & cost [6] (3) * (4) = (5)	Annual cost per respondent ($) (5) ÷ (1)
Market Power Analysis in New Applications for Market-based rates.	144	1	144	135 hrs.; $13,095	19,440 hrs.; $1,885,680.	$13,095
Triennial market power analysis	65	1	65	133.23 hrs.; $12,923.31.	8,659.95 hrs.; $840,015.15.	12,923.31
Asset appendix addition to change in status reports	149	1	149	49 hrs.; $4,753	7,301 hrs.; $708,197.	4,753
FERC–919A Burden carried over from Order 860–A Category 1—(Ongoing).	1,000	.333	333	2.44 hrs.; [7] $237.11.	814 hrs.; $78,958	237.11
FERC–919A Burden carried over from Order 860–A Category 2—(Ongoing).	1,500	1	1,500	4.10 hrs.; [8] $397.96.	6,154 hrs.; $596,938.	397.96
FERC–919A Burden Carried over from Order 860–A Upstream Affiliates.	440	1	440	46 hrs.; $4,462	20,240 hrs.; $1,963,280.	4,462
Total	3,298		2,631		62,608.95 hrs.; $6,073,068.15.	

Row 1 (Market Power Analysis in New Applications for Market-based rates) will have 144 filings. Row 2 (Triennial market power analysis) will have 65 filings. Row 3 (Asset appendix addition to change in status reports) will have 149 filings. There are a total of 358 filings in Rows 1 through 3.

Currently, there are 2,729 sellers that would submit information into the relational database. At the time of implementation of Order No. 860, there were 2,647 sellers that would submit information into the relational database in the first year of implementation. Six institutional investors had FPA section 203(a)(2) blanket authorizations, which collectively owned approximately 110 upstream affiliates that themselves owned sellers. In the March Notice,[9] the Commission estimated an average of four sellers affected for every upstream affiliate, equaling 440 total sellers.

FERC–919A Burden carryover explanation:

- M16–17–000 Final Rule (Order No. 860) (Category 1, 2nd Year and Ongoing), as modified by Order of August 2021—to 814 hrs.)
- RM16–17–000 Final Rule (Order No. 860) (Category 2, 2nd Year and Ongoing) as modified by Order of August 2921—to 6,154 hrs.)

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 17, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13519 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–985–000.

Applicants: Columbia Gulf Transmission, LLC.

Description: § 4(d) Rate Filing: Prepayments to be effective 8/1/2022.

Filed Date: 6/16/22.

Accession Number: 20220616–5094.

Comment Date: 5 p.m. ET 6/28/22.

Docket Numbers: RP22–986–000.

Applicants: Red Willow Offshore, LLC, Ridgewood Institutional IV Prospective Leases, LLC.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of Red Willow Offshore, LLC, et al.

Filed Date: 6/17/22.

Accession Number: 20220617–5067.

Comment Date: 5 p.m. ET 6/29/22.

Filings in Existing Proceedings

Docket Numbers: RP22–406–001.

Applicants: ANR Pipeline Company.

Description: Compliance filing: ANR Creditworthiness Compliance to be effective 6/10/2022.

Filed Date: 6/17/22.

Accession Number: 20220617–5071.

Comment Date: 5 p.m. ET 6/29/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 17, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13515 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

[7] The number used to calculate the costs is 2.4444 and was rounded for the table.

[8] The number used to calculate the costs is 4.1026 and was rounded for the table.

[9] *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* 86 FR 17823 (Apr. 6, 2021), 174 FERC ¶ 61,214 (2021) (March Notice).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator and Foreign Utility Company Status

	Docket Nos.
MS Sunflower Project Company, LLC	EG22–61–000
LeConte Energy Storage, LLC	EG22–62–000
Emerald Grove Solar, LLC	EG22–63–000
Brightside Solar, LLC	EG22–64–000
High Point Solar LLC	EG22–65–000
Sunlight Storage, LLC	EG22–66–000
Kearny Mesa Storage, LLC	EG22–68–000
EnerSmart Murray BESS LLC	EG22–69–000
Ledyard Windpower, LLC	EG22–70–000
Powell River Energy Inc	EG22–71–000
Byrd Ranch Storage LLC	EG22–72–000
Graphite Solar 1, LLC	EG22–73–000
Magic Valley Energy Center, LLC	EG22–74–000
Enel Green Power Roseland Solar, LLC	EG22–75–000
25 Mile Creek Windfarm LLC	EG22–76–000
Seven Cowboy Wind Project, LLC	EG22–77–000
Laurel Mountain BESS, LLC	EG22–78–000
Chesapeake Beach BESS LLC	EG22–79–000
Longbow Solar, LLC	EG22–80–000
Conrad (Minehead) Ltd., *et al*	FC22–1–000

Take notice that during the month of May 2022, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2021).

Dated: June 17, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13518 Filed 6–23–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2022–0150; FRL–9513–01–OCSSP]

Agency Information Collection Activities; Proposed Renewal and Request for Comment; Soil and Non-Soil Fumigants Mitigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on an Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB). The ICR, entitled: ''Soil and Non-Soil Fumigant Risk Mitigation'' and identified by EPA ICR No. 2451.03 and OMB Control No. 2070–0197, represents the renewal of an existing ICR that is scheduled to expire on January 31, 2023. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be submitted on or before August 23, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2022–0150, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For general information contact: Carolyn Siu, Regulatory Support Branch (7602M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1205; email address: *siu.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork

burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Soil and Non-Soil Fumigant Risk Mitigation.

ICR numbers: EPA ICR No. 2451.03, and OMB Control No. 2070–0197.

ICR status: This ICR is currently scheduled to expire on January 31, 2023. 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, after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as with the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations in title 40 of the Code of Federal Regulations (CFR) is consolidated in 40 CFR part 9.

Abstract: Pursuant to section 4(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA determined that several soil and non-soil fumigants are eligible for reregistration only if specific risk mitigation measures are adopted and adequately implemented. This ICR documents the PRA activities for users, registrants, and participating states to implement fumigant risk mitigation measures for the chemicals identified in this document.

The PRA burden activities discussed in this ICR include: registrant activities to develop and implement training for fumigators in charge of fumigations, develop and disseminate safety information for handlers, develop and implement community outreach and education programs, and develop and implement first responder training; and labeling activities for fumigant products; including user posting requirements concerning fumigant applications around the use site, providing notice of soil fumigant applications to applicable states, preparing a Fumigant Management Plan (FMP) and Post-Application Summary (PAS) as needed, participating in an EPA-approved fumigant training program, and disseminating fumigant safe handling information to handlers.

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average from a range of 0.8 to 13.9 hours per response.

Respondents/affected entities: Entities potentially affected by this ICR are soil and non-soil fumigant users, specifically certified applicators and agriculture pesticide handlers North American Industrial Classification System (NAICS) code 111000—Agriculture, Forestry, Fishing and Hunting); soil and non-soil fumigant registrants (NAICS 325300—Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing); and state and tribal lead agencies (NAICS 999200—State Government).

Respondent's obligation to respond: Mandatory under FIFRA section 3(c)(2)(B).

Estimated total number of potential respondents: 118,436 (total).

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 5.

Estimated total annual estimated burden hours: 1,159,232 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Estimated total annual costs: $31,979,828 (per year), includes $1,060,214 annualized capital or operation and maintenance costs.

III. Are there changes in the estimates from the last approval?

There is an increase of 8,336 hours in the total estimated respondent burden compared with that currently approved by OMB. This increase is due to the update in the estimated number of applicators certified and handlers for soil and non-soil fumigations. There is also a decrease in burden costs for both types of fumigation due to updating the wages to the current 2021 data provided by the U.S. Bureau of Labor Statistics.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. The Agency does not expect this change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: June 16, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–13486 Filed 6–23–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–021]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed June 13, 2022 10 a.m. EST Through June 17, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220084, Draft, BOEM, NJ, Ocean Wind 1 Offshore Wind Farm, Comment Period Ends: 08/08/2022, Contact: Michelle Morin 703–787–1722.

EIS No. 20220085, Draft, FERC, IL, Spire STL Pipeline Project, Comment Period Ends: 08/08/2022, Contact: Office of External Affairs 866–208–3372.

Dated: June 17, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–13527 Filed 6–23–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–224–14]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 25, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Federally Qualified Health Center Cost Report Form; *Use:* The Form CMS–224–14 cost report is needed to determine a provider's reasonable cost incurred in furnishing medical services to Medicare beneficiaries and to calculate the FQHC settlement amount. These providers, paid under the FQHC prospective payment system (PPS), may receive reimbursement outside of the PPS for Medicare reimbursable bad debts, pneumococcal, influenza, and COVID–19 vaccines, and monoclonal antibody products. CMS uses the Form CMS–224–14 for rate setting; payment refinement activities, including developing a FQHC market basket; Medicare Trust Fund projections; and to support program operations. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the FQHC Medicare cost report data to calculate Medicare margins; to formulate recommendations to Congress regarding the FQHC PPS; and to conduct additional analysis of the FQHC PPS. *Form Number:* CMS–224–14 (OMB control number: 0938–1298); *Frequency:* Yearly; *Affected Public:* Private Sector, State, Local, or Tribal Governments, Federal Government, Business or other for-profits, Not-for-Profit Institutions; *Number of Respondents:* 2,890; *Total Annual Responses:* 2,890; *Total Annual Hours:* 167,620. (For policy questions regarding this collection contact LuAnn Piccione at 410–786–5423.)

Dated: June 21, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–13551 Filed 6–23–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Tribal Consultation Meetings

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Head Start Act, notice is hereby given of three tribal consultation sessions to be held between HHS/ACF OHS leadership and the leadership of tribal governments operating Head Start and Early Head Start programs. The purpose of these consultation sessions is to discuss ways to better meet the needs of American Indian and Alaska Native (AI/AN) children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations. Three tribal consultations will be held as part of HHS/ACF or ACF Tribal Consultation Sessions.

DATES:
Tuesday, July 12, 2022
Monday, August 15, 2022
Wednesday, September 14, 2022

ADDRESSES:
- July 12, 2022—3–5 p.m. ET (Virtual)
- August 15, 2022—1–5 p.m. PT (Northern Quest Resort & Casino, 100 N Hayford Rd., Airway Heights, WA 99001)
- September 14, 2022—2–5 p.m. ET (Virtual)

FOR FURTHER INFORMATION CONTACT: Todd Lertjuntharangool, Regional Program Manager, Region XI/AIAN, Office of Head Start, email *Todd.Lertjuntharangool@acf.hhs.gov,* or phone (866) 763–6481. Additional information and online meeting registration will be available here.

SUPPLEMENTARY INFORMATION: In accordance with Section 640(l)(4) of the Head Start Act, 42 U.S.C. 9835(1)(4), ACF announces OHS Tribal Consultation Sessions for leaders of

tribal governments operating Head Start and Early Head Start programs.

The agenda for the scheduled OHS Tribal Consultations reflects the statutory purposes of Head Start tribal consultations related to meeting the needs of AI/AN children and families. OHS will also highlight the progress made in addressing issues and concerns raised in the previous OHS Tribal Consultations.

The consultation sessions include elected or appointed leaders of tribal governments and their designated representatives. Designees must have a letter from the tribal government authorizing them to represent the tribe. Tribal governments must submit the designee letter at least 3 days before the consultation sessions to Todd Lertjuntharangool at *Todd.Lertjuntharangool@acf.hhs.gov.* Other representatives of tribal organizations and Native nonprofit organizations are welcome to attend as observers.

Within 45 days of the consultation sessions, a detailed report of each consultation session will be available for all tribal governments receiving funds for Head Start and Early Head Start programs. Tribes can submit written testimony for the report to Todd Lertjuntharangool at *Todd.Lertjuntharangool@acf.hhs.gov* prior to each consultation session or within 30 days of each meeting. OHS will summarize oral testimony and comments from the consultation sessions in each report without attribution, along with topics of concern and recommendations.

Roshelle M. Brooks,

ACF Certifying Officer.

[FR Doc. 2022–13532 Filed 6–23–22; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Federal Review of the American Samoa Protection and Advocacy System (P&A)

AGENCY: Administration for Community Living, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: Representatives of the Administration on Disabilities (AoD), Administration for Community Living (ACL), will be conducting a federal review of the American Samoa Protection and Advocacy System (P&A) on September 19–23, 2022. AoD is soliciting comments from interested parties on your experiences with the program, and strategies employed by P&A in meeting the needs of individuals with developmental disabilities and their families in American Samoa. You are encouraged to share your experiences by way of any of the following methods:

DATES: Comments should be received by September 1, 2022 in order to be included in the final report.

ADDRESSES: EMAIL: *Elizabeth.leef@acl.hhs.gov,* TELEPHONE: 202–475–2482, MAIL COMMENTS TO: Elizabeth Leef, Program Specialist, Administration on Disabilities, Administration for Community Living, 330 C Street SW, 1st Floor, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Elizabeth Leef, Administration for Community Living, Administration on Disabilities, 330 C Street SW, 1st Floor, Washington, DC 20201, 202–475–2482.

Authority: 45 CFR 1326.21(h)

Dated: June 15, 2022.

Alison Barkoff,

Acting Administrator & Assistant Secretary for Aging.

[FR Doc. 2022–13462 Filed 6–23–22; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–3815]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Establishment Registration and Device Listing for Manufacturers and Importers of Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 25, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0625. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Establishment Registration and Device Listing for Manufacturers and Importers of Devices—21 CFR Part 807, Subparts A Through D

OMB Control Number 0910–0625—Extension

Under section 510 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360) and implementing regulations in 21 CFR part 807, subparts A through D (part 807, subparts A through D), medical device establishment owners and operators are required to electronically submit establishment registration and device listing information. Complete and accurate registration and listing information is necessary to accomplish a number of statutory and regulatory objectives, such as: (1) identification of establishments producing marketed medical devices; (2) identification of establishments producing a specific device when that device is in short supply or is needed for national emergency; (3) facilitation of recalls for devices marketed by owners and operators of device establishments; (4) identification and cataloging of marketed devices; (5) administering postmarketing surveillance programs for devices; (6) identification of devices marketed in violation of the law; (7) identification and control of devices imported into the country from foreign establishments; and (8) scheduling and planning inspections of registered establishments under section 704 of the FD&C Act (21 U.S.C. 374).

Respondents to this information collection are owners or operators of establishments that engage in the manufacturing, preparation, propagation, compounding, or processing of a device or devices, who must register their establishments and

submit listing information for each of their devices in commercial distribution. Notwithstanding certain exceptions, foreign device establishments that manufacture, prepare, propagate, compound, or process a device that is imported or offered for import into the United States must also comply with the registration and listing requirements. The number of respondents is based on data from the FDA Unified Registration and Listing System (FURLS). Burden estimates are based on recent experience with the medical device registration and listing program, electronic system operating experience, and previous data estimates.

In the **Federal Register** of February 8, 2022 (87 FR 7187), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours [2]
807.20(a)(5); [3] Initial submittal of manufacturer information by initial importers.	4,125	1	4,125	1.75	7,219
807.20(a)(5); [4] Annual submittal of manufacturer information by initial importers.	4,125	1	4,125	0.1 (6 minutes)	413
807.21(a); [3] Creation of electronic system account	5,355	1	5,355	0.5 (30 minutes)	2,678
807.21(b); [4] Annual request for waiver from electronic registration & listing.	1	1	1	1	1
807.21(b); [3] Initial request for waiver from electronic registration & listing.	1	1	1	1	1
807.22(a); [3] Initial registration & listing	5,355	1	5,355	1	5,355
807.22(b)(1); [4] Annual registration	28,496	1	28,496	0.5 (30 minutes)	14,248
807.22(b)(2); [4] Other updates of registration	2,671	1	2,671	0.5 (30 minutes)	1,336
807.22(b)(3); [4] Annual update of listing information	26,871	1	26,871	0.5 (30 minutes)	13,436
807.22(b)(4) Changes to listing information (outside of annual listing requirement period):					
Voluntary reporting of transfer of 510(k) clearance (outside of annual listing requirement period).	4,080	1	4,080	0.25 (15 minutes)	1,020
Submission of 510(k) transfer documentation when more than one party lists the same 510(k).	2,033	1	2,033	4	8,132
807.26(e); [4] Labeling & advertisement submitted at FDA request.	9	1	9	1	9
807.34(a); [3] Initial registration & listing when electronic filing waiver granted.	1	1	1	1	1
807.34(a); [4] Annual registration & listing when electronic filing waiver granted.	1	1	1	1	1
807.40(b)(3); [4] Annual update of U.S. agent information	6,101	1	6,101	0.5 (30 minutes)	3,051
807.40(b)(2); [4] U.S. agent responses to FDA requests for information.	1,535	1	1,535	0.25 (15 minutes)	384
807.41(a); [4] Identification by foreign establishments of importers, defined in 807.3, of the establishment's devices.	14,017	1	14,017	0.5 (30 minutes)	7,009
807.41(b); [4] Identification of other importers (defined in 807.3(x)–(y)) that facilitate import by foreign establishments.	14,017	1	14,017	0.5 (30 minutes)	7,009
Total					71,303

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Totals are rounded to the nearest whole number.
[3] One-Time Burden—Firm only provides initially.
[4] Recurring Burden—Firm is required to review annually.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of respondents	Annual frequency per recordkeeper	Total annual records	Hours per record	Total hours
807.25(d); [2] Labeling and advertisements available for review.	17,032	4	68,128	0.5 (30 minutes)	34,064
807.26; [2] List of officers, directors, and partners	33,851	1	33,851	.25 (15 minutes)	8,463
Total					42,527

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Recurring burden—Firm is required to keep records.

Our estimates for creating new user accounts under § 807.21(a) are based on the recent number of owners or operators. An owner or operator only creates an account one time when they register for the first time (initial

registration). Once the account is created, the owner or operator uses the account as long as the establishment is registered. If an owner or operator changes, the new owner or operator creates a new owner or operator account and transfers the ownership of the establishment to their owner or operator account. Once they create an owner or operator account, they use the account for as long as the company is registered. Under § 807.22(b)(4), changes to listing information may be made at times outside of the annual listing requirement period, such as when a change is made to a previously listed device.

The draft guidance entitled ''Transfer of a Premarket Notification (510(k)) Clearance—Questions and Answers'' (December 2014), which contained instructions for the proposed voluntary information collection, has recently been withdrawn. While notification of transfer of ownership information is not currently required, our medical device registration and listing website [1] communicates procedures for notifying FDA of the transfer of a premarket notification (510(k)) clearance from one person to another. The notification is used to ensure public information in FDA's databases about the current 510(k) holder for a specific device(s) is accurate and up to date. Although submission of information regarding the transfer of a 510(k) clearance is not required under the regulations, we regularly receive such notifications from respondents.

We estimate that annually 78 percent of 510(k)s may be initially listed or updated outside of the annual registration requirement (about 4,080 510(k)s per year). We assume it will take 15 minutes for each listing, for a total reporting burden of 1,020 hours.

We estimate 2,033 instances of more than one party claiming to be a 510(k) holder for a specific device as part of annual registration and listing. We determined our estimate by identifying the average number of unique 510(k) device listings entered in FURLS between fiscal years 2017 and 2019 that conflict with a listing already entered by another party (5,304), dividing that number by the number of years (3) and multiplying by the average number of parties claiming to be the 510(k) holder when there is a conflict in the current FURLS database (2.3), then dividing the result by 2 (because only one company per listing will submit the appropriate documentation to show that they are the current 510(k) holder).

The registration and listing website identifies potential documentation a party could submit to FDA to establish the transfer of a 510(k) clearance to a new owner or operator. Based on the amount of time to locate the information, copy it, and submit a copy, we assume it takes respondents an average of 4 hours to establish the transfer of a 510(k) clearance.

The estimate for § 807.25(d) in table 2 of this document (recordkeeping burden) reflects the requirement that owners or operators maintain a historical file containing the labeling and advertisements in use. The estimate for § 807.26 reflects the requirement that owners or operators keep a list of officers, directors, and partners for each establishment. Owners or operators will need to provide this information only when requested by FDA. However, it is assumed that some effort will need to be expended to keep such records current.

The recurring burden for the data collection under § 807.41 (import-related information provided by foreign companies exporting to the United States) was estimated based on data from previous years. Foreign companies identify readily available contact information at the time of registration. After completing their initial registration, they are required to review the importer information annually. When they review the importer information annually, they simply verify the importer information is accurate. If it is and no changes are needed, the foreign establishment's official correspondent checks the certification and submits the annual registration. If they need to make changes to the importer information, they can do so at any time and use a spreadsheet to update more than one importer at a time to their registration. The use of the spreadsheet reduces the burden to the official correspondent of the foreign establishment.

Our estimated burden for the information collection reflects an overall increase of 10,880 hours and a corresponding increase of 28,430 responses/records. We attribute this adjustment to an increase in the number of submissions we received over the last 3 years.

Dated: June 14, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13522 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

[1] *https://www.fda.gov/medical-devices/how-study-and-market-your-device/device-registration-and-listing.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–4368]

Assessing the Effects of Food on Drugs in Investigational New Drugs and New Drug Applications—Clinical Pharmacology Considerations; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Assessing the Effects of Food on Drugs in INDs and NDAs—Clinical Pharmacology Considerations.'' This guidance provides recommendations to sponsors planning to conduct food-effect (FE) studies for orally administered drug products as part of investigational new drug applications (INDs), new drug applications (NDAs), and supplements to these applications. This guidance finalizes the draft guidance of the same title issued on February 26, 2019.

DATES: The announcement of the guidance is published in the **Federal Register** on June 24, 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–4368 for ''Assessing the Effects of Food on Drugs in INDs and NDAs—Clinical Pharmacology Considerations.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Vikram Arya or Brian Booth, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1499 or 301–796–1508.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Assessing the Effects of Food on Drugs in INDs and NDAs—Clinical Pharmacology Considerations.'' Food-drug interactions can have a significant impact on the safety and efficacy of the drug and can be manifested in different ways. In some cases, co-administration of a drug with food can increase the systemic exposure of the drug, leading to improved efficacy or higher rates of adverse reactions. In other cases, administration of a drug with food can lower the systemic absorption of a drug, thereby reducing the efficacy. Hence, assessing the effect of food on the absorption of a drug is critical to optimize the safety and efficacy of the product and to determine optimum instructions for drug administration in relation to food.

During new drug development, pharmacokinetic studies to assess the effect of food on the systemic exposure of the drug are conducted to determine: (1) if, and to what extent, food impacts the systemic exposure of the drug; (2) whether food increases or decreases the variability of the systemic exposure of the drug; and (3) if the effect of food is different across meals with different fat or caloric contents. It is important to have as detailed an understanding of the exposure-response relationships of the drug as possible to interpret the results of FE studies. Additionally, an understanding of the various clinical dosing scenarios will be important to characterize the effect of food and to provide adequate instructions for use of the drug.

This guidance finalizes the draft guidance entitled ''Assessing the Effects of Food on Drugs in INDs and NDAs—Clinical Pharmacology Considerations'' issued on February 26, 2019 (84 FR 6151). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance include adding a discussion of model-informed drug development approaches to assessing the effects of food on drug exposures and the removal of specific language regarding the timing of food effect studies and food effect studies by population pharmacokinetic analysis.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Assessing the Effects of Food on Drugs in INDs and NDAs—Clinical Pharmacology Considerations.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014. The collection of information in 21 CFR parts 50 and 56 have been approved under OMB control number 0910–0130. The collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control numbers 0910–0733 and 0910–0572, and the collections of information related to pharmacogenomic data have been approved under OMB control number 0910–0557.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: June 17, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13520 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1262]

Notice of Approval of Product Under Voucher: Rare Pediatric Disease Priority Review Voucher

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of approval of a product redeeming a priority review voucher. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the issuance of priority review vouchers as well as the approval of products redeeming a priority review voucher. FDA has determined that the supplemental application for RINVOQ (upadacitinib), approved March 16, 2022, meets the redemption criteria.

FOR FURTHER INFORMATION CONTACT: Cathryn Lee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1394, email: *Cathryn.Lee@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is announcing the approval of product redeeming a rare pediatric disease priority review voucher. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will report the issuance of rare pediatric disease priority review vouchers and the approval of products for which a voucher was redeemed. FDA has determined that the supplemental application for RINVOQ (upadacitinib), approved March 16, 2022, meets the redemption criteria.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about RINVOQ (upadacitinib), approved March 16, 2022, go to the ''Drugs@FDA'' website at *https://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: June 21, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13607 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2565]

Agency Information Collection Activities; Proposed Collection; Comment Request; 510(k) Third-Party Review Program

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 the 510(k) Third-Party Review Program.

DATES: Submit either electronic or written comments on the collection of information by August 23, 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 August 23, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 23, 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–2016–D–2565 for ''Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; 510(k) Third-Party Review Program.'' 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: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *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.

510(k) Third-Party Review Program

OMB Control Number 0910–0375—Extension

Section 523 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360m), directs FDA to accredit persons in the private sector to review certain premarket notifications (510(k)s; see 21 U.S.C. 360(k)). Participation in the 510(k) third party (3P510k) review program by accredited persons is entirely voluntary. A third party wishing to participate will submit a request for accreditation to FDA. Accredited third-party reviewers have the ability to review a manufacturer's 510(k) submission for selected devices. After reviewing a submission, the reviewer will forward a copy of the 510(k) submission, along with the reviewer's documented review and recommendation, to FDA. Third-party reviewers should maintain records of their 510(k) reviews and a copy of the 510(k) for a reasonable period of time, usually 3 years.

Respondents to this information collection are businesses or government, and can be for-profit or not-for-profit organizations.

The guidance ''510(k) Third-Party Review Program, Guidance for Industry, Food and Drug Administration Staff and Third Party Review Organizations'' (March 2020) (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/510k-third-party-review-program*) is intended to provide a comprehensive look into FDA's current thinking regarding the 3P510k review program. This guidance document also reflects section 523 of the FD&C Act, which directs FDA to issue guidance on the factors that will be used in determining whether a class I or class II device type, or subset of such device types, is eligible for review by an accredited person. The 3P510k review program is intended to allow review of devices by third-party 510k review organizations (3PROs) to provide manufacturers of these devices an alternative review process that allows FDA to best utilize our resources on higher risk devices.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity; guidance document section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [2]
Requests for accreditation (initial); Section VI	1	1	1	24	24
Requests for accreditation (re-recognition); Section VI	3	1	3	24	72
510(k) reviews conducted by accredited third parties; Section VI	9	14	126	40	5,040
Complaints; Section VII	1	1	1	0.25 (15 minutes)	1
Total					5,137

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Totals have been rounded.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity; guidance document section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
510(k) reviews; Section VII	9	14	126	10	1,260
Records regarding qualifications to receive FDA recognition as a 3PRO; Section VII	9	1	9	1	9
Recordkeeping system regarding complaints; Section VII	9	1	9	2	18
Total					1,287

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimated Annual Recordkeeping Burden

510(k) reviews: The 3PROs should retain copies of all 510(k) reviews and associated correspondence. Based on FDA's recent experience with this program, we estimate the number of 510(k)s submitted for 3P510k review to be 126 annually; approximately 14 annual reviews for each of the 9 3PROs. We estimate the average burden per recordkeeping to be 10 hours.

Records regarding qualifications to receive FDA recognition as a 3PRO: Under section 704(f) of the FD&C Act (21 U.S.C. 374(f)), a 3PRO must maintain records that support their initial and continuing qualifications to receive FDA recognition, including documentation of the training and qualifications of the 3PRO and its personnel; the procedures used by the 3P510k review organization for handling confidential information; the compensation arrangements made by the 3PRO; and the procedures used by the 3PRO to identify and avoid conflicts of interest. Additionally, the guidance states that 3PROs should retain information on the identity and qualifications of all personnel who contributed to the technical review of each 510(k) submission and other relevant records. Because most of the burden of compiling the records is expressed in the reporting burden for requests for accreditation, we estimate the maintenance of such records to be 1 hour per recordkeeping annually.

Recordkeeping system regarding complaints: Section 523(b)(3)(F)(iv) of the FD&C Act requires 3PROs to agree in writing that they will promptly respond and attempt to resolve complaints regarding their activities. The guidance recommends that 3PROs establish a recordkeeping system for tracking the submission of those complaints and how those complaints were resolved, or attempted to be resolved. Based on our experience with the program and the recommendations in the guidance, we estimate the average burden per recordkeeping to be 2 hours annually.

Based on our experience with the program since our last request for OMB approval, we have adjusted our burden estimate, which has resulted in a decrease to the currently approved burden.

Dated: June 15, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13521 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–1152]

Considerations for Rescinding Breakthrough Therapy Designation; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Considerations for Rescinding Breakthrough Therapy Designation.'' This guidance explains how, during its evaluation of a drug development program, FDA may consider whether to rescind a breakthrough therapy designation (BTD) that has been granted. The guidance is consistent with, and supplements, the information on BTD contained in the guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' (May 2014) and in other BTD policies and procedures of the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) to expedite the development and review of a breakthrough therapy.

DATES: Submit either electronic or written comments on the draft guidance by August 23, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and

identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–D–1152 for ''Considerations for Rescinding Breakthrough Therapy Designation.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Dat Doan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3334, Silver Spring, MD 20993, 240–402–8926, *Dat.Doan@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Considerations for Rescinding Breakthrough Therapy Designation.'' This guidance is consistent with, and supplements, the information on BTD contained in the guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' (May 2014),[1] in CDER's Manual of Policies and Procedures 6025.6 ''Good Review Practice: Management of Breakthrough Therapy-Designated Drugs and Biologics,'' and in CBER's Standard Operating Policy and Procedure 8212 Version 2 ''Management of Breakthrough Therapy-Designated Products: Sponsor Interactions and Status Assessment Including Rescinding.''

Section 506(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 356(a)) provides for the granting of BTD ''if the drug is intended, alone or in combination with 1 or more other drugs, to treat a serious or life-threatening disease or condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over existing therapies on 1 or more clinically significant endpoints, such as substantial treatment effects observed early in clinical development.'' The BTD program is intended to facilitate and expedite the development of those drugs that receive designation and involves a resource commitment from FDA to provide early and frequent advice, conduct multidisciplinary meetings involving senior managers, and expedite the review of resultant marketing applications. Thus, over the course of product development, it is important that available evidence relevant to an application continues to meet the standards for BTD.

The information and circumstances supporting the original grant of BTD for a particular application may change over time. For example, if a different drug is approved to treat the unmet need that informed the rationale for granting BTD, the designated drug's preliminary clinical evidence may no longer meet the BTD criteria regarding substantial improvement over existing therapies (including the newly approved drug). In other cases, some drugs that appear promising in early development fail to meet their primary endpoints or the extent of benefit is more modest in later trials, and the magnitude of a treatment effect suggested by early development may not be replicable in later stages of development. Accordingly, in keeping with the Agency's authority to grant BTD only to drugs that meet the legal criteria, FDA periodically assesses whether the criteria for BTD continue to be met for designated products. If the designation is no longer supported by subsequent data, FDA may rescind the designation.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Considerations for Rescinding Breakthrough Therapy Designation.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 314 have

[1] Available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/expedited-programs-serious-conditions-drugs-and-biologics.*

been approved under OMB control number 0910–0001; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; and the collections of information in section 506 of the FD&C Act have been approved under OMB control number 0910–0765.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: June 17, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13528 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0403]

Agency Information Collection Activities; Proposed Collection; Comment Request; Protection of Human Subjects and Institutional Review Boards

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) 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 information collection associated with statutory and regulatory provisions governing human subject protection and institutional review boards.

DATES: Submit either electronic or written comments on the collection of information by August 23, 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 August 23, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 23, 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–2013–N–0403 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Protection of Human Subjects and Institutional Review Boards.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *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.

Protection of Human Subjects; Informed Consent; and Institutional Review Boards—21 CFR Parts 50 and 56

OMB Control Number 0910–0130—Extension

This information collection supports Agency regulations pertaining to the protection of human subjects, informed consent, and responsibilities of institutional review boards (IRBs) as set forth in parts 50 and 56 (21 CFR parts 50 and 56). Parts 50 and 56 apply to all clinical investigations regulated by FDA under sections 505(i) and 520(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i) and 360j(g), respectively), as well as clinical investigations that support applications for research or marketing permits for products regulated by FDA. The regulations in parts 50 and 56 are intended to protect the rights and safety of subjects involved in such investigations. The regulations also contain the standards for composition, operation, and responsibilities of IRBs that review clinical investigations regulated by FDA.

21 CFR Part 50—Protection of Human Subjects

Provisions in part 50 provide for the protection of human subjects involved in FDA-regulated clinical investigations. With few exceptions, no investigator may involve a human being as a subject in FDA-regulated research unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. Basic elements of informed consent are set forth in § 50.25 (21 CFR 50.25) and include, among other things: (1) a statement of the purpose and duration of a subject's participation in the research; (2) a description of the procedures to be followed; (3) identification of any experimental procedures; (4) a description of risks, benefits, and appropriate alternative procedures or treatments; (5) a description of extent to which confidentiality of records identifying the subject will be maintained; (6) certain contact information; and (7) a statement that participation is voluntary and may be discontinued at any time. Additional elements set forth in § 50.25 are required in the informed consent as appropriate. Exceptions to these requirements are governed by 21 CFR 50.23, which requires both investigator and physician to certify in writing that necessary elements for exception from general requirements have been satisfied; and § 50.24 (21 CFR 50.24), which covers exception from informed consent requirements for emergency research. In accordance with § 50.27 (21 CFR 50.27) informed consent must be documented, except as provided in § 56.109(c) (21 CFR 56.109(c)), which provides for an IRB to waive documentation of informed consent in certain circumstances.

Informed consent must be documented using a written consent form approved by the IRB and signed and dated by the subject or the subject's legally authorized representative at the time of consent. For each clinical investigation reviewed by an IRB, we believe there will typically be one associated written consent form developed by an investigator. In some cases, investigators will seek IRB approval of changes in the research and/or consent form after initial IRB approval. For some multi-institutional clinical investigations, the IRB of each institution involved may separately conduct initial and continuing review of the research, including review of the written consent form to determine whether it is in accordance with § 50.25. However, in cases where a multi-institutional clinical investigation uses a single IRB review process, there may only be one IRB conducting such reviews. Additional safeguards are required for children, as prescribed in subpart D (21 CFR 50.50 through 50.56) of the regulations.

21 CFR Part 56—Institutional Review Boards

The general standards for the composition, operation, and responsibilities of an IRB are set forth in part 56. IRBs serve in an oversight capacity by reviewing, among other things, informed consent documents and protocols for FDA-regulated studies, to make findings required to approve research, and document IRB actions. Part 56 also regulates the administrative activities of IRBs reviewing FDA-regulated research including, among other things, identification of types of IRB records that must be prepared and maintained. Required recordkeeping includes documentation pertaining to written procedures, proposals reviewed, committee membership, meeting minutes, actions taken by the IRB, correspondence, as well as other functional and operational aspects of the IRB. Finally, the regulations describe administrative actions for non-compliance, including both disqualification of IRBs or IRB parent institutions, as well as reinstatement and alternative and additional actions.

Description of Respondents: Respondents to the information collection are IRBs that review and approve clinical investigations regulated by FDA and clinical investigators of such research who obtain informed consent of human subjects prior to research participation.

We estimate the annual burden for the collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
§ 56.113; suspension or termination of research	2,520	1	2,520	* 0.5	1,260
§ 56.120(a); IRB response to lesser administration actions for noncompliance	7	1	7	10	70
§ 56.123; reinstatement of an IRB or an institution	1	1	1	5	5
Total					1,335

* 30 minutes.
[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on available data, there are approximately 2,520 IRBs overseeing FDA-regulated clinical research. We have organized the table summarizing estimated annual reporting burden to list only one requirement per row recognizing that some provisions may also include recordkeeping or third-party disclosure tasks. We believe we have accounted for all burden cumulatively across the information collection activity tables and invite comments on our estimates.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 50.24; exceptions from informed consent for emergency research	8	3	24	1	24
§ 50.27; documentation of informed consent	2,520	40	100,800	* 0.5	50,400
§ 56.115; IRB records (documentation of IRB activities)	2,520	14.6	36,792	40	1,471,680
Total					1,522,104

* 30 minutes.
[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We characterize activities associated with §§ 50.24 and 50.27 as recordkeeping burden. We assume each of the 2,520 IRBs meets an average of 14.6 times annually and assume 40 hours of person-time per meeting are required to meet the IRB recordkeeping requirements of § 56.115. We also assume most recordkeeping is completed electronically.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
§ 50.25; elements of informed consent	2,520	40	100,800	* 0.5	50,400
§ 56.109(d); written statement about minimal risk research when documentation of informed consent is waived	2,520	2	5,040	* 0.5	2,520
§ 56.109(e); written notification to approve or disapprove research	2,520	40	100,800	* 0.5	50,400
§ 56.109(g); IRB written statement about public disclosures to sponsor of emergency research under 50.24	8	2	16	1	16
Total					103,336

* 30 minutes
[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We characterize activities associated with §§ 50.25, 56.109(d) and 56.109(e) as disclosure burden. We estimate that eight IRBs per year will receive a request to review emergency research under § 50.24, thus requiring written notification under § 56.109(g) from the IRB to the sponsor. We estimate that it will take an IRB approximately 1 hour to prepare each written statement, for a total of 2 hours per study. The total annual third-party disclosure burden for IRBs to fulfill this requirement is estimated at 16 hours.

Dated: June 16, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13517 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0104]

Non-Penicillin Beta-Lactam Drugs: A CGMP Framework for Preventing Cross-Contamination; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Non-Penicillin Beta-Lactam Drugs: A CGMP Framework for Preventing Cross-Contamination.'' This draft guidance describes methods, facility design elements, and controls that are important in preventing drugs from being cross-contaminated with non-penicillin beta-lactam antibacterial drugs or non-antibacterial beta-lactam compounds, and it makes recommendations for how manufacturers can be compliant with current good manufacturing practice requirements for preventing cross-contamination. This draft guidance also provides information regarding the relative health risk of, and the potential for, cross-reactivity in the classes of non-penicillin beta-lactam antibacterial drugs and non-antibacterial beta-lactam compounds. This draft guidance revises the guidance of the same title issued on April 17, 2013.

DATES: Submit either electronic or written comments on the draft guidance by August 23, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–D–0104 for ''Non-Penicillin Beta-Lactam Drugs: A CGMP Framework for Preventing Cross-Contamination.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Carla Lankford, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 6656, Silver Spring, MD 20993–0002, 301–796–5203.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Non-Penicillin Beta-Lactam Drugs: A CGMP Framework for Preventing Cross-Contamination.'' This draft guidance describes methods, facility design elements, and controls that are important in preventing drugs from being cross-contaminated with non-penicillin beta-lactam antibacterial drugs or non-antibacterial beta-lactam compounds,[1] and it makes recommendations for how

[1] In the guidance, non-penicillin beta-lactam antibacterial drug(s) refers to any drug that is not a penicillin, has a chemical structure that includes one or more beta-lactam rings, and has an antibacterial mechanism of action. Non-antibacterial beta-lactam compound(s) refers to any compound, including an intermediate or derivative, that is not a penicillin, has a chemical structure that includes one or more beta-lactam rings, and has a mechanism of action other than an antibacterial mechanism of action.

manufacturers can be compliant with current good manufacturing practice (CGMP) requirements for preventing cross-contamination. This guidance also provides information regarding the relative health risk of, and the potential for, cross-reactivity in the classes of non-penicillin beta-lactam antibacterial drugs and non-antibacterial beta-lactam compounds. This guidance recommends that manufacturers should manufacture non-penicillin beta-lactam antibacterial drugs with complete and comprehensive separation from manufacturing operations of other drugs. For manufacturers of non-antibacterial beta-lactam compounds, this guidance provides recommendations on cross-contamination prevention strategies, including examples of relevant design features and control approaches for those seeking to justify a cross-contamination prevention strategy other than complete and comprehensive separation when appropriate.

This guidance revises the guidance of the same title issued on April 17, 2013 (78 FR 22887). Significant changes from the 2013 guidance include:

- Clarifying that the scope of the guidance also includes all compounds, including intermediates or derivatives, that are not a penicillin, have a chemical structure that includes one or more beta-lactam rings, and have a mechanism of action other than an antibacterial mechanism of action;
- Providing FDA's interpretation of terms, such as *allergic reaction, cross-reactivity,* and *complete and comprehensive separation,* used in this guidance;
- Clarifying the distinction between non-penicillin beta-lactam antibacterial drug(s) and non-antibacterial beta-lactam compound(s)—in terms of the cross-contamination and patient exposure risks and the control strategies appropriate for manufacturing operations involving each category; and
- Providing recommendations for drug manufacturers that seek to justify alternative cross-contamination prevention strategies for non-antibacterial beta-lactam compounds.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will replace the 2013 guidance and represent the current thinking of FDA on ''Non-Penicillin Beta-Lactam Drugs: A CGMP Framework for Preventing Cross-Contamination.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no new collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required. However, this draft guidance refers to previously approved FDA collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR parts 210 and 211 have been approved under OMB control number 0910–0139; and the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: June 17, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13513 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0319]

Agency Information Collection Activities; Proposed Collection; Comment Request; Dear Healthcare Provider Letters: Improving Communication of Important Safety Information

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 requests comments on information collection associated with the communication of important safety information to medical practitioners.

DATES: Submit either electronic or written comments on the collection of information by August 23, 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 August 23, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 23, 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 Docket No. FDA–2010–D–0319 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Dear Healthcare Provider Letters: Improving Communication of Important Safety Information.'' 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.

Improving Communication of Important Safety Information—21 CFR Part 200

OMB Control Number 0910–0754—Extension

This information collection supports Agency regulations and recommendations found in associated Agency guidance, as discussed below. Under section 705 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 375), the Secretary of the Department of Health and Human Services (the Secretary) may require dissemination of information for drugs in situations that involve, in the Secretary's opinion, ''imminent danger to health, or gross deception of the consumer.'' Implementing regulations are found in § 200.5 (21 CFR 200.5) and outline the general provisions for ''Dear Healthcare Provider'' (DHCP) letters that manufacturers and distributors disseminate about important drug warnings, important prescribing information, and important correction of drug information. The regulations also prescribe certain format and content instructions regarding the dissemination of covered information. Manufacturers or distributors send DHCP letters to physicians and other healthcare providers to communicate an important drug warning, a change in prescribing information, or a correction of misinformation in prescription drug promotional labeling or advertising. We developed the guidance document entitled ''Dear Healthcare Provider Letters: Improving Communication of Important Safety Information'' (January 2014), available at *https://www.fda.gov/media/79793/download,* to provide instructions and recommendations to respondents on implementing the applicable requirements. All Agency guidance documents are issued consistent with our good guidance practice regulations at 21 CFR 10.115.

In addition to the content and format recommendations for each type of DHCP letter, the guidance also includes recommendations on consulting with FDA on: (1) how to develop a DHCP letter; (2) when to send a letter; (3) what type of letter to send; and (4) how to assess the letter's impact.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity; 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average time per response (in hours)	Total hours
Preparation of DHCP letters; § 200.5	6	1.3	8	100	800

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have identified 24 DHCP letters that 18 distinct sponsors submitted to FDA during the 3-year period (2019 to 2021). Based on our Document Archiving, Reporting, and Regulatory Tracking System, we estimate eight DHCP letters will be submitted annually from six application holders. Based on our experience, we assume that each letter will require 100 hours to prepare and disseminate as recommended in the guidance. Our estimate reflects a downward adjustment by five responses and 500 hours annually. We attribute this decrease to the effectiveness of the guidance and the decreased number of DHCP letters submitted for FDA review.

Dated: June 16, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13536 Filed 6–23–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Proposed Temporary Changes in State Title V Maternal and Child Health Block Grant Allocations

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice seeks comments on proposed temporary changes to the method of calculating poverty-based allocations under Title V of the Social Security Act for HRSA's State Title V Maternal and Child Health (MCH) Block Grant. Since Fiscal Year (FY) 2017, the poverty-based allocation has been based on the U.S. Census Bureau's 3-year American Community Survey (ACS) estimates using three pooled 1-year estimates. However, due to the COVID–19 pandemic, there were disruptions in the ACS data collection in 2020 resulting in data quality issues that prevented the Census Bureau from releasing standard 1-year ACS estimates; instead, the Census Bureau released experimental estimates. HRSA proposes that the ACS 2020 experimental estimates be excluded from calculating MCH block grant allocations and that the FY 2023 funding allocation be based on the same poverty data used in the FY 2022 allocation (*i.e.,* pooled 1-year estimates for 2017, 2018, and 2019 ACS). Funding allocations for FY 2024 and FY 2025 would continue to incorporate the latest 1-year ACS data while skipping 2020 (*i.e.,* for FY 2024, the 2018, 2019, and 2021 ACS data will be used; for FY 2025, the 2019, 2021, and 2022 ACS data will be used). In FY 2026, the temporary change to the method for calculating allocations will no longer be necessary, and HRSA will resume pooling of three consecutive 1-year estimates (2021–2023).

DATES: Interested persons are invited to comment on this proposed change. Submit written comments no later than July 25, 2022. All comments received on or before this date will be considered.

ADDRESSES: All written comments concerning this notice should be submitted to Christopher Dykton, Acting Director of the Division of State and Community Health, at the contact information below.

FOR FURTHER INFORMATION CONTACT: Christopher Dykton, Acting Director of the Division of State and Community Health, Maternal and Child Health Bureau (MCHB), HRSA, Room 18N35, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 433–2204; email: *MCHBlockGrant@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the Title V MCH Block Grant, administered by HRSA's MCHB, is to improve the health of the nation's mothers, infants, children, including children with special health care needs, and their families by creating federal/state partnerships that provide each state/jurisdiction with needed flexibility to respond to its individual MCH population needs. Pursuant to section 502(c) of Title V of the Social Security Act (42 U.S.C. 702(c)), for any available funding in excess of 1983 levels ($406,649,394), Title V MCH Block Grant funds are allocated to States and the District of Columbia based on the number of children living in poverty in an individual state as a proportion of the total number of children living in poverty in the U.S., using data for the number of children in poverty in each State from the U.S. Census Bureau's ACS. Incorporating the proportion of total number of children living in poverty into the state funding formula for the Title V MCH Block Grant ensures that a portion of the funding is distributed according to greatest need.

Beginning in FY 2013, data for the number of children in poverty in each state has been based on the U.S. Census Bureau's ACS.[1] In FY 2013, the allocation was based on 3-year rolling ACS estimates instead of 1-year or 5-year ACS estimates also produced at that time to strike a balance between reliability and currency of data. *See* 77 FR 65693 (October 30, 2012). However, since 2014 (for FY 2017), when the Census Bureau discontinued the release of 3-year ACS estimates, HRSA has been using three pooled ACS 1-year estimates for this purpose.

In 2020, due to the COVID–19 pandemic, there were disruptions in the ACS data collection that prevented the Census Bureau from releasing standard 1-year ACS estimates for 2020. According to the Census Bureau report, ''An Assessment of the COVID–19 Pandemic's Impact on the 2020 ACS 1-Year Data,'' [2] both survey administration methods (mailed questionnaires and interviewing in-person) were impacted beginning in March 2020. For example, no mailings were completed from April through June 2020, and when they resumed, they did not include the mailing of most of the reminder letters and postcards. Similarly, there was an abrupt switch from in-person to telephone-only interviews from March 2020 through June 2020, and the universe of addresses for which telephone numbers can be obtained is likely different than the universe of addresses obtained through in-person methods, over-representing certain types of addresses. In May, the option to complete the interview online became available. In-person

[1] Prior to this, the formula was based on poverty data from the decennial Census long-form, which was replaced with the American Community Survey.

[2] *https://www.census.gov/library/working-papers/2021/acs/2021_CensusBureau_01.html.*

interviewing resumed in July, but not for all areas.

All of these changes affected response rates, in terms of who was most likely to complete the mailed surveys or participate in interviews, etc. The Census Bureau concluded that the 2020 ACS 1-year data were not ''reasonable'' as respondents disproportionately ''had higher levels of education, had more married couples and few never married citizens, had less Medicaid coverage, had higher median household incomes, and fewer non-citizens, and were more likely to live in single-family housing units'' than respondents in previous years. Therefore, the Census Bureau decided not to release standard 2020 ACS 1-year estimates. The Census Bureau is providing only ''experimental estimates'' for 2020 ACS 1-year data.[3] The Census Bureau indicated that the experimental 2020 estimates were released in an attempt to account for the differential response from more educated, higher income, single-family households, but also acknowledged the approach has not been thoroughly investigated.[4]

Upon their release, HRSA examined the 2020 ACS experimental estimates and compared the change in poverty share using a 3-year estimate incorporating the 2020 experimental estimate with prior year-to-year changes since 2014—the first year of annual updates to poverty share data using 3-year ACS estimates. Using the 2020 experimental estimates, HRSA noted an increase in the variability, with 12 states having their largest observed relative percentage change, 9 states having large (>5 percent) relative percentage changes, and 6 states having large (>5 percent) relative decreases in poverty share from the prior year. Moreover, in years prior, large relative percentage changes were most often increases, but the opposite occurred in 2020 using the experimental estimates, *i.e.,* six states would have a large decrease vs. three states would have a large increase. Thus, due to the greater observed data variability and number of states that would experience large decreases in their poverty share, HRSA has concerns about the accuracy of the 2020 experimental estimates as applied to the MCH allocation. For smaller states, in particular, large relative decreases in poverty share can result in meaningful absolute decreases in the poverty-based allocation. As state budgets are impacted by the COVID–19 pandemic, HRSA proposes a conservative approach that limits such decreases based on uncertain experimental estimates to the extent possible.

In order to ameliorate these concerns and because of the nature of the data, HRSA proposes that the ACS 2020 experimental estimates not be used in calculating MCH block grant allocations. Instead, HRSA proposes that the FY 2023 funding allocation be based on the same poverty data used in the FY 2022 allocation (*i.e.,* pooled 1-year estimates for 2017, 2018, and 2019 ACS). Funding allocations for FY 2024 and FY 2025 would continue to incorporate the latest 1-year ACS data while skipping the 2020 experimental data (*i.e.,* for FY 2024, the 2018, 2019, and 2021 ACS data will be used; for FY 2025, the 2019, 2021, and 2022 ACS data will be used). In FY 2026, the temporary change to the method for calculating allocations will no longer be necessary, and HRSA will resume pooling of 3 consecutive 1-year estimates (2021–2023). HRSA's proposal to temporarily change the method of calculating allocations continues to support the objective of distributing funding according to greatest need. In so doing, HRSA will avoid the use of lower quality and potentially inaccurate poverty data for 2020 that would result in larger funding fluctuations than observed in previous years, and will continue to use the latest available data in future years. With this approach, no state will see a decrease in its poverty-based allocation of funding in FY 2023.

If the poverty data used for the FY 2022 allocation is used again for the FY 2023 allocation, all states will receive the same proportion of poverty-based funding as they received in FY 2022, which will prevent potentially inaccurate changes in allocations. HRSA recognizes the possibility that the changes seen with 2020 ACS experimental estimates may actually reflect real changes in the distribution of children in poverty which may be seen when the 2021 ACS 1-year estimates (to be released in Fall 2022) are incorporated. If that is the case, then the difference in FY 2024 allocations as compared to the FY 2023 allocations will accurately reflect those changes by incorporating the 2021 data.

Diana Espinosa,

Deputy Administrator.

[FR Doc. 2022–13475 Filed 6–23–22; 8:45 am]

BILLING CODE 4165–15–P

[3] The Census Bureau defines experimental data products as ''innovative statistical products created using new data sources or methodologies that benefit data users in the absence of other data products . . . Census Bureau experimental data may not meet all of HRSA's data quality standards. Because of this, HRSA clearly identifies experimental data products and includes methodology and supporting research with their release.'' *https://www.census.gov/data/experimental-data-products.html.*

[4] *https://www.census.gov/programs-surveys/acs/data/experimental-data.html.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[OMB No. 0906–xxxx–New]

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Optimizing Virtual Care Grant Program Performance Measures

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than August 23, 2022.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or by mail to the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information collection request title for reference.

Information Collection Request Title: Optimizing Virtual Care Grant Program Performance Measures, OMB No. 0906–xxxx—New.

Abstract: The Health Center Program and supplemental awards for health centers are authorized by Section 330(d) of the Public Health Service Act (42 U.S.C. 254b(d)). Notably, HRSA is

authorized to make supplemental awards for health centers to ''implement evidence-based models for increasing access to high-quality primary care services, which may include models related to expanding the use of telehealth and technology-enabled collaborative learning and capacity building models.'' Under the Optimizing Virtual Care (OVC) grant program, 29 high-performing health centers received 2-year one-time funding supplemental awards to increase health care access and quality for underserved populations through virtual care such as telehealth, remote patient monitoring, digital patient tools, and health information technology platforms. Specifically, award recipients will use OVC funding to develop and implement innovative evidence-based strategies with the potential to be adapted, leveraged, and scaled across the Health Center Program to increase access to care and improve clinical quality by optimizing the use of virtual care with a specific focus on medically underserved communities and populations.

The goal of the OVC grant program is to continue to support innovation that began during the COVID–19 pandemic, when health centers quickly expanded their use of virtual care to maintain access to essential primary care services for underserved communities. HRSA-funded health centers serve medically underserved populations facing barriers to virtual care access, such as low digital literacy, low connectivity capabilities, or limited technology access. The OVC grant recipients will serve as a model for how to increase equitable virtual care, generating and refining strategies that can be adapted and scaled across the Health Center Program.

Need and Proposed Use of the Information: The information collected on OVC grant recipient activities and performance will help HRSA demonstrate, adapt, assess, and disseminate promising practices, strategies, and novel models of virtual care across the nation's health centers. The information will support an assessment that yields:

- Data on how to optimize the use of virtual care in the Health Center Program to enhance access to care and improve clinical quality for medically underserved communities and populations.
- Information on how to adapt, leverage, and scale up the OVC grant program models across other HRSA funding opportunities.
- Information on strategies to promote and scale virtual care innovations focused on increasing health equity for Health Center Program patients.

The assessment will include descriptive analyses of grant recipient activities and performance, including analyses of trends over time. The analyses will inform recommendations for performance measures that HRSA could scale across the Health Center Program and across other grant programs.

The grant recipient activities related to implementation of novel models of virtual care, including aggregate data on patients served and the services they received, will be captured via monthly progress reports. A set of health center performance measures will be captured in a bi-annual progress report and will provide insight into health equity and virtual care. Grant recipients will collect and report performance measures based on project goals and objectives that span four key population health and clinical domain areas, including (1) Increased Access to Care and Information; (2) Improve Clinical Quality and Health Outcomes; (3) Enhance Patient Care Coordination; and (4) Promote Health Equity.

Likely Respondents: Respondents will be the 29 health centers that received one-time funding supplemental awards through the Optimizing Virtual Care grant program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
OVC Monthly Progress Report	29	12	348	2	696
OVC Biannual Measures Report	29	2	58	48	2,784
Total	29		406		3,480

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–13526 Filed 6–23–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

[OMB No. 0915–0367—Revision]

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: The Teaching Health Center Graduate Medical Education Program Eligible Resident/Fellow FTE Chart

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than August 23, 2022.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail them to HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: The Teaching Health Center Graduate Medical Education (THCGME) Program Eligible Resident/Fellow FTE Chart OMB No. 0915–0367—Revision

Abstract: The THCGME Program, Section 340H of the Public Health Service Act, was established by Section 5508 of Public Law 111–148. The Consolidated Appropriations Act, 2021 (Pub. L. 116–260) and the American Rescue Plan Act of 2021 (Pub. L. 117–2) provided continued funding for the THCGME Program. The THCGME Program awards payment for both direct and indirect expenses to support training for primary care residents in community-based ambulatory patient care settings. The THCGME Program Eligible Resident/Fellow FTE Chart, published in the THCGME Notice of Funding Opportunity (NOFO), is a means for determining the number of eligible resident/fellow full-time equivalents (FTEs) in an applicant's primary care residency program. The FTE Chart revisions will now collect the number of resident/fellow FTEs from previous academic years and will further clarify the number of resident/fellow FTEs positions requested with the NOFO application.

Need and Proposed Use of the Information: The THCGME Program Eligible Resident/Fellow FTE Chart requires applicants to provide: (a) data related to the size and/or growth of the residency program over previous academic years, (b) the number of residents enrolled in the program during the baseline academic year, and (c) a projection of the program's proposed expansion over the next 5 academic years. It is imperative that applicants complete this chart to quantify the total supported residents. THCGME funding is used to support expanded numbers of residents in existing residency programs, to establish new residency training programs, or to maintain filled positions at existing residency training programs. Utilization of a chart to gather this important information has decreased the number of errors in the eligibility review process resulting in a more accurate review and funding process, and this ICR comports with the regulatory requirement imposed by 45 CFR 75.206(a) ''*Standard application requirements, including forms for applying for HHS financial assistance, and state plans*''.

Likely Respondents: Teaching Health Centers applying for THCGME funding through a THCGME NOFO process, which may include new applicants and existing awardees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
THCGME Program Eligible Resident/Fellow FTE Chart	90	1	90	1.25	112.50
Total	90	.....	90	.....	112.50

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–13487 Filed 6–23–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Countermeasures Injury Compensation Program: Electronic Submissions

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Public Readiness and Emergency Preparedness Act (PREP Act) authorized the Secretary of Health and Human Services (Secretary) to establish the Countermeasures Injury Compensation Program (CICP or Program). This Program provides benefits to certain persons who sustain serious physical injuries or death as a direct result of administration or use of covered countermeasures identified by the Secretary in declarations issued under the PREP Act. In addition, the Secretary may provide death benefits to certain survivors of individuals who died as the direct result of such covered injuries or their health complications. In accordance with 42 CFR 110.41, the Department of Health and Human Services is issuing this notice to inform the public that the CICP is accepting electronic Request for Benefits package submissions through the Injury Compensation Programs web-based portal. Completed Request for Benefits Forms, Letters of Intent, copies of completed Authorization for Use or Disclosure of Health Information forms, medical records, and any supporting documentation for CICP Request for Benefits packages can be submitted electronically at *https://injurycompensation.hrsa.gov.*

DATES: This notice is effective immediately.

FOR FURTHER INFORMATION CONTACT: Dr. George Reed Grimes, Director, Division of Injury Compensation Programs, Health Systems Bureau, HRSA, 5600 Fishers Lane, 08–N146B, Rockville, MD 20857. Phone calls can be directed to 1–855–266–2427 (1–855–266–CICP). This is a toll-free number.

SUPPLEMENTARY INFORMATION: Request for Benefits Forms (or Letters of Intent) must be filed within 1 year of the date of the administration or use of the covered countermeasure that is alleged to have caused the injury. The filing date for Request Forms submitted electronically is the date the Request Form is submitted electronically at *https://injurycompensation.hrsa.gov.* 42 CFR 110.42(c). For Request Forms not submitted electronically, the filing date is still the postmark date. A legibly dated receipt from a commercial carrier, a private courier service, or the U.S. Postal Service will be considered equivalent to a postmark.

In addition to the Request for Benefits Forms, requesters are also required to submit copies of the Authorization for Use or Disclosure of Health Information forms they submitted to their medical providers. Requesters must also arrange to have their providers submit the following medical records:

(1) All medical records documenting medical visits, procedures, consultations, and test results that occurred on or after the date of administration or use of the covered countermeasure; and

(2) All hospital records, including the admission history and physical examination, the discharge summary, all physician subspecialty consultation reports, all physician and nursing progress notes, and all test results that occurred on or after the date of administration or use of the covered countermeasure; and

(3) All medical records for 1 year prior to administration or use of the covered countermeasure as necessary to indicate an injured countermeasure recipient's pre-existing medical history.

To submit documentation online, individuals may navigate to the Injury Compensation Programs website (*https://injurycompensation.hrsa.gov*) and follow the steps on ''How to Create an Account'' to create a *Login.gov* account. Steps to create an account are also directly available here: *https://injurycompensation.hrsa.gov/DICPSubmit/Interface/Common/LoginAssistance.*

Once an account is created, individuals can submit a new Request for Benefits package or upload additional documents for an existing request.

Alternatively, Request for Benefits Forms, medical records, and any documentation to supplement a Request for Benefits package can continue to be sent by mail to the CICP at the following address: Health Resources and Services Administration, Countermeasures Injury Compensation Program, 5600 Fishers Lane, 08N186B, Rockville, Maryland 20857.

When the CICP receives a Request for Benefits package online or by mail, the CICP will send the requester a letter confirming receipt of the claim, providing them with a case number, and informing them if any additional documentation is required. Additional documentation may be submitted by mail or by uploading the documents electronically, regardless of the initial filing method used. For more information or support, requesters may contact CICP directly by email at *cicp@hrsa.gov* or by phone at 1–855–266–2427 (1–855–266–CICP).

Diana Espinosa,

Deputy Administrator.

[FR Doc. 2022–13550 Filed 6–23–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Hospital Campaign for Organ Donation Scorecard, OMB No. 0915–0373—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than August 23, 2022.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the acting HRSA Information Collection Clearance Officer at (301) 443–9094.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Hospital Campaign for Organ Donation Scorecard OMB No. 0915–0373—Revision.

Abstract: HRSA's Hospital Campaign for Organ Donation continues to enlist the help of healthcare organizations nationwide to increase the number of registered organ, eye, and tissue donors by hosting education, outreach, and donor registration events in their facilities and communities. A scorecard identifies activities that participants can implement and assigns points to each activity. Participants that earn a certain number of points annually are recognized by HRSA and the campaign's national partners.

Need and Proposed Use of the Information: There is a substantial imbalance in the U.S. between the more than 106,000 people whose lives depend on organ transplants and the annual number of organ donors (approximately 18,000 living and deceased donors). This imbalance results in approximately 17 deaths per day; about 6,200 waiting list deaths annually. In addition, a person in need of a life-saving or life-improving organ transplant is added to the national organ transplant waiting list every 9 minutes. In response to the need for increased donation, HRSA conducts public outreach initiatives to encourage the American public to enroll on state donor registries as future organ donors.

The scorecard motivates and facilitates participation in the campaign, provides the basis for rewarding participants for their accomplishments, and enables HRSA to measure and evaluate campaign process and outcome. The scorecard also enables HRSA to make data-based decisions and improvements for subsequent campaigns.

Likely Respondents: Hospital development and public relations staff of organ procurement and other donation organizations; hospital staff such as nurses or public relations/communications professionals and staff members. Additional respondents may include staff at physician's offices, health clinics, and emergency medical services; and/or volunteers that specifically work with health care organizations on organ donation initiatives and activities, who may have been engaged by or invited through word-of-mouth, local organ procurement organizations, and/or peers, and/or who work within a medical and/or health care setting, but outside of a hospital environment.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Activity Scorecard (online)	1,640	1	1,640	.25	410
Total	1,640		1,640		410

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–13488 Filed 6–23–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

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 Biomedical Imaging and Bioengineering Special Emphasis Panel; Diversity and Health Disparities RFAs review.

Date: July 15, 2022.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Songtao Liu, MD, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Suite 920, MSC 5469, Bethesda, MD 20817, (301) 827–3025, *songato.liu@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, HHS)

Dated: June 17, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13479 Filed 6–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Hematology and Vascular Biology.
Date: July 15, 2022.
Time: 2:00 p.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Vascular and Hematology.
Date: July 19, 2022.
Time: 2:00 p.m. to 8:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: HIV/AIDS Behavioral.
Date: July 21–22, 2022.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ananya Paria, DHSC, MPH, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007H, Bethesda, MD 20892, (301) 827–6513, *pariaa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 17, 2022.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13477 Filed 6–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.
Date: July 26, 2022.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 17, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13478 Filed 6–23–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 22–13]

Western Hemisphere Travel Initiative: Designation of an Approved Native American Tribal Card Issued by the Kickapoo Traditional Tribe of Texas as an Acceptable Document To Denote Identity and Citizenship for Entry in the United States at Land and Sea Ports of Entry

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Notice.

SUMMARY: This notice announces that the Commissioner of U.S. Customs and Border Protection is designating an approved Native American tribal card issued by the Kickapoo Traditional Tribe of Texas to U.S. citizen tribal members as an acceptable travel document for purposes of the Western Hemisphere Travel Initiative. The approved card may be used to denote identity and citizenship of Kickapoo Traditional Tribe of Texas members entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

DATES: This designation will become effective on June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Adele Fasano, Executive Director, Planning, Program Analysis, and Evaluation, Office of Field Operations, U.S. Customs and Border Protection, via email at *Adele.Fasano@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Western Hemisphere Travel Initiative

Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law 108–458, as amended, required the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a plan to require U.S. citizens and individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)) to present a passport or other document or combination of documents as the Secretary deems sufficient to denote identity and citizenship for all travel into the United States. *See* 8 U.S.C. 1185 note. On April 3, 2008, the Department of Homeland Security (DHS) and the Department of State promulgated a joint final rule, effective on June 1, 2009, that

implemented the plan known as the Western Hemisphere Travel Initiative (WHTI) at U.S. land and sea ports of entry. *See* 73 FR 18384 (the WHTI Land and Sea Final Rule). The rule amended various sections in the Code of Federal Regulations (CFR), including 8 CFR 212.0, 212.1, and 235.1.[1] The WHTI Land and Sea Final Rule specifies the documents that U.S. citizens and nonimmigrants from Canada, Bermuda, and Mexico are required to present when entering the United States at land and sea ports of entry.

Under the WHTI Land and Sea Final Rule, one type of citizenship and identity document that may be presented upon entry to the United States at land and sea ports of entry from contiguous territory or adjacent islands[2] is a Native American tribal card that has been designated by the Secretary as an acceptable document to denote identity and citizenship, pursuant to section 7209 of IRTPA. *See* 8 U.S.C. 1185 note. Specifically, 8 CFR 235.1(e), as amended by the WHTI Land and Sea Final Rule, provides that once the Secretary of Homeland Security designates a U.S. qualifying tribal entity document as an acceptable document to denote identity and citizenship for the purposes of entering the United States, Native Americans may present such designated tribal cards upon entering or seeking admission to the United States according to the terms of the voluntary agreement entered between the Secretary of Homeland Security and the tribe. It provides that the Secretary of Homeland Security will announce the designation of tribal cards as acceptable travel documents for entering the United States by publication of a notice in the **Federal Register**. It further provides that a list of the documents designated under this section will also be made available to the public.

Under 8 CFR 212.0, a U.S. qualifying tribal entity is defined as a tribe, band, or other group of Native Americans formally recognized by the United States Government which agrees to meet WHTI document standards.[3] Native American tribal cards are also referenced in 8 CFR 235.1(b), which lists the documents that U.S. citizens may use to establish identity and citizenship when entering the United States. *See* 8 CFR 235.1(b)(7).

The Secretary of Homeland Security has delegated to the Commissioner of U.S. Customs and Border Protection (CBP) the authority to designate certain documents as acceptable border crossing documents for persons arriving in the United States by land or sea from within the Western Hemisphere, including certain U.S. Native American tribal cards. *See* DHS Delegation Number 7105 (Revision 00), dated January 16, 2009.

Tribal Card Program

The WHTI Land and Sea Final Rule allowed U.S. federally recognized Native American tribes to enter into agreements with CBP to develop tribal ID cards that can be designated as acceptable to establish identity and citizenship when entering the United States at land and sea ports of entry from contiguous territory or adjacent islands. CBP works with various U.S. federally recognized Native American tribes to facilitate the development of WHTI-compliant Native American tribal cards.[4] As part of the process, CBP and the Native American tribe will enter into an agreement that specifies the requirements for developing and issuing such cards, including a testing and auditing process that ensures that the cards are produced and issued in accordance with the terms of the agreement.

After a tribe produces cards in accordance with the specified requirements, and after successful testing and auditing by CBP of the cards and program, the Secretary or the Commissioner of CBP may designate the Native American tribal card as an acceptable WHTI-compliant document for the purpose of establishing identity and citizenship when entering the United States by land or sea from contiguous territory or adjacent islands. Such designation will be announced by publication of a notice in the **Federal Register**. More information about WHTI-compliant documents is available at *www.cbp.gov/travel.*

The Pascua Yaqui Tribe of Arizona became the first Native American tribe to have its Native American tribal card designated as a WHTI-compliant document by the Commissioner of CBP. This designation was announced in a notice published in the **Federal Register** on June 9, 2011 (76 FR 33776). Subsequently, the Commissioner of CBP announced the designation of several other Native American tribal cards as WHTI-compliant documents. *See, e.g.,* the Native American tribal cards of the Puyallup Tribe of Indians, 84 FR 67278 (December 9, 2019); the Swinomish Indian Tribal Community, 84 FR 70984 (December 26, 2019); the Confederated Tribes of the Colville Reservation, 85 FR 31796 (May 27, 2020); and the Muscogee (Creek) Nation, 86 FR 6664 (January 22, 2021).

Kickapoo Traditional Tribe of Texas WHTI-Compliant Native American Tribal Card Program

The Kickapoo Traditional Tribe of Texas has voluntarily established a program to develop a WHTI-compliant Native American tribal card that denotes tribal identity and U.S. citizenship. On September 2, 2016, CBP and the Kickapoo Traditional Tribe of Texas entered into a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate whether its Native American tribal cards could be used for border crossing purposes. Pursuant to this MOA, the cards are issued to members of the Kickapoo Traditional Tribe of Texas who can establish their identity, tribal membership, and U.S. citizenship. The cards incorporate physical security features acceptable to CBP, as well as facilitative technology allowing for the electronic validation by CBP of the tribal members' identity, citizenship, and tribal membership. On August 15, 2017, CBP and the Kickapoo Traditional Tribe of Texas entered into a Service Level Agreement that was an addendum to the April 1, 2010 Pascua Yaqui Tribe Service Level Agreement. The addendum provides that the Pascua Yaqui Tribe would serve as the Information Technology Coordinator and the manufacturer of the tribal card on behalf of the Kickapoo Traditional Tribe of Texas.[5]

CBP has tested the cards developed by the Kickapoo Traditional Tribe of Texas pursuant to the above MOA and related agreements. It has also performed an audit of the tribe's card program. On the basis of these tests and audit, CBP has determined that the Native American tribal cards meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and citizenship for purposes of entering the United States at land and sea ports

[1] Part 212 of title 8 of the Code of Federal Regulations details the documentary requirements for nonimmigrants seeking admission into the United States; 8 CFR 235.1 provides for the scope of examination of all persons seeking admission into the United States.

[2] ''Adjacent islands'' is defined in 8 CFR 212.0 as ''Bermuda and the islands located in the Caribbean Sea, except Cuba.'' This definition applies to 8 CFR 212.1 and 235.1.

[3] This definition applies to 8 CFR 212.1 and 235.1.

[4] The Native American tribal cards qualifying to be a WHTI-compliant document for border crossing purposes are commonly referred to as ''Enhanced Tribal Cards'' or ''ETCs.''

[5] The Interconnection Service Agreement entered into by CBP and the Pascua Yaqui Tribe on December 19, 2018, which addresses individual and organizational security responsibilities for the protection and handling of unclassified information, also applies with respect to the Kickapoo Traditional Tribe of Texas Native American tribal cards.

of entry from contiguous territory or adjacent islands. CBP's continued acceptance of the Native American tribal cards as a WHTI-compliant document is conditional on compliance with the MOA and related agreements.

It is voluntary for Native American tribal members to use WHTI-compliant tribal cards as an acceptable travel document. If a tribal member is denied a WHTI-compliant Native American tribal card, or otherwise chooses not to use a Native American tribal card, he or she may still apply for a passport or other WHTI-compliant document.

Designation

This notice announces that the Commissioner of CBP designates the Native American tribal card issued by the Kickapoo Traditional Tribe of Texas in accordance with the MOA and related agreements as an acceptable WHTI-compliant document pursuant to section 7209 of the IRTPA and 8 CFR 235.1(e). In accordance with these provisions, the approved card, if valid and lawfully obtained, may be used to denote identity and U.S. citizenship of Kickapoo Traditional Tribe of Texas members for the purpose of entering the United States from contiguous territory or adjacent islands at land and sea ports of entry.

Commissioner Chris Magnus, having reviewed and approved this document, has delegated the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

Dated: June 21, 2022.

Robert F. Altneu,

Director, Regulations & Disclosure Law, Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2022–13537 Filed 6–23–22; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0082]

African Growth and Opportunity Act (AGOA) Textile Certificate of Origin

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

ACTION: 60-Day notice and request for comments; extension 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 August 23, 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 1651–0082 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: African Growth and Opportunity Act (AGOA) Textile Certificate of Origin.

OMB Number: 1651–0082.

Form Number: N/A.

Current Actions: CBP proposes to extend the expiration date of this information collection with an increase in burden hours due to revised agency estimates, there is no change to the information collected.

Type of Review: Extension (with change).

Affected Public: Businesses.

Abstract: The African Growth and Opportunity Act (AGOA) was adopted by the U.S. with the enactment of the Trade and Development Act of 2000 (Pub. L. 106–200). The objectives of AGOA are (1) to provide for extension of duty-free treatment under the Generalized System of Preferences (GSP) to import sensitive articles normally excluded from GSP duty treatment, and (2) to provide for the entry of specific textile and apparel articles free of duty and free of any quantitative limits from eligible countries of sub-Saharan Africa.

For preferential treatment of textile and apparel articles under AGOA, the exporter or producer is required to prepare a certificate of origin and provide it to the importer. The certificate of origin includes information such as contact information for the importer, exporter and producer; the basis for which preferential treatment is claimed; and a description of the imported merchandise. The importers are required to have the certificate in their possession at the time of the claim, and to provide it to Customs and Border Protection (CBP) upon request. The collection of this information is provided for in 19 CFR 10.214, 10.215, and 10.216.

Instructions for complying with this regulation are posted on *CBP.gov* website at: *https://www.cbp.gov/trade/rulings/informed-compliance-publications.*

This collection of information applies to the importing and trade community who are familiar with import

procedures and with the CBP regulations.

Type of Information Collection: AGOA Textile Certificate of Origin.

Estimated Number of Respondents: 68.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 68.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 23 hours.

Dated: June 21, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–13531 Filed 6–23–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0014]

Declaration for Free Entry of Unaccompanied Articles (CBP Form 3299)

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

ACTION: 60-Day notice and request for comments; extension 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 August 23, 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 1651–0014 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: Declaration for Free Entry of Unaccompanied Articles.

OMB Number: 1651–0014.

Form Number: CBP Form 3299.

Current Actions: This submission is being made to extend the expiration date with no changes to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses and Individuals.

Abstract: 19 U.S.C. 1498 provides that when personal and household effects enter the United States but do not accompany the owner or importer on his/her arrival in the country, a declaration is made on CBP Form 3299, Declaration for Free Entry of Unaccompanied Articles. The information on this form is needed to support a claim for duty-free entry for these effects. This form is provided for by 19 CFR 148.6, 148.52, 148.53 and 148.77. CBP Form 3299 is accessible at: *https://www.cbp.gov/document/forms/form-3299-declaration-free-entry-unaccompanied-articles?language_content_entity=en.*

Type of Information Collection: Form 3299.

Estimated Number of Respondents: 150,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 150,000.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 112,5000.

Dated: June 21, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–13533 Filed 6–23–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0022]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Immigration Bond

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance.

DATES: Comments are encouraged and will be accepted until August 23, 2022.

ADDRESSES: All submissions received must include the OMB Control Number 1653–0022 in the body of the

correspondence, the agency name and Docket ID ICEB–2019–0008. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number ICEB–2019–0008.

FOR FURTHER INFORMATION CONTACT: If you have questions related to this revision, please contact: Carl Albritton, ERO Bond Management Unit, (202) 732–5918, *carl.a.albritton@ice.dhs.gov.*

(This is not a toll-free number. Comments are not accepted via telephone message).

SUPPLEMENTARY INFORMATION:

Comment

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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:* Revision of a Currently Approved Collection.

(2) Title of the Form/Collection: Immigration Bond.

(3) Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection: I–352; U.S. Immigration and Customs Enforcement.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individual or Households; Business or other for-profit. The data collected on this collection instrument is used by ICE to ensure that the person or company posting the bond is aware of the duties and responsibilities associated with the bond. The collection instrument serves the purpose of instruction in the completion of the form, together with an explanation of the terms and conditions of the bond. Sureties have the capability of accessing, completing, and submitting delivery, voluntary departure, and order of supervision bonds electronically through ICE's eBonds system which encompasses the I–352, while individuals are still required to complete the bond form manually and sureties will be required to submit maintenance of status and departure bonds manually.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 61,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden is 30,500 hours.

Dated: June 21, 2022.

Scott Elmore,

PRA Clearance Officer, U.S. Immigrations and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2022–13549 Filed 6–23–22; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2022–0021]

Notice of Availability of a Draft Environmental Impact Statement for Ocean Wind, LLC's Proposed Wind Energy Facility Offshore New Jersey

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability; draft environmental impact statement.

SUMMARY: BOEM announces the availability of the draft environmental impact statement (DEIS) for the construction and operations plan (COP) submitted by Ocean Wind, LLC (Ocean Wind) for its proposed Ocean Wind 1 Offshore Wind Farm Project (Project) offshore New Jersey. The DEIS analyzes the potential environmental impacts of the Project as described in the COP (the proposed action) and the alternatives to the proposed action. This notice of availability (NOA) announces the start of the public review and comment period, as well as the dates and times for virtual public hearings on the DEIS. After BOEM holds the public hearings and addresses comments provided, BOEM will publish a final environmental impact statement (EIS). The EIS will inform BOEM's decision whether to approve, approve with modifications, or disapprove the COP.

DATES: Comments must be received no later than August 8, 2022. BOEM's virtual public hearings will be held at the following dates and times (eastern time).

- Thursday, July 14, 2022; 1:00 p.m.
- Wednesday, July 20, 2022; 5:00 p.m.; and,
- Tuesday, July 26, 2022; 5:00 p.m.

Registration for the virtual public hearings may be completed here: *https://www.boem.gov/renewable-energy/state-activities/ocean-wind-1* or by calling (703) 787–1520.

ADDRESSES: The DEIS and detailed information about the Project, including the COP, can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/ocean-wind-1.* Comments can be submitted in any of the following ways:

- In written form by mail, enclosed in an envelope labeled ''Ocean Wind 1 COP DEIS'' and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.
- Through the *regulations.gov* web portal: Navigate to *http://www.regulations.gov* and search for Docket No. BOEM–2022–0021. Click on the ''Comment'' button below the document link. Enter your information and comment, then click ''Submit Comment.''

A registration link for each of the virtual public hearings is provided on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/ocean-wind-1.*

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1722 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Action: Ocean Wind seeks approval to construct, operate, and maintain the Project: a wind energy facility and its associated export cables on the Outer Continental Shelf (OCS) offshore New Jersey. The Project would be developed within the range of design parameters outlined in the Ocean Wind 1 COP, subject to applicable mitigation measures. The Project as proposed in the COP would include up to 98 wind turbine generators (WTGs), up to 3 offshore high voltage alternating current substations, inter-array cables linking

the individual turbines to the offshore substations, substation interconnector cables linking the substations to each other, offshore export cables, an onshore export cable system, 2 onshore substations, and connections to the existing electrical grid in New Jersey. The WTGs and offshore substations, inter-array cables, and substation interconnector cables would be located on the OCS approximately 13 nautical miles (15 statute miles) southeast of Atlantic City, New Jersey, within the area defined by Renewable Energy Lease OCS–A 0498 (Lease Area). The offshore export cables would be buried below the seabed surface in the OCS and State of New Jersey owned submerged lands. The onshore export cables, substations, and grid connections would be located in Ocean County and Cape May County, New Jersey.

Alternatives: BOEM considered 26 alternatives when preparing the DEIS and carried forward 6 alternatives for further analysis in the DEIS. These six alternatives include five action alternatives and the no action alternative. Twenty alternatives were rejected because they did not meet the purpose and need for the proposed action or did not meet screening criteria, which are presented in DEIS appendix C. The screening criteria included consistency with law and regulations; technical and economic feasibility; environmental impact; and geographic considerations.

Availability of the DEIS: The DEIS, Ocean Wind 1 COP, and associated information are available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/ocean-wind-1.* BOEM has distributed digital copies of the DEIS to all parties listed in DEIS appendix K, which also includes the location of all libraries receiving a copy. If you require a flash drive or paper copy, BOEM will provide one upon request, as long as copies are available. You may request a flash drive or paper copy of the DEIS by calling (703) 787–1520.

Cooperating Agencies: The following nine Federal agencies and State governmental entities participated as cooperating agencies in the preparation of the DEIS: Bureau of Safety and Environmental Enforcement; U.S. Environmental Protection Agency; National Marine Fisheries Service; U.S. Army Corps of Engineers; U.S. Coast Guard; U.S. Fish and Wildlife Service, Department of Defense; New Jersey Department of Environmental Protection; and New York State Department of State. The National Park Service participated as a participating agency.

Information on Submitting Comments: BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names and addresses of respondents, available for public review online and during regular business hours. Individual respondents may request that BOEM withhold their names, addresses, or any other personal identifiable information (PII) included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. If you wish your name, address, or other PII to be withheld, you must state your request prominently in a cover letter and explain the harm that you fear from its disclosure such as unwarranted privacy invasion, embarrassment, or injury. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority: 42 U.S.C. 4231 *et seq.* (NEPA, as amended) and 40 CFR 1506.6.

William Y. Brown,

Chief Environmental Officer, Bureau of Ocean Energy Management.

[FR Doc. 2022–13490 Filed 6–23–22; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR03040000.22XR068080.RX.18786000.5004001]

Request for Input on Development of Post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead Under Historically Low Reservoir Conditions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for input.

SUMMARY: The Secretary of the Interior has directed the Bureau of Reclamation (Reclamation) to begin work to develop operating strategies for the continued coordinated operation of Lake Powell and Lake Mead. A number of reservoir and water management decisional documents and agreements that govern operation of Colorado River facilities and management of Colorado River water are currently scheduled to expire at the end of 2026. These include the December 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead (2007 Interim Guidelines), among other important management documents, both within the United States, as well as international agreements between the United States and Mexico pursuant to the United States-Mexico Treaty on Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande (1944 Water Treaty).

DATES: Submit written comments on the proposed development of Post-2026 Colorado River Operational Strategies pursuant to this notice on or before September 1, 2022.

Reclamation will host two public webinars to summarize the content and purpose of this **Federal Register** notice. The webinars will take place on Tuesday, July 12, 2022, from 10 a.m. to 11 a.m. (MDT), and on Thursday, July 14, 2022, from 10 a.m. to 11 a.m. (MDT).

ADDRESSES: Send written comments on the proposed development of Post-2026 Colorado River Operational Strategies to *CRB-info@usbr.gov.*

The virtual meeting held on Tuesday, July 12, 2022, may be accessed at *https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTg1ZmVmMDItNzkxMC00YjM2LTg3NmEtNmIwMWI3ZGEyNjJm%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%22388b569b-9117-49f0-b6f1-cd12ff0587b0%22%7d;* or call in (audio only) at (719) 733–3211, Phone Conference ID: 100 899 510#.

The virtual meeting held on Thursday, July 14, 2022, may be accessed at *https://teams.microsoft.com/l/meetup-join/19%3ameeting_MWE0YmZhNDItOGQwZC00YmRiLWJiMmItZDM4ZDUwN2JlNzcx%40thread.v2/0?context=%7b%22Tid%22%3a%220693b5ba-4b18-4d7b-9341-f32f400a5494%22%2c%22Oid%22%3a%22e792bef3-e313-4746-82d1-a6064d5ee897%22%7d;* or call in (audio only) at (202) 640–1187, Phone Conference ID: 795 497 392#.

FOR FURTHER INFORMATION CONTACT: Carly Jerla, Senior Water Resources Program Manager, Bureau of Reclamation, at (303) 517–1160; or by email at *cjerla@usbr.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: Through this notice, and prior to formally initiating a National Environmental Policy Act (NEPA) process (or processes) to develop post-2026 operations for Lake Powell and Lake Mead (among other potential actions), Reclamation is requesting input on: (a) processes that can be employed to encourage and facilitate meaningful participation of Colorado River Basin (Basin) partners, stakeholders, and the general public in the anticipated upcoming NEPA process(es); as well as (b) potential substantive elements and strategies for post-2026 operations to consider in the anticipated upcoming NEPA process(es). Reclamation anticipates formally initiating the NEPA process through a Notice of Intent to Prepare an Environmental Impact Statement in the **Federal Register** in early 2023. As noted in more detail below, given current conditions in the Colorado River Basin, Reclamation may utilize multiple NEPA efforts, or other appropriate processes, to address emerging low-reservoir conditions in the Basin.

The Colorado River Basin provides essential water supplies to approximately 40 million people, nearly 5.5 million acres of agricultural lands, and habitat for ecological resources across the Southwestern United States and Northwestern Mexico. The limited water supplies of the Colorado River are declining and the Colorado River Basin is currently experiencing a prolonged period of drought and record-low runoff conditions resulting in historically low reservoir levels at Lake Powell and Lake Mead. The period from 2000 through 2022 is the driest 23-year period in more than a century and one of the driest periods in the last 1,200 years. Absent a change in hydrologic conditions, water use patterns, or both, Colorado River reservoirs will continue to decline to critically low elevations threatening essential water supplies across nine states in the United States and the Republic of Mexico (Mexico). It is foreseeable that without appropriate responsive actions and under a continuation of recent hydrologic trends, major Colorado River reservoirs could continue to decline to ''dead pool''—elevations at which water cannot be regularly released from a reservoir—in coming years. As stated in the 2019 Lower Basin Drought Contingency Plan:

> . . . as a result of actual operating experience subsequent to the adoption of the 2007 Interim Guidelines, as well as emerging scientific information regarding the increasing variability and anticipated decline in Colorado River flow volumes, the Parties recognize and acknowledge that entities that rely on the Colorado River as a water source face increased individual and collective risk of temporary or prolonged interruptions in water supplies, with associated adverse impacts on the society, environment and economy of the southwestern United States.

The current unprecedented drought and low-runoff conditions are anticipated to persist and potentially worsen as a result of a number of factors, including increasing temperatures in the Basin, and other effects of climate change.

As a result of the exceptionally low runoff conditions over the past 3 years (2020, 2021, and 2022), unprecedented drought response operations have been triggered at Lake Powell and Lake Mead consistent with the 2007 Interim Guidelines and agreements adopted pursuant to the 2019 Colorado River Drought Contingency Plan Authorization Act (Pub. L. 116–14) (the 2019 Drought Contingency Plan (DCP) Act). The unprecedented risks facing the Colorado River Basin was the subject of a June 14, 2022 U.S. Senate hearing in which Reclamation Commissioner Camille Touton noted that while no one knows how dry the next few years could be, if recent (2018-present) dry conditions continue, Lake Powell and Lake Mead face extraordinary risks over the next 12–24 months, and that additional actions are needed to protect the reservoirs from rapidly declining to critically-low elevations: reductions totaling millions of acre-feet in reductions of use across the Basin could be needed to stabilize the reservoirs.

Background on Development of the 2007 Interim Guidelines.

Initially spurred by a 5-year period in which Lake Powell and Lake Mead lost nearly half of the combined storage in the reservoirs as a result of an ongoing multi-year drought, decreasing overall system storage, and growing demands for Colorado River water, at the direction of the Secretary of the Interior, Reclamation initiated a NEPA process in 2005 to develop operating guidelines for the coordinated operations of Lake Powell and Lake Mead, along with Lower Basin shortage criteria (and other related actions). See 70 FR 57322 (September 30, 2005). Following completion of the NEPA process (and associated compliance activities), in December 2007 Secretary of the Interior Kempthorne approved the Record of Decision for the 2007 Interim Guidelines. Published at 73 FR 19873 (April 11, 2008). The 2007 Interim Guidelines provided objective operating criteria for the coordinated operations of Lake Powell and Lake Mead and for determining Lower Basin shortage conditions, as well as establishing a program to encourage water conservation actions in the Lower Basin.

Operational Agreements, Operating Experience and Changed Circumstances Since Adoption of the 2007 Interim Guidelines.

Operational Agreements

Since their adoption, the 2007 Interim Guidelines have provided operating criteria for Lake Powell and Lake Mead including provisions designed to provide a greater degree of certainty to water users about timing and volumes of potential water delivery reductions, as well as additional operating flexibility to conserve and enhance water storage in Colorado River system reservoirs. In 2012, the United States and Mexico adopted Minute 319, a binational agreement adopted pursuant to the 1944 Water Treaty. Minute 319 provided interim (2012–2017) operating provisions that implement the provisions of the 1944 Water Treaty, establishing objective criteria for treaty deliveries through a wide range of reservoir conditions, and established mechanisms that provide Mexico with the flexibility to reduce water use and defer delivery of the reduced volumes in subsequent years. Minute 319 also provided U.S. funding to enhance water conservation and riparian habitat in the Colorado River Delta and Limitrophe region.

Notwithstanding the elements of the 2007 Interim Guidelines (and Minute 319), as hydrologic conditions worsened thereby increasing the risk of reservoirs declining to critically-low conditions, in 2013–2014, Reclamation and stakeholders began pursuing additional adaptive management actions. Among other drought response activities, the Upper and Lower Basin DCPs were adopted pursuant to the 2019 DCP Act. A further agreement with Mexico in 2017 (Minute 323) had previously established enhanced water reduction, water conservation, and savings mechanisms pursuant to the 1944 Water Treaty. Both the 2007 Interim Guidelines and the DCPs are anticipated to be in place for an interim period through 2026.[1] Similarly, Minute 323 is anticipated to be in effect through 2026.

[1] Except for the special provisions described in Section XI.G.8. of the 2007 Interim Guidelines, the 2007 Interim Guidelines are anticipated to remain in effect through December 31, 2025 (through preparation of the 2026 Annual Operating Plan). With the exception of certain Intentionally Created Surplus recovery and Upper Basin demand management provisions, operations under the

Continued

2020 Review of Operating Experience

The interim nature of the 2007 Interim Guidelines has provided the opportunity to gain valuable experience in the management of Lake Powell and Lake Mead under the adopted operations, improving the basis for making future operational decisions, both during the interim period and after. Section XI.G.7.D. of the 2007 Interim Guidelines required the documentation of this experience and an evaluation of the effectiveness of the 2007 Interim Guidelines. In fulfillment of this provision, in December 2020, Reclamation published on its website its ''Review of the Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead'' (the 2020 7.D. Review).

The purpose of the 2007 Interim Guidelines was determined in the early stages of the NEPA process led by Reclamation to develop the guidelines and consists of 3 components. As stated in Section IV of the 2007 Interim Guidelines, the purpose is to:

- ''improve Reclamation's management of the Colorado River by considering trade-offs between the frequency and magnitude of reductions of water deliveries, and considering the effects on water storage in Lake Powell and Lake Mead, and on water supply, power production, recreation, and other environmental resources;
- provide mainstream United States users of Colorado River water, particularly those in the Lower Division states, a greater degree of predictability with respect to the amount of annual water deliveries in future years, particularly under drought and low reservoir conditions; and
- provide additional mechanisms for the storage and delivery of water supplies in Lake Mead to increase the flexibility of meeting water use needs from Lake Mead, particularly under drought and low reservoir conditions.''

The 2020 7.D. Review found that the 2007 Interim Guidelines were largely effective as measured against this stated purpose.

However, with respect to the 4 operational elements of the 2007 Interim Guidelines (Coordinated Operations of Lake Powell and Lake Mead, Lower Basin Surplus Guidelines, Lower Basin Shortage Guidelines, and Storage and Delivery of Conserved Water in the Lower Basin), the 2007 Interim Guidelines failed to provide sufficiently robust operating provisions to address the increasing severity of the drought and low runoff conditions exacerbated by climate change. By 2013–2014, as a result of the worsening drought, a broad consensus within the Basin emerged that additional actions were needed to reduce the risk of Lake Powell and Lake Mead reaching critically low elevations. This led to the adoption of the DCPs and other voluntary adaptive actions.

The 2020 7.D. Review also documented important considerations for enhancing future effectiveness: (1) enhanced flexibilities and transparency for water users; (2) expanded participation in conservation and Basin-wide programs; (3) increased consideration of the linkage that occurs through coordinated reservoir operations, particularly with respect to the uncertainties inherent in model projections used to set operating conditions; and (4) more robust measures to protect reservoir levels.

Reclamation received written input during the 2020 7.D. Review process from a diverse group of partners and stakeholders across the Colorado River Basin. One area of significant comment was with respect to the stakeholder engagement process used to develop the 2007 Interim Guidelines. Multiple commenters expressed that the process was inadequate to meaningfully engage a sufficiently diverse group of stakeholders. Given the increased partner and stakeholder participation in Basin decision-making processes since the adoption of the 2007 Interim Guidelines, the Department of the Interior (Department or Interior) is particularly focused on developing and implementing a process that facilitates and encourages meaningful participation of Basin partners and stakeholders including other Federal agencies, the seven Colorado River Basin States, Native American Tribes, non-governmental organizations (NGOs), academic experts, and the general public. As discussed below, the Department is also committed to identifying processes that can complement the efforts of the International Boundary and Water Commission (IBWC) to develop post-2026 agreements that would succeed current agreements contained in Minute 323.

Changed Circumstances Since Adoption of the 2007 Interim Guidelines

As Reclamation and the Department prepare to initiate a NEPA process for the post-2026 Colorado River Reservoir Operational Strategies for Lake Powell and Lake Mead under historically low reservoir conditions, it is important to succinctly highlight a few areas where circumstances have changed since adoption of the 2007 Interim Guidelines. Reclamation welcomes input on these changed circumstances as well as suggestions on potential strategies that would be appropriate to more successfully address these changed circumstances given the expectation that conditions will continue to change in the Colorado River Basin in the years and decades ahead.

1. With respect to issues involving hydrology, risk facing the Basin, and advances in scientific understandings:

Since 2000, 50 percent of these years have seen less than 11 million acre-feet (maf) of annual natural flow at Lees Ferry and 13 percent have seen less than 8 maf. The 21st century has been 20 percent drier than the 20th century, and the 5-year average has declined by 33 percent in 23 years. Future strategies should consider these conditions and the likelihood of continued declines in supply.

The 2007 Interim Guidelines were developed in response to 5 years of drought and precipitous reservoir declines and were based primarily on the modeling assumption of a stationary climate where future inflows were adequately represented in the observed historical record.

Since 2007, unprecedented drought has changed our understanding of basin hydrology; climate science tells us that the future temperatures in the Colorado River Basin will continue to warm and that we can expect an increased likelihood of experiencing deep, prolonged droughts.

The 2020 7.D. Review found that while the 2007 Interim Guidelines were effective at meeting their overall purpose, the increasing severity of the drought demonstrated that the 2007 Interim Guidelines were insufficiently robust to protect reservoir storage, requiring the adoption of the DCPs and other responsive adaptive actions.

Nevertheless, even the additional actions adopted subsequent to the 2007 Interim Guidelines were demonstrably insufficient to address the ongoing drought and low runoff conditions. With declining reservoir conditions, Reclamation undertook emergency and other drought response actions in both 2021 and 2022 to protect infrastructure and operations at Glen Canyon Dam.

The latest global climate model-derived projections of climate change agree that temperatures will warm, but precipitation and impacts on basin hydrology continue to show a wide range of potential futures and experts cannot say with a high degree of confidence or specificity what is most likely to happen in a nonstationary

Guidelines and the DCPs are in effect through December 31, 2026.

climate (*i.e.,* the question ''what will future runoff be?'' cannot be answered). Hydrologic uncertainty combined with uncertain future growth and water use compound to mean that it is impossible to assign probabilities to any given future and the basin is experiencing conditions of deep uncertainty.

These factors lead Reclamation to observe that in developing post-2026 guidelines in a nonstationary, drying system, a different approach toward addressing risk that employs planning methods that account for deep uncertainty must be taken. Such an approach should enhance the ability to identify robust policies that are better prepared to adapt to changing conditions.

For planning purposes, robust policies are those that withstand a broad range of future conditions and are not based on a single set of assumptions about water supply and demand. With increasing temperatures across the basin, predictions of commensurate decreases in reliable supply, and uncertainty in future demands, Reclamation believes that future policies must be tested across a wide range of potential future conditions, including drought sequences that are longer and more severe than those that have been observed. Absent such an approach, policies are likely to be insufficiently robust, adaptable, and successful.

2. With respect to issues regarding engagement and inclusivity in Colorado River decision-making:

The domestic stakeholder process used to develop the 2007 Interim Guidelines was considered, at the time, to have engaged a wide range of stakeholders and included extensive public involvement. Central to this process was technical outreach and modeling support provided by Reclamation.

In the intervening 15 years, there has been an increasing level of collaboration and communication across the Basin—indicating the necessity of more deeply engaging a broader range of stakeholders during the upcoming process(es). Meaningfully engaging and encouraging the participation of Colorado River Basin Tribes, representatives of Mexico, and NGOs was crucial to the success of the key and essential operational decisions that have come about since the adoption of the 2007 Interim Guidelines.

As we approach the initiation of efforts to develop post-2026 guidelines, Reclamation has identified that it intends to design and implement a stakeholder process that is inclusive, transparent, and encourages meaningful engagement. In order to accomplish this commitment, Reclamation intends to prioritize stakeholder technical education, technical outreach, and timely access to relevant technical information. Reclamation intends to support parties in developing strategies and would welcome input on recommended steps to ensure active participation by a wide range of Basin partners, stakeholders, and the general public. Reclamation will continue to seek to prioritize the development of approaches that have broad-based support.

a. With respect to Colorado River Basin Tribes:

During the preparation of the 2007 Interim Guidelines, the Department conducted extensive engagement with Native American Tribes in the Colorado River Basin (Basin Tribes) regarding the potential adoption of operating guidelines for Lake Powell and Lake Mead and related actions, including the adoption of rules regarding creation, accounting and delivery of Intentionally Created Surplus. See 2007 Final Environmental Impact Statement (FEIS), Appendix I, at *https://www.usbr.gov/lc/region/programs/strategies/FEIS/AppI.pdf.*

Notwithstanding the engagement documented in the 2007 FEIS, during the implementation of the 2007 Interim Guidelines, many Basin Tribes have expressed deeply-held concerns, viewpoints, and objections to the lack of full engagement and consultation, and that any engagement during the development (and implementation) of the 2007 Interim Guidelines was insufficient to address the range of interests, needs, and fundamental rights of the Basin Tribes. These concerns have significantly increased as water supply conditions in the Basin have been increasingly impacted by drought, low runoff, and the effects of climate change.

Interior has undertaken extensive efforts across the Basin to facilitate Indian Water Rights Settlements, enhance Tribal utilization of water rights, engage with Tribal Governments, and facilitate Basin engagement. For example, beginning last year, Reclamation has hosted monthly Tribal Information Exchanges as one mechanism to share timely information on Colorado River Basin conditions, challenges, and opportunities for investment and water conservation programs. While these efforts have continuously increased over time, there are extraordinary and unique challenges facing Basin Tribes.

Basin Tribes have expressed their concerns in direct correspondence to the Secretary of the Interior and have formally requested commitments from Interior for greater inclusion in the NEPA process to develop post-2026 operations, as well as increased engagement and consultation during the implementation of any guidelines developed pursuant to the upcoming NEPA process.

Interior recognizes that each Basin Tribe possesses unique rights (including water rights), unique viewpoints, and concerns with respect to current and projected conditions in the Basin. While it is premature at this time for Interior to make precise decisions about the content of post-2026 operations, the Secretary of the Interior has and is committed to engage and consult with the Basin Tribes in a meaningful and transparent manner during the upcoming NEPA process and to fully consider tribal input and viewpoints through government-to-government consultation, consistent with the Department's Detailed Plan for Improving Interior's Implementation of Executive Order 13175, *Consultation and Coordination with Indian Tribes,* found at *www.doi.gov/priorities/tribal-consultation.* Interior is interested in receiving specific input on the most effective processes that can be employed during the upcoming NEPA process(es) to ensure that these commitments are fully implemented.

b. With respect to engagement with Mexico:

The 2007 Interim Guidelines were adopted under the authority of the Secretary of the Interior. Accordingly, the scope of the 2007 Interim Guidelines was domestic, and no decisions were made regarding operations under the 1944 Water Treaty.

Since 2007 an extraordinary cooperative process has been forged between the two nations with the participation of the Department and Reclamation in support of agreements developed between the United States and Mexico Sections of the IBWC. Since adoption of the 2007 Interim Guidelines, significant international agreements on the Colorado River are memorialized in Minutes 316, 317, 318, 319, and 323.

With Minute 323 scheduled to expire at the same time as the 2007 Interim Guidelines and the 2019 DCP, the United States and Mexico have expressed a policy goal of developing a successor to Minute 323 on a parallel timeline as the domestic development of post-2026 operational approaches. This policy goal is intended to ensure that Colorado River reservoirs continue to be managed in a manner that ensures an

appropriate degree of operational alignment.

While not determining in any way what processes the IBWC may choose to utilize, the Department would welcome input on how the Interior-led domestic planning processes could be implemented in a coordinated and complementary fashion to those of the IBWC.

3. With respect to the current and emerging operational challenges and potential for significant disruptions to Colorado River water supplies under continued low-runoff conditions:

While previous actions, especially the DCP, were intended to preserve Reclamation's ability to undertake post-2026 planning with a stable system and avoid crisis planning, very dry hydrology since the adoption of the DCP has resulted in Lake Powell and Lake Mead nearing critically low elevations.

Should the conditions continue or worsen, we recognize that in addition to post-2026 planning under the anticipated NEPA process(es), Reclamation may likely need to also prioritize implementation of near-term actions to stabilize the decline in reservoir storage and prevent system collapse. Reclamation has not yet determined what additional actions or processes may be required to address these near-term operational risks. It is anticipated that near-term response actions and development of post-2026 operations will need to proceed on parallel timelines.

- *Process:* Reclamation seeks specific input on suggested mechanisms for the anticipated NEPA process(es) to ensure that a wide range of Basin partners, stakeholders, and the general public can meaningfully engage and participate in the development of post-2026 operational strategies.
- *Substantive elements of post-2026 operations:* Reclamation seeks input on potential substantive elements and strategies that should be considered for post-2026 operations and considered in the anticipated upcoming NEPA process(es).

With respect to both these areas where Reclamation is seeking input through this **Federal Register** notice, Reclamation is particularly interested in receiving specific recommendations that can be considered and potentially integrated as the initiation of the NEPA process is being developed.

Reclamation notes that it intends to formally initiate the NEPA process for development of post-2026 operations through a Notice of Intent to Prepare an Environmental Impact Statement in the **Federal Register** in early 2023. Any input received as part of this **Federal Register** notice request for input will be fully considered by Reclamation but formal scoping comments will be solicited following initiation of the anticipated NEPA process. Decisions by entities whether or not to submit input regarding this **Federal Register** notice shall not limit or prejudice in any manner comments such entities may choose to submit during the formal scoping period following a formal Notice of Intent to initiate preparation of an Environmental Impact Statement (anticipated in early 2023).

Public Disclosure 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. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Tanya Trujillo,

Assistant Secretary for Water and Science.

[FR Doc. 2022–13502 Filed 6–23–22; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Mobile Electronic Devices, DN 3625;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Maxell, Ltd. on June 16, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile electronic devices. The complainant names as respondents: Lenovo Group Ltd. of China; Lenovo (United States) Inc. of Morrisville, NC; and Motorola Mobility LLC of Libertyville, IL. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondent, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to

replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3625'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: June 17, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–13463 Filed 6–23–22; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF LABOR

Office of Disability Employment Policy

[Agency Docket Number DOL–2022–0002]

RIN 1230–ZA01

Request for Information on Current Population Survey Disability Supplement 2024

AGENCY: Office of Disability Employment Policy, U.S. Department of Labor.

ACTION: Request for information.

SUMMARY: The Department of Labor (Department) is seeking information from the public regarding a supplement to the Current Population Survey (CPS) on disability employment issues, which will be conducted by the Bureau of Labor Statistics (BLS) and the Census Bureau and is expected to be fielded in 2024. The Department is publishing this Request for Information (RFI) to gather information to aid in revising this CPS Disability Supplement and to inform its general disability employment research agenda.

DATES: Comments must be received by August 8, 2022.

ADDRESSES: To facilitate the receipt and processing of written comments on this RFI, the Department encourages interested persons to submit their comments electronically. You may submit comments, identified by Regulatory Information Number (RIN) 1230–ZA01, by either of the following methods:

Electronic Comments: Follow the instructions for submitting comments on the Federal eRulemaking Portal *http://www.regulations.gov.*

Mail: Address written submissions to David Rosenblum, Senior Economist, Research & Evaluation, Office of Disability Employment Policy, U.S. Department of Labor, Room S–1313, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: This RFI is available through the **Federal Register** and the *http://www.regulations.gov* website. You may also access this document via the Office of Disability Employment Policy's (ODEP) website at *http://www.dol.gov/*odep. All comment submissions must include the agency name and Regulatory Information Number (RIN 1230–ZA01) for this RFI. Response to this RFI is voluntary and commenters need not reply to all questions listed below. The Department requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Submit only one copy of your comment by only one method (*e.g.,* persons submitting comments electronically are encouraged not to submit paper copies). Please be advised that comments received will become a matter of public record and will be posted without change to *http://www.regulations.gov,* including any personal information provided. All comments must be received by 11:59 p.m. on the date indicated for consideration in this RFI; comments received after the comment period closes will not be considered. Commenters should transmit comments early to ensure timely receipt prior to the close of the comment period. Electronic submission via *http://www.regulations.gov* enables prompt receipt of comments submitted as the Department continues to experience delays in the receipt of mail in our area. For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: David Rosenblum, Senior Economist, Office of Disability Employment Policy,

U.S. Department of Labor, Room S–1313, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–7840 or visit *https://www.dol.gov/dol/contact/contactphonecallcenter.htm* (TTY), for information about this notice.

SUPPLEMENTARY INFORMATION:

I. Background

BLS and the Census Bureau have previously conducted three supplements to the CPS on disability employment issues, in May 2012, July 2019, and July 2021. The basic monthly CPS has existed since the 1940s and is the source of official government statistics on the unemployment rate and other labor market measures. Similar to the previous versions, the 2024 Disability Supplement will be conducted alongside the basic monthly CPS, and therefore the same detailed demographic information collected in the basic monthly CPS will be available for respondents to the Disability Supplement, allowing for comparisons across demographic characteristics, including sex, race, ethnicity, age, and educational attainment. It will also be possible to create estimates for those who are employed, unemployed, and not in the labor force. Because the CPS is a rich source of information on the employment status of the population, it will be possible to examine in detail the nature of various employment and unemployment situations for individuals with disabilities.

The CPS began tracking disability status in June 2008 by asking six questions, with anyone answering affirmatively to at least one question classified as having a disability. These six questions are also used in other national surveys such as the American Community Survey and various other federal surveys. The six questions ask whether a person: (1) is deaf or has serious difficulty hearing, (2) is blind or has serious difficulty seeing (even with the assistance of corrective lenses), (3) has serious difficulty concentrating, remembering, or making decisions, (4) has serious difficulty walking or climbing stairs, (5) has difficulty dressing or bathing, and (6) has difficulty doing errands alone.

Data from the basic monthly CPS had revealed large disparities in labor market outcomes between people with and without disabilities, but more information was needed to understand the challenges facing people with disabilities and to improve programs and policies designed to help people with disabilities. To respond to this need, BLS and the Census Bureau have conducted three supplements to the CPS on disability employment issues, in May 2012, July 2019, and July 2021. The first round was sponsored by ODEP while the subsequent rounds were sponsored by DOL's Chief Evaluation Office. Given the work-related focus of the CPS, the Disability Supplement was designed to capture data on specific issues relating to employment. It aimed to (1) uncover more detail about the low labor force participation rates for people with disabilities, (2) understand the effectiveness of existing programs intended to prepare people with disabilities for employment, (3) provide more information about the work history of people with disabilities, (4) identify barriers to employment for people with disabilities, (5) learn more about workplace accommodations that assist people with disabilities, and (6) measure the extent and effectiveness of financial assistance programs. The 2012 Disability Supplement found that, of people with disabilities who were employed, more than half had some difficulty completing their work duties due to their disability. Barriers to employment included lack of education or training, lack of transportation, need for accommodations at the workplace, and a person's own disability.

The 2019 CPS Disability Supplement, which included the same set of questions as the 2012 version, was conducted to capture the effects of changes in the intervening seven years in work patterns, assistive technologies, and public policies on employment barriers for people with disabilities. Of people with disabilities who were not employed, almost half reported at least one barrier to employment, such as a person's own disability, lack of education or training, lack of transportation, or the need for job accommodations.

The third CPS Disability Supplement was conducted in July 2021 during the COVID–19 pandemic, using the same set of questions from the prior versions of the survey. This update provided information about how barriers to employment for people with disabilities may have changed as a result of the pandemic. The 2021 survey showed, of persons with a disability who were not employed, there had been a small decrease in the proportion of those reporting some type of barrier to employment, relative to the 2019 CPS Disability Supplement.

A fourth CPS Disability Supplement is being prepared, to be conducted in 2024. This Disability Supplement provides an opportunity to reconsider the questions asked in the survey in light of the socioeconomic changes that have taken places since the development of the current set of questions more than ten years ago.

Interested parties can find the most recent questionnaire at Attachment 8 of: *https://www2.census.gov/programs-surveys/cps/techdocs/cpsjul21.pdf.*

Request for Information

Through this RFI, we are soliciting feedback from interested and affected parties on the data collection that will be undertaken via the fourth CPS Disability Supplement, for addressing disability employment related issues addressed in the previous three Disability Supplements.[1] Comments to this RFI will inform decisions regarding the topics, questions, and response options included in the Disability Supplement. We encourage commenters to provide detail about why they recommend certain revisions, which could include, but are not limited to, informing policy, identifying a relevant subpopulation of the disability community, reducing respondent burden, or making the questions clearer to survey respondents. This RFI notice is for internal planning purposes only and should not be construed as a solicitation or as an obligation on the part of DOL or any participating federal agencies.

We ask commenters to address the following questions in the context of the preceding discussion in this document. Commenters do not need to address every question and should focus on those that relate to their expertise or perspective. To the extent possible, please clearly indicate the question(s) addressed in your response.

Questions

Work History

1. Should the question about difficulty completing current work duties (location 1003–1004) be rephrased in any way? Should the response options be altered?

2. Should there be more extensive questions about past work experience than the single one (location 1005–1006) previously used?

3. Should the question on departure from a job (location 1007–1008) due to disability distinguish between voluntarily leaving a job and being terminated from a job in the response options?

Barriers to Employment

4. Should the set of questions about barriers to employment (locations 1009–

[1] Technical documentation for the 2021 CPS Disability Supplement can be downloaded at *https://www.census.gov/data/datasets/time-series/demo/cps/cps-supp_cps-repwgt/cps-disability.html.* The supplement begins on page 113 of the PDF file.

1010 through—1025–1026), also be asked of those currently employed and/or those who are not identified as having a disability?

5. Should the categorization of barriers (locations 1009–1010 through 1025–1026) be altered in any way, whether by adding to, removing, or rephrasing the existing categories?

6. Should the question asking about ability to work in the absence of barriers (location 1027–1028) consist of a set of questions, with the response to each recorded separately for each type of barrier identified in the preceding set of questions?

Employment Services and Vocational Rehabilitation

7. Should the categorization of employment services (locations 1029–1030 through 1055–1056) be altered in any way, whether by adding to, removing, or rephrasing the existing categories?

8. Should the response options be altered for the corresponding set of questions (locations 1031–1032, 1035–1036, 1039–1040, 1043–1044, 1047–1048, 1051–1052, and 1055–1056) asking, of those who received assistance from a particular type of employment service, how helpful these services were?

Job Accommodations

9. Should the categorization of job accommodations (locations 1059–1060 through 1075–1076) be altered in any way, whether by adding to, removing, or rephrasing the existing categories?

10. Should there be any questions asked about past requests for job accommodations, prior to the job in the current workplace?

Commuting and Work Hours

11. Should the categorization of transportation commuting modes (locations 1079–1080 through 1099–1100) be altered in any way, whether by adding to, removing, or rephrasing the existing categories?

12. Should there be any questions about how telework/work-at-home options have changed since the onset of the COVID–19 pandemic?

13. Should the categorization of reasons for work-at-home (locations 1109–1110 through 1127–1128) be altered in any way, whether by adding to, removing, or rephrasing the existing categories?

Financial Assistance

14. Should the categorization of financial assistance programs (locations 1133–1134 through 1151–1152) be altered in any way, whether by adding to, removing, or rephrasing the existing categories?

15. Should the question asking about having worked less due to a constraint from a financial assistance program (location 1153–1154) instead consist of a set of questions, with the response to each recorded separately, for each type of financial assistance program identified in the preceding set of questions?

General

16. Are there any gaps in existing information about disability employment that have not been addressed by the questions contained in the past disability supplements but that could be considered for this future CPS Disability Supplement?

17. Which existing questions or sets of questions, if any, should be removed from the survey? Please include a reason for your suggested removal. Some possible reasons for suggesting removal may include: lack of practical utility (or lesser utility compared with potential new questions), challenges to collecting accurate data through a household survey, or socioeconomic or policy changes obviating the continued need for a previously important question.

Signed at Washington, DC this 17th day of June, 2022.

Taryn Williams,

Assistant Secretary for Disability Employment Policy.

[FR Doc. 2022–13481 Filed 6–23–22; 8:45 am]

BILLING CODE 4510–FK–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (22–046)]

NASA Advisory Council; Human Exploration and Operations Committee and Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration Committee and the Science Committee of the NASA Advisory Council (NAC). These Committees report to the NAC.

DATES: Wednesday, July 13, 2022, 1:00 p.m. to 5:00 p.m. Eastern Time.

ADDRESSES: Due to current COVID–19 issues affecting NASA Headquarters occupancy, public attendance will be virtual only. See dial-in and WebEx information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Designated Federal Officer, Human Exploration Committee, NASA Headquarters, Washington, DC 20546, via email at *bette.siegel@nasa.gov* or 202–358–2245.

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be open to the public via Webex and telephonically. Webex connectivity information is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed.

On Wednesday, July 13, the event address for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m81dc0850afc7f558575eab0b5be037b8*. The event number is 2763 382 5527 and the event password is bEGEucws379 (72783872 from phones). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–312–500–3163 and access code is 2763 382 5527.

The agenda for the meeting includes the following topics:

—Moon to Mars Architecture Status
—Cross Directorate Science Utilization
—Artemis Science Team formation
—Processes on Integration and Implementation of Science in Artemis
—Discussion on the Planetary Decadal

It is imperative that this meeting be held on this day to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–13534 Filed 6–23–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (22–045)]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held

for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, July 12, 2022, 9:00 a.m.–5:00 p.m.; and Wednesday, July 13, 2022, 8:00 a.m.–11:30 a.m., Eastern Time.

ADDRESSES: Due to current COVID–19 issues affecting NASA Headquarters occupancy, public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Tuesday, July 12, the event address for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m9c6f12a9b84855d94009095f1534fc8d.* The event number is 2764 157 7682 and the event password is cjYwMuv9N44 (25996889 from phones). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–312–500–3163 and access code is 2764 157 7682.

On Wednesday, July 13, the event address for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m81dc0850afc7f558575eab0b5be037b8.* The event number is 2763 382 5527 and the event password is bEGEucws379 (23438297 from phones). If needed, the U.S. toll conference number is 1–415–527–5035 or 1–312–500–3163 and access code is 2763 382 5527.

The agenda for the meeting includes the following topics:

—Science Mission Directorate (SMD) Missions, Programs and Activities

It is imperative that the meeting be held on these dates due to the scheduling priorities of the key participants.

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–13535 Filed 6–23–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–4479; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On May 13, 2022, the National Science Foundation published a notice in the **Federal Register** of a permit application received. The permit was issued on June 16, 2022 to:

1. Dr. Paul Ponganis, Permit No. 2023–002

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022–13460 Filed 6–23–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978 (ACA). NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 25, 2022. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or *ACApermits@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703–292–4479.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2023–004

1. *Applicant:* Dr. Steve Emslie, University of North Carolina, Department of Biology and Marine Biology, Wilmington, NC 28403

Activity for Which Permit is Requested: Take, Harmful Interference, Enter Antarctic Specially Protected Area (ASPA), Import into USA, Export from USA. The applicant seeks an Antarctic Conservation Act permit authorizing take and harmful interference associated with research examining ecological responses in diet and foraging behavior of the Adelie penguin (*Pygoscelis adeliae*) in Antarctica. The applicant proposes to collect up to 150 ancient and modern penguin tissues per year at active and abandoned penguin colonies in the Ross Sea region. Ice-free areas would be surveyed and sampled through excavations 1x1 m in size, of sediment and rock in penguin colonies, and bones, feathers, eggshell, and whole carcasses would be salvaged. Excavations would be placed in areas with little or no vegetation when possible and upon completion, excavations will be refilled, and disturbed vegetation replaced. Up to 20 small samples of lichens would also be collected in ice free areas near penguin colonies. The applicant also proposes to collect salvaged whole or partial seabird carcasses, up to 10 of each species per year, of native Antarctic birds found dead on beaches, at seabird colonies, at McMurdo and Palmer stations, or on any U.S. Antarctic Program (USAP)

vessel. The applicant plans to enter ASPA 104—Sabrina Island, Balleny Islands; ASPA 105—Beaufort Island, McMurdo Sound; ASPA 106—Cape Hallett, Northern Victoria Land; ASPA 121—Cape Royds, Ross Island; ASPA 124—Cape Crozier, Ross Island; ASPA 159—Cape Adare, Borchgrevink Coast; ASPA 165—Edmonson Point, Wood Bay. Access to these locations would be on an opportunistic basis.

Location: Ice free areas along the Scott and Victoria Land coasts, Islands in the Ross Sea. McMurdo Station, Palmer Station, USAP vessels. ASPA 104—Sabrina Island, Balleny Islands; ASPA 105—Beaufort Island, McMurdo Sound; ASPA 106—Cape Hallett, Northern Victoria Land; ASPA 121—Cape Royds, Ross Island; ASPA 124—Cape Crozier, Ross Island; ASPA 159—Cape Adare, Borchgrevink Coast; ASPA 165—Edmonson Point, Wood Bay.

Dates of Permitted Activities: July 25, 2022–December 31, 2025.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2022–13457 Filed 6–23–22; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Virtual Public Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act, notice is hereby given that a virtual meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, July 21, 2022. There will be no in-person gathering for this meeting.

DATES: The virtual meeting will be held on July 21, 2022, beginning at 10:00 a.m. (EST).

ADDRESSES: The meeting will convene virtually.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public. Reports for calendar years 2008 to 2019 are posted at *http://www.opm.gov/fprac.* Previous reports are also available, upon written request to the Committee.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee at Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 7H31, 1900 E Street NW, Washington, DC 20415, (202) 606–2858.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, 202–606–2858, or email *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal prevailing rate employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This meeting is open to the public, with an audio option for listening. This notice sets forth the agenda for the meeting and the participation guidelines.

Meeting Agenda. The tentative agenda for this meeting includes the following Federal Wage System items:

- The definition of Monroe County, PA
- The definition of San Joaquin County, CA
- The definition of the Salinas-Monterey, CA, wage area
- The definition of the Puerto Rico wage area

Public Participation: The July 21, 2022, meeting of the Federal Prevailing Rate Advisory Committee is open to the public through advance registration. Public participation is available for the meeting. All individuals who plan to attend the virtual public meeting to listen must register by sending an email to *pay-leave-policy@opm.gov* with the subject line ''July 21 FPRAC Meeting'' no later than Tuesday, July 19, 2022.

The following information must be provided when registering:

- Name.
- Agency and duty station.
- Email address.
- Your topic of interest.

Members of the press, in addition to registering for this event, must also RSVP to *media@opm.gov* by July 19, 2022.

A confirmation email will be sent upon receipt of the registration. Audio teleconference information for participation will be sent to registrants the morning of the virtual meeting.

Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2022–13556 Filed 6–23–22; 8:45 am]

BILLING CODE 6325–39–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 13 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–70, CP2022–76.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13455 Filed 6–23–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 14, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 11 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–68, CP2022–74.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13456 Filed 6–23–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 133 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–72, CP2022–78.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13458 Filed 6–23–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 14, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 12 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–69, CP2022–75.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13454 Filed 6–23–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 24, 2022.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 15, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 14 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–71, CP2022–77.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13461 Filed 6–23–22; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95124; File No. SR–CboeBZX–2022–034]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Its Fee Schedule To Establish a New NBBO Setter Program

June 17, 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 June 13, 2022, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or BZX) proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*https://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''BZX Equities'') by: (i) adopting a new NBBO Setter Program that, generally speaking, provides an additive rebate for executions in certain securities for MPIDs that add displayed liquidity to the Exchange at a more aggressive price than the current NBBO [3] and (ii) modifying the criteria in Step Up Tier 2.[4] The Exchange also proposes to delete certain definitions from its Fee Schedule that are no longer applicable.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[5] no single registered equities exchange has more than 17% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity.

The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity. For orders in securities priced below $1.00, the Exchange does not provide a rebate or assess a fee for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying more stringent criteria.

Addition of NBBO Setter Program

The Exchange proposes to adopt a new volume-based incentive program, referred to by the Exchange as the NBBO Setter Program (the ''Program''), designed to improve market quality on the Exchange in certain securities.[6] Under the proposed Program, qualifying orders in specific securities that yield fee codes B,[7] V,[8] and Y [9] will be eligible for the proposed additive rebate under proposed Tier 1 of the NBBO Setter Program (''NBBO Setter Tier''). More specifically, under the proposed new tier, the Exchange will provide an additional rebate of $0.0003 per share to MPIDs that have a Step-Up Setter ADAV [10] [11] [12] from May 2022 that is equal to or greater than 350,000 for orders in NBBO Setter Securities [13] that establish a new Setter NBBO.[14]

The $0.0003 per share additive rebate will be provided in addition to all other rebates that are otherwise applicable to each of an MPID's qualifying orders that are eligible for the additive rebate under the NBBO Setter Tier. For example, the standard rebate for an execution yielding fee code B is $0.0016 per share (assume the execution occurred in a security priced above $1.00). A Member with an ADAV of 15,000,000 shares would qualify for Add Volume Tier 1 under footnote 1 and would instead receive an enhanced rebate of $0.0020 per share. If such Member achieved this ADAV and also had a Step-Up Setter ADAV of 350,000 shares in NBBO Setter Securities, the Member would also qualify for the NBBO Setter Tier additive rebate and would receive a total rebate of $0.0023 per share on the 350,000 shares that qualified for NBBO Setter Tier (representing the original, enhanced rebate of $0.0020 per share plus the $0.0003 incentive).

The Exchange notes that it has previously offered similar NBBO Setter Tiers, but eliminated these tiers effective March 1, 2019.[15] The Exchange is now proposing to re-introduce similar incentives to encourage Members to contribute to market quality on the Exchange.

Step Up Tier 2

The Step-Up Tiers set forth in footnote 2 of the Fee Schedule provide Members an opportunity to qualify for

[3] *See* Exchange Rule 1.5(o) (''NBB, NBO and NBBO'').

[4] The Exchange initially filed the proposed fee changes on June 1, 2022 (SR–CboeBZX–2022–032). On June 2, 2022, the Exchange withdrew that filing and submitted filing SR–CboeBZX–2022–033. On June 13, 2022, the Exchange withdrew that filing and submitted this filing.

[5] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (May 26, 2022), available at *https://markets.cboe.com/us//market_statistics/*.

[6] The Exchange proposes to codify the new Program under proposed Footnote 20 of the Fee Schedule.

[7] Orders yielding Fee Code ''B'' are displayed orders adding liquidity to BZX (Tape B).

[8] Orders yielding Fee Code ''V'' are displayed orders adding liquidity to BZX (Tape A).

[9] Orders yielding Fee Code ''Y'' are displayed orders adding liquidity to BZX (Tape C).

[10] As proposed, ''Step-Up Setter ADAV'' means Baseline Setter ADAV in the relevant baseline month subtracted from Current Setter ADAV.

[11] As proposed, ''Baseline Setter ADAV'' means ADAV calculated as the number of displayed shares added per day that establish a new NBBO in NBBO Setter Securities.

[12] As proposed, ''Current Setter ADAV'' means ADAV calculated as the number of displayed shares added per day that establish a new Setter NBBO in NBBO Setter Securities.

[13] As proposed, ''NBBO Setter Securities'' means a list of securities included in the NBBO Setter Program, the universe of which will be determined by the Exchange and published in a Notice distributed to Members and on the Exchange's website. At the outset, NBBO Setter Securities will include a number of large cap equity securities and select ETPs for which the Exchange wishes to incentivize enhanced liquidity provision. The Exchange anticipates that the NBBO Setter Securities list will generally include between 500–800 securities and may be periodically updated by the Exchange, provided that the Exchange will not remove a security from the NBBO Setter Securities list without at least 30 days' prior notice to Members (unless the security is no longer eligible for trading on the Exchange). The initial set of NBBO Setter Securities will be comprised of approximately 550 securities.

[14] As proposed, ''Setter NBBO'' means a quotation of at least 100 shares that is better than the NBBO or a quotation of a notional size of at least $10,000.00 that is better than the NBBO. A quotation of at least 100 shares or a quotation of a notional size of at least $10,000 that merely joins the NBBO (*i.e.,* is ''at'' the NBBO'' will not qualify as a Setter NBBO.

[15] *See* Securities Exchange Act Release No. 85235 (March 1, 2019), 84 FR 8358 (March 7, 2019) (SR–CboeBZX–2019–012) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule Applicable to Members and Non-Members of the Exchange Pursuant to BZX Rules 15.1(a) and (c)).

an enhanced rebate for liquidity adding orders that yield fee codes B,[16] V,[17] and Y [18] where they increase their relative liquidity each month over a predetermined baseline. The Exchange notes that Step-Up Tiers are designed to encourage Members that provide displayed liquidity on the Exchange to increase their order flow, which would benefit all Members by providing greater execution opportunities on the Exchange. Tier 2 of the Step-Up Tiers provides an enhanced rebate of $0.0032 per share to a Member that (1) has a Step-Up ADAV [19] from June 2021 greater than or equal to 10,000,000 or a Step-Up Add TCV [20] from June 2021 greater than or equal to 0.10% and (2) the Member has an ADV greater than or equal to 0.30% of the TCV [21] or the Member has an ADV [22] greater than or equal to 35,000,000.

The Exchange now proposes to update the current Step-Up ADAV baseline month from June 2021 to January 2022. The Exchange believes that the change will provide a more current ADAV baseline for Members who seek to receive a rebate pursuant to Step-Up Tier 2. Overall, the Step-Up tiers, including Step-Up Tier 2 as amended, are designed to provide Members with an additional opportunity to receive an enhanced rebate by increasing their order flow to the Exchange, which further contributes to a deeper, more liquid market and provides even more execution opportunities for active market participants. The Exchange does not propose to change any other criteria for Step-Up Tier 2 outside of the baseline month used to calculate ADAV.

The Exchange also proposes to remove the definition of ''Setter Add TCV'' from its Fee Schedule as the definition is no longer applicable. The Exchange believes this change is non-substantive and will benefit Members by providing a more accurate description of terms currently used within its Fee Schedule.

The Exchange notes that the introduction of the NBBO Setter Program and the revision to Step-Up Tier 2 will be available to all Members and will provide Members an opportunity to receive enhanced rebates. Moreover, the proposed changes are designed to encourage Members that provide displayed liquidity on the Exchange to increase their overall add volume order flow, which would benefit all Members by providing greater execution opportunities on the Exchange and to contribute to a deeper, more liquid market, to the benefit of all investors.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[23] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [24] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [25] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed NBBO Setter Tier is reasonable, equitable, and not unfairly discriminatory. The proposed NBBO Setter Tier reflects a competitive pricing structure designed to incentivize participants to direct their order flow to the Exchange and enhance market quality in NBBO Setter Securities. Particularly, the Exchange believes the proposed tier, which provides an additional rebate to qualifying orders, provides a reasonable means to encourage overall growth in Members' MPID order flow that establishes a Setter NBBO in NBBO Setter Securities. An overall increase in activity would deepen the Exchange's liquidity pool, offer more narrow spreads, support the quality of price discovery, promote market transparency, and improve market quality for all investors. The Exchange believes that its proposed definition of NBBO Setter Securities is reasonable, equitable and not unfairly discriminatory because the Exchange has identified such securities as securities for which it would like to inject additional quoting competition, which it believes will generally act to narrow spreads, increase size at the inside, and increase liquidity depth in such securities. The Exchange also believes that the proposed definition of Setter NBBO is reasonable in that it provides MPIDs alternative ways to qualify for a rebate in NBBO Setter Securities and encourages MPIDs to quote at the NBBO in higher-priced securities in which Members might not otherwise quote at least 100 shares due to the higher notional value associated with securities priced over $100.00. For example, if an MPID wanted to set the NBBO in Alphabet Inc., the MPID would, under the Exchange's standard definition of NBBO,[26] have to provide a round lot quotation priced better than approximately $2,228.55,[27] which equates to a notional value of $222,855.00. Under the Exchange's proposed Setter NBBO definition, however, the MPID could qualify for the additive rebate under the NBBO Setter Tier by providing an odd lot quotation in Alphabet Inc. with a notional value of at least $10,000.00 that ''sets'' (*i.e.,* is better than) the NBBO. The Exchange believes that allowing MPIDs to qualify for the additive rebate under NBBO Setter Tier by satisfying the definition of Setter NBBO with either a quotation of at least 100 shares better than the NBBO or an odd lot quotation better than the NBBO with a notional value of at least $10,000.00 will promote price discovery and market quality in NBBO Setter Securities and, further, that the tightened spreads and increased liquidity from the proposal will benefit all investors by deepening the Exchange's liquidity pool, offering the potential for execution at more aggressive prices, supporting the quality of price discovery, enhancing quoting competition across exchanges, promoting market transparency, and improving investor protection.

In addition, the Exchange believes its definitions of ''Baseline Setter ADAV,'' ''Current Setter ADAV,'' and ''Step-Up Setter ADAV'' are reasonable, equitable and not unfairly discriminatory because

[16] *Supra* note 4.

[17] *Supra* note 5.

[18] *Supra* note 6.

[19] *Supra* note 7.

[20] ''Step-Up Add TCV'' means ADAV as a percentage of TCV in the relevant baseline month subtracted from current ADAV as a percentage of TCV.

[21] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[22] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *Id.*

[26] *Supra* note 3.

[27] Pricing data for Alphabet Inc. sourced from *https://finance.yahoo.com/quote/GOOG?p=GOOG&.tsrc=fin-srch* (last accessed June 13, 2022).

the definitions will apply to all MPIDs equally and describe how an MPID may qualify for an enhanced rebate under the NBBO Setter Tier. The Exchange also believes that it is reasonable to apply different methods for calculating Baseline Setter ADAV and Current Setter ADAV. Specifically, Baseline Setter ADAV includes only round lot quotations that set the NBBO while Current Setter ADAV includes both quotations of at least 100 shares that are better than the NBBO *and* quotation of a notional size of at least $10,000.00 that is better than the NBBO. As such, Current Setter ADAV is by definition always equally or more inclusive than Baseline Setter ADAV and can only act to the advantage of Members in meeting the NBBO Setter Tier.[28] Accordingly, the Exchange believes that the proposal is reasonable, equitably allocated, and not unfairly discriminatory because it is consistent with the overall goal of enhancing market quality.

The Exchange notes that the proposed NBBO Setter Tier is not dissimilar from other volume-based rebates and fees (''Volume Tiers'') that have been widely adopted by exchanges, including the Exchange, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide higher rebates that are reasonably related to the value of an Exchange's market quality. Much like Volume Tiers are generally designed to incentivize higher levels of liquidity provision and/or growth patterns on the Exchange, the proposed NBBO Setter Tier is designed to incentivize enhanced market quality on the Exchange through tighter spreads, greater size at the inside, and greater quoting depth in NBBO Setter Securities by offering an additive rebate in NBBO Setter Securities. As such, the Exchange believes the proposed additive rebate in qualifying orders for NBBO Setter Securities will act to enhance liquidity and competition across exchanges in NBBO Setter Securities by providing a rebate reasonably related to such enhanced market quality to the benefit of all investors, thereby promoting the principles discussed in Section 6(b)(5) of the Act.[29] Additionally, the Exchange notes that the proposed tier is comparable to other pricing tiers adopted by the Exchange and other exchanges that provide an enhanced rebate or supplemental incentive for firms that achieve a specified volume threshold in a specified group of securities.[30]

The Exchange also believes that the proposed change to the baseline month calculation in Step-Up Tier 2 is reasonable in that it will provide a more current calculation on which the ADAV or TCV criteria may be satisfied. Step-Up Tier 2 will continue to be available to all Members and provide all Members with an additional opportunity to receive an enhanced rebate, albeit using slightly modified criteria. The Exchange further believes Step-Up Tier 2, even as amended, continues to provide a reasonable means to encourage overall growth in Members' order flow to the Exchange and to incentivize Members to continue to provide liquidity adding volume to the Exchange by offering them an additional opportunity to receive an enhanced rebate on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offer additional cost savings, support the quality of price discovery, promote market transparency and improve market quality for all investors.

The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will be eligible for the Step-Up Tier 2 and proposed NBBO Setter Tier rebates and have the opportunity to meet the Tiers' criteria and receive the corresponding enhanced or additional rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether these proposed changes would definitely result in any Members qualifying for the Step-Up Tier 2 or NBBO Setter Tier. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, the Exchange anticipates approximately four Members will be able to compete for and reach the criteria under Step-Up Tier 2, as amended, and anticipates approximately three to five Members will be able to compete for and reach the criteria under proposed NBBO Setter Tier. The Exchange also notes that proposed changes will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria or proposed new NBBO Setter Tier, the Member will merely not receive that corresponding enhanced or additional rebate.

The Exchange also believes that the clarifying change to delete a non-applicable definition (*i.e.,* the ''Setter Add TCV'' definition) from the Definitions section of the Fee Schedule is reasonable, fair and equitable and non-discriminatory because it is non-substantive and is designed to make sure that the Fee Schedule is as clear and understandable as possible. The Exchange notes the Setter Add TCV definition was only applicable to a former NBBO setter program that the Exchange no longer maintains and is not otherwise applicable to any fees, rebates or other incentive programs.

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 believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed NBBO Setter Tier will be eligible to all Members' MPIDs equally in that all Members' MPIDs have the opportunity to submit orders that could set the Setter NBBO and therefore qualify for the proposed additive rebate in NBBO Setter Securities. Furthermore, the Exchange believes that the proposed NBBO Setter Tier would incentivize Members to submit additional aggressively priced displayed liquidity to the Exchange, and to increase their order flow on the Exchange generally, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange.

[28] While the Baseline Setter ADAV is calculated using round lots, which may be less than 100 shares for certain securities, and the Current Setter ADAV is calculated using at least 100 shares or $10,000.00 in notional size, the Current Setter ADAV remains more inclusive than the Baseline Setter ADAV because the $10,000.00 notional size criteria is less than the notional value of a round lot for the only security with a round lot under 100 shares that will be an NBBO Setter Security. Specifically, ticker NVR requires a quotation of only 10 shares in order to establish a round lot quotation and be included in the Baseline Setter ADAV. All other NBBO Setter Securities initially selected by the Exchange require a quotation of at least 100 shares to establish a round lot quotation. While NVR requires a quotation of fewer shares to establish a round lot, for the entirety of the baseline month of May 2022, a quote in NVR would have satisfied the $10,000.00 notional size criteria with a quotation of less than 10 shares, meaning that the Current Setter ADAV criteria remains more inclusive than the Baseline Setter ADAV criteria.

[29] *Supra* note 18.

[30] *See* Exchange Fee Schedule, Footnote 13, Tape B Volume and Quoting Tiers. *See also* MEMX Fee Schedule, Displayed Liquidity Incentive Tiers and Nasdaq Fee Schedule, NBBO Program.

Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed change to the baseline ADAV calculation in Step-Up Tier 2 equally does not impose a burden on intramarket competition that is not in furtherance of the Act in that the proposed change applies to all Members equally and will incentivize Members to increase their order flow on the Exchange by providing a more current baseline upon which the ADAV or TCV is based. The only proposed change to Step-Up Tier 2 is to the baseline month on which the ADAV or TCV will be calculated in order for a Member to be eligible to receive the enhanced rebate. The proposed non-substantive change to the Definitions section of the Fee Schedule is similarly non-burdensome as it will be available to all Members and provide a clear description of the terms applicable to the Fee Schedule.

The Exchange notes that its proposed NBBO Setter Program does not impose a burden on intermarket competition as the proposal is intended to increase competition in U.S. equity securities that the Exchange believes will contribute to a deeper and more liquid market in these securities, which would in turn promote price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. The Exchange does not believe that the proposed changes represent a significant departure from pricing current offered by the Exchange or pricing offered by other equities exchanges. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.[31] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [32] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.'. . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . .''.[33]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [34] and paragraph (f) of Rule 19b–4 [35] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBZX–2022–034 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–CboeBZX–2022–034. 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 a.m. and 3 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

[31] *Supra* note 3.

[32] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[33] NetCoalition v. SEC, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 17 CFR 240.19b–4(f).

information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2022–034 and should be submitted on or before July 15, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2022–13476 Filed 6–23–22; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2022–0028]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)
Office of Management and Budget,
Attn: Desk Officer for SSA.
Comments: *https://www.reginfo.gov/public/do/PRAMain.* Submit your comments online referencing Docket ID Number [SSA–2022–0028].

(SSA)
Social Security Administration, OLCA,
Attn: Reports Clearance Director,
3100 West High Rise,
6401 Security Blvd.,
Baltimore, MD 21235,
Fax: 410–966–2830,
Email address: *OR.Reports.Clearance@ssa.gov.*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2022–0028].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 23, 2022. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Supplemental Statement Regarding Farming Activities of Person Living Outside the United States—0960–0103.* When a beneficiary or claimant reports farm work from outside the United States, SSA documents this work on Form SSA–7163A–F4. Specifically, SSA uses the form to determine if we should apply foreign work deductions to the recipient's Title II benefits. We collect the information either annually or every other year, depending on the respondent's country of residence. Once respondents complete the form, they mail it back to SSA. Respondents are Social Security recipients engaged in farming activities outside the United States.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–7163A–F4	19	1	60	19	* $11.70	** $222

* We based this figure on the average DI payments based on SSA's current FY 2022 data (*https://www.ssa.gov/legislation/2022factsheet.pdf).*
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Information About Joint Checking/Savings Account—20 CFR 416.1201 and 416.1208—0960–0461.* SSA considers a person's resources when evaluating eligibility for Supplemental Security Income (SSI). Generally, we consider funds in checking and savings accounts as resources owned by the individuals whose names appear on the account. However, individuals applying for SSI may rebut this assumption of ownership in a joint account by submitting certain evidence to establish the funds do not belong to them. SSA uses Form SSA–2574 to collect information from SSI applicants and recipients who object to the assumption that they own all or part of the funds in a joint checking or savings account bearing their names. SSA collects information about the account from both the SSI applicant or recipient and the other account holder(s). After receiving the completed form, SSA determines if we should consider the account to be a resource for the SSI applicant and recipient. The respondents are applicants and recipients of SSI, and individuals who list themselves as joint owners of financial accounts with SSI applicants or recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office or for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA–2574 (Paper)	50,000	1	7	5,833	* $19.86	.....	*** $115,843
SSA–2574 (SSI Claim System)	150,000	1	7	17,500	* 19.86	** 21	*** 1,390,200
Totals	200,000	.....	.....	23,333	.....	.....	*** $1,506,043

* We based this figure by averaging both the average DI payments based on SSA's current FY 2022 data (*https://www.ssa.gov/legislation/2022factsheet.pdf*), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

[36] 17 CFR 200.30–3(a)(12).

** We based this figure by averaging the average FY 2022 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. *Real Property Current Market Value Estimate—0960–0471.* SSA considers an individual's resources when evaluating eligibility for SSI payments. The value of an individual's resources, including non-home real property, is one of the eligibility requirements for SSI payments. SSA obtains current market value estimates of the claimant's real property through Form SSA–L2794. We allow respondents to use readily available records to complete the form, or we can accept their best estimates. We use this form as part of initial applications and in post-entitlement situations. The respondents are small business operators in real estate; state and local government employees tasked with assessing real property values; and other individuals knowledgeable about local real estate values.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–L2794	300	1	20	100	* $23.45	** $2,345

* We based this figure on the median hourly salary of Real Estate Brokers and Sales Agents, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. *Employer Verification of Earnings After Death—20 CFR 404.821 and 404.822—0960–0472.* When SSA records show a wage earner is deceased, and we receive wage reports from an employer for the wage earner for a year subsequent to the year of death, SSA mails the employer Form SSA–L4112 (Employer Verification of Earnings After Death). SSA uses the information Form SSA–L4112 provides to verify wage information previously received from the employer is correct for the employee and the year in question (the year subsequent to the year of death), to ensure we avoid wage fraud on the deceased's account. The respondents are employers who report wages for employees who died.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–L4112	13,114	1	10	2,186	* $28.01	** $61,230

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. *Child Care Dropout Questionnaire—20 CFR 404.211(e)(4)—0960–0474.* If individuals applying for Title II disability benefits care for their own or their spouse's children under age 3, and have no steady earnings during the time they care for those children, they may exclude that period of care from the disability computation period. We call this the child-care dropout exclusion. SSA uses the information from Form SSA–4162 to determine if an individual qualifies for this exclusion. Respondents are applicants for Title II disability benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–4162	1,563	1	5	130	* $28.01	** 24	*** $21,148

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** We based this figure on the average FY 2022 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. *Medical Report on Adult with Allegation of Human Immunodeficiency Virus Infection; Medical Report on Child with Allegation of Human Immunodeficiency Virus Infection—20 CFR 416.933–416.934—0960–0500.* Section 1631(e)(i) of the Social Security Act (Act) authorizes the Commissioner of SSA to gather information to make a determination about an applicant's claim for SSI payments. Section 1631(a)(4) of the Act provides that the Commissioner may pay SSI payments to an applicant for a period not exceeding six months prior to the determination of the individual's disability, if the individual is presumptively disabled and is determined to be otherwise eligible for benefits; this procedure is called Presumptive Disability (PD). SSA uses Forms SSA–4814 and SSA–4815 to collect information necessary to determine if an individual with human immunodeficiency virus infection, who is applying for SSI disability benefits, meets the requirements for PD. The respondents are the medical sources of the applicants for SSI disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
SSA–4814	1,307	1	8	174	* $16.02	** 19	*** $9,420
SSA–4815	20	1	10	3	* 16.02	** 19	*** 144
Totals	1,327			177			*** 9,564

* We based this figure on the average Healthcare Support Occupations, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes310000.htm*).

** We based this figure on the average FY 2022 wait times for teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

7. *Certificate of Election for Reduced Widow(er)s and Surviving Divorced Spouse's Benefits—20 CFR 404.335—0960–0759.* Section 202(q) of the Act provides SSA the authority to reduce benefits under certain conditions when elected by a Title II beneficiary. However, reduced benefits are not payable to an already entitled spouse (or divorced spouse) who:

- Is at least age 62 and under full retirement age in the month of the number holder's death; and
- Is receiving both reduced spouse's (or divorced spouse's) benefits and either retirement or disability benefits in the month before the month of the number holder's death.

To elect reduced widow(er) benefits, a recipient completes Form SSA–4111, and mails it back to SSA. SSA uses the information collected to pay a qualified dually entitled widow(er) (or surviving divorced spouse) who elects to receive a reduced widow(er) benefit. The respondents are qualified dually entitled widow(er)s (or surviving divorced spouse) who elect to receive a reduced widow(er) benefit.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–4111	30,000	1	2	1,000	* $28.01	** $28,010

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: June 20, 2022.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2022–13489 Filed 6–23–22; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 11767]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Black Orpheus: Jacob Lawrence & the Mbari Club'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Black Orpheus: Jacob Lawrence & the Mbari Club'' at the Chrysler Museum of Art, Norfolk, Virginia; the New Orleans Museum of Art, New Orleans, Louisiana; the Toledo Museum of Art, Toledo, Ohio; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office

of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–13509 Filed 6–23–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11769]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''She Who Wrote: Enheduanna and Women From Mesopotamia'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''She Who Wrote: Enheduanna and Women from Mesopotamia'' at The Morgan Library & Museum, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–13512 Filed 6–23–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11768]

30-Day Notice of Proposed Information Collection: COVID–19 Vaccination Requests for Waiver

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to July 25, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* COVID–19 Vaccination Request for Waiver.
- *OMB Control Number:* 1405–0246.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* GTM.
- *Form Number:* DS–5158, DS–5159.
- *Respondents:* Employees or prospective employees at the Department of State who may request an exception to Executive Order 14043 from this vaccination requirement based on a sincerely held religious belief or medical needs.
- *Estimated Number of Respondents:* 100.
- *Estimated Number of Responses:* 100.
- *Average Time per Response:* 75 minutes.
- *Total Estimated Burden Time:* 75 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The purpose of collecting this information is to provide an avenue for individuals to request an exception to the vaccination requirement as a medical/disability or religious accommodation, and to determine whether the request for an exception to Executive Order 14043 is valid and can be accommodated.

Methodology

For prospective employees, both forms are PDFs that must be printed, completed, signed, and emailed to points of contact. The Medical Exception form has two parts: Part 2 of the form must be completed by a medical professional before the entire document is scanned and emailed. For current employees they can find the forms electronically on the Department of State systems and complete them electronically.

A Notice Regarding Injunctions

The vaccination requirement issued pursuant to E.O. 14043, is currently the subject of a nationwide injunction. While that injunction remains in place, the Department will not process requests for a medical exception from the COVID–19 vaccination requirement

pursuant to E.O. 14043. The Department will also not request the submission of any medical information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But the Department may nevertheless receive information regarding a medical exception. That is because, if the Department were to receive a request for an exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, the Department will accept the request, hold it in abeyance, and notify the employee who submitted the request that implementation and enforcement of the COVID–19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place. In other words, during the pendency of the injunction, any information collection related to requests for medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 is not undertaken to implement or enforce the COVID–19 vaccination requirement.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2022–13523 Filed 6–23–22; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice: 11770]

Designation of Anton Thulin as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(a)(ii)(A) of E.O. 13224 of September 23, 2001, as amended by E.O. 13268 of July 2, 2002, E.O. 13284 of January 23, 2003, and E.O. 13886 of September 9, 2019, I hereby determine that the person known as Anton Thulin has committed, attempted to commit, poses a significant risk of committing, and has participated in training to commit acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of E.O. 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

(Authority: E.O. 13224)

Dated: November 5, 2021.

Antony J. Blinken,

Secretary of State.

Editorial note: This document was received for publication by the Office of the Federal Register on June 17, 2002.

[FR Doc. 2022–13482 Filed 6–23–22; 8:45 am]

BILLING CODE 4710–AD–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36617]

Toledo, Peoria & Western Railway Corp.—Trackage Rights Exemption—Keokuk Junction Railway Co.

Toledo, Peoria & Western Railway Corp. (TPW), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for overhead trackage rights over approximately 3.9 miles of rail line owned by Keokuk Junction Railway Company (KJ) between the Union Pacific Railroad Company (UP) interchange at milepost 118.5, near Hollis (a/k/a Sommer), Ill., and milepost 122.4, near Mapleton, Ill. (the Line).

TPW and KJ have entered into a written trackage rights agreement that grants TPW trackage rights over the Line, allowing TPW to access the TPW-owned Mapleton Industrial Spur on one end of the Line and trackage rights it holds over a UP line on the other end of the Line.[1]

The transaction may be consummated on or after July 9, 2022, the effective date of the exemption.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 1, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36617, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on TPW's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to TPW, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: June 21, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2022–13564 Filed 6–23–22; 8:45 am]

BILLING CODE 4915–01–P

[1] A redacted version of the trackage rights agreement between TPW and KJ was filed with the verified notice. An unredacted version of the agreement was submitted to the Board under seal concurrently with a motion for protective order, which is addressed in a separate decision.

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 808X)]

CSX Transportation, Inc.—Abandonment Exemption—in Gwinnett, Ga.

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 0.13-mile rail line that runs between Val Sta. 12+37 and Val Sta. 19+52 on its Atlanta Division, Abbeville Subdivision, Lawrenceville Branch, in Gwinnett County, Ga. (the Line). The Line traverses U.S. Postal Service Zip Code 30046.

CSXT has certified that: (1) no freight traffic has moved over the Line for the prior two years; (2) because it is not a through line, no overhead traffic has operated over the Line, and none would need to be rerouted as a result of the proposed abandonment; (3) no formal complaint filed by a user of rail service on the Line (or by state or local government on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or has

been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[1] this exemption will be effective on July 24, 2022, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues[2] must be filed by July 1, 2022. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 5, 2022.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 14, 2022.

All pleadings, referring to Docket No. AB 55 (Sub-No. 808X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CSXT's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by July 1, 2022. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CSXT's filing of a notice of consummation by June 24, 2023, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 16, 2022.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2022–13437 Filed 6–23–22; 8:45 am]

BILLING CODE 4915–01–P

[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0100]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 31, 2022, Brownsville & Rio Grande International Railway, LLC (BRG) petitioned the Federal Railroad Administration (FRA) to extend a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 215 (Railroad Freight Car Safety Standards) and § 232.205, *Class I Brake Test—Initial Terminal Inspection.* FRA assigned the petition Docket Number FRA–2010–0100.

Specifically, BRG seeks to retain relief that permits BRG to pick up trains received in interchange at the U.S./Mexico border from Kansas City Southern de Mexico Railway (KCSM) via Union Pacific Railroad Company (UP) at UP's Olmito Yard in Olmito, Texas (in lieu of BRG's interchange point with UP at milepost (MP) 4.48), and move them to perform the required FRA inspections (*see* Docket Number FRA–2007–28340). BRG's existing relief states that the inspection location is on BRG's South Lead on the Palo Alto Subdivision, between MPs 2.0 and 3.0. In this request, BRG seeks to modify the inspection location to between MPs 1.0 and 3.0.

In support of its petition, BRG states the extension would help expedite any delays caused by required port of entry inspections and other unforeseen delays. It would also provide capacity to process two inbound trains back-to-back, allowing for more efficient use of bridge windows. BRG further states that the change will support the ongoing extensive growth in the Rio Grande Valley.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by August 8, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See

also *https://www.regulations.gov/privacy-notice* for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2022–13493 Filed 6–23–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2022–0049]

Federal-State Partnership for Intercity Passenger Rail Program; Northeast Corridor Project Inventory

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Proposed Approach (Notice) to the Northeast Corridor Project Inventory and the Federal-State Partnership for Intercity Passenger Rail Program for Northeast Corridor projects.

SUMMARY: FRA is publishing this Notice to describe its proposed approach to the development of the Northeast Corridor (NEC) project inventory (NEC Project Inventory), which is a required component of the Federal-State Partnership for Intercity Passenger Rail Program (Partnership Program). FRA is required to publish an NEC Project Inventory not later than one year after the enactment of the Infrastructure Investment and Jobs Act, also known and the Bipartisan Infrastructure Law (BIL). The NEC Project Inventory must be updated at least every two years.

DATES: Written comments on this Notice must be received on or July 25, 2022.

ADDRESSES: Comments should refer to docket number FRA–2022–0049 and be submitted at *https://www.regulations.gov. See* Section V for further information.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Amishi Castelli, Northeast Corridor Program Manager, Office of Policy and Planning, at email: *Amishi.Castelli@dot.gov* or telephone: 202–845–4394, or Bryan Rodda, Lead Community Planner, Office of Policy and Planning, at email: *Bryan.Rodda@dot.gov* or telephone: 202–493–0443.

SUPPLEMENTARY INFORMATION:

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I. Overview

A. Background on Northeast Corridor Planning

The NEC is the most heavily used passenger rail corridor in the United States. Pre-COVID–19, the NEC served over 800,000 daily passengers traveling on more than 2,000 daily commuter and intercity trains and supported 50–60 daily freight trains.

In 2017, FRA presented its vision for growth along the NEC with the NEC FUTURE Record of Decision. *See www.fra.dot.gov/necfuture/tier1_eis/rod/.* The Northeast Corridor Commission (NEC Commission), composed of 18 members, including representatives from each of the eight Northeast Corridor states, the District of Columbia, Amtrak, and the U.S. Department of Transportation, subsequently developed an implementation plan (CONNECT NEC 2035 or C35) to deliver the first 15-year phase of investment to realize the NEC FUTURE vision. The NEC Commission issued C35 in July 2021. C35 identified and provided a sequencing and delivery strategy for completing projects to eliminate the state of good repair backlog on—and modernize and make targeted improvements to—the NEC. *See http://nec-commission.com/connect-nec-2035/.* The NEC Commission is currently updating C35 to reflect the updated project information and better consider workforce and funding constraints.

B. Authority

The Partnership Program was reauthorized and revised in the BIL, Title II, §§ 22106 and 22307, Public Law 117–58 (2021); codified at 49 U.S.C. 24911. Under the Partnership Program, the Secretary of Transportation (Secretary) is directed to develop and implement a program for issuing grants to applicants, on a competitive basis, to fund projects that reduce the state of good repair backlog, improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved. The Partnership Program revisions in the BIL require the Secretary to, among other things, develop and publish an NEC Project Inventory to (1) create a predictable project pipeline that will assist Amtrak, States, and the public with long-term capital planning, and (2) use the NEC Project Inventory when selecting projects located on the NEC for Partnership Program funds. 49 U.S.C. 24911. FRA is delegated the authority under the BIL to establish and administer the Partnership Program. 49 CFR 1.89(a).

FRA encourages NEC stakeholders to submit comments to this Notice consistent with the directions below. FRA will consider these comments in developing the NEC Project Inventory and the associated Notice of Funding Opportunity (NOFO) for the Partnership Program. As described below, FRA plans to publish the NEC Project Inventory, consistent with the BIL, in November 2022, with the NOFO for projects on the NEC following closely after.

C. Definitions [1]

Construction Stage: the Lifecyle Stage of a project following the Final Design Lifecycle Stage and during which the project is completely built and placed into operational use. This stage may include physical construction, procurement of vehicles and equipment, project administration, testing of equipment as appropriate, systems integration testing, workforce training, system certification, procurement of insurance, pre-revenue service, and start-up testing.

Defined Capital Renewal Projects: a geographically integrated set of activities to repair, replace, or modernize basic infrastructure assets along a corridor section that is executed in accordance with a defined scope, schedule, and budget. Basic infrastructure assets include rails, ties, ballast, communication systems, electric traction power systems, and undergrade bridges.

Final Design Stage: the Lifecyle Stage of a project following the Project Development Lifecycle Stage during which the project design is advanced to be ready for construction. This stage includes development of final engineering plans and specifications necessary for construction of the project; securing agreements (including

[1] The definitions used in this Notice are consistent with FRA's Draft Guidance on Development and Implementation of Railroad Capital Projects, currently available for public comment at *https://www.regulations.gov* (docket number FRA–2022–0035). To the extent necessary, FRA will update definitions in the NOFO.

execution of cost share agreements) necessary to construct and operate the project; and demonstration of commitment of the financial resources necessary to complete the project. This stage may include completion of property acquisition, and early construction or relocations and procurement of equipment and materials, if permissible under applicable law.

Improvement Projects: those projects to improve reliability, increase capacity, reduce travel time, or improve the customer experience by replacing existing assets with superior ones or introducing new assets to existing NEC infrastructure, facilities, and equipment capabilities.

Lifecycle Stage: consecutive stages of a project as applicable, to include Project Planning Stage, Project Development Stage, Final Design Stage and Construction Stage. Each sequential stage involves specific project activities including the preparation of appropriate project management documents. FRA evaluates project readiness for a subsequent lifecycle stage when considering a project for funding.

Major Backlog Projects: those projects necessary to achieve a state of good repair, but that are not undertaken on a routine basis, such as rehabilitation or replacement of major bridges and tunnels. As with all capital projects, Major Backlog Projects involving replacement of a major structure should contemplate all work associated with that replacement as a single project. As of the publication of this Notice, the NEC Commission has identified Major Backlog projects on the NEC as:

1. Baltimore and Potomac Tunnel Replacement
2. Bush River Bridge Replacement
3. Connecticut River Bridge Replacement
4. East River Tunnel Rehabilitation
5. Gunpowder River Bridge Replacement
6. Pelham Bay Bridge Replacement
7. Susquehanna River Bridge Replacement
8. Cos Cob Bridge Replacement
9. Devon Bridge Replacement
10. Saugatuck River Bridge Replacement
11. Walk Bridge Program
12. Hudson Tunnel Project
13. Sawtooth Bridges Replacement Project
14. Portal North Bridge Project
15. Highline Renewal and State of Good Repair

Major Capital Project: a project with an estimated Total Project Cost equal to or greater than $300 million and has, or is anticipated to request, $100 million or more in Federal financial assistance.

Stations Projects: those projects to repair, replace, modernize or improve an existing station, occurring primarily within the boundaries of the station property, or projects to construct an expanded, new or replacement station.

Northeast Corridor: the main rail line between Boston, Massachusetts and the District of Columbia; the branch rail lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York; and facilities and services used to operate and maintain the main and branch rail lines described above. 49 U.S.C. 24911(a)(3).[2]

Northeast Corridor Capital Investment Plan (NEC CIP): the planning document developed by the NEC Commission pursuant to 49 U.S.C. 24904(b) and any subsequent updates to such document (available at *http://nec-commission.com/documents/*).

Northeast Corridor Project (NEC Project): a project located on, or in primary use for, the NEC, consistent with 49 U.S.C. 24911(d)(1).

Northeast Corridor Service Development Plan: the planning document developed by the NEC Commission pursuant to 49 U.S.C. 24904(a) and any subsequent updates to such document or associated analyses. As of the time of this Notice, the existing Northeast Corridor Service Development Plan is known as CONNECT NEC 2035.

Planning Studies: those projects which include only planning activities such as railroad transportation market forecasting, operations analysis, fleet planning, cost analysis, station and facility planning, environmental resource consideration, and other similar activities. Planning studies have no associated construction in their current form. Planning Studies only have one Lifecycle Stage, the Project Planning Stage.

Project Development Stage: the Lifecyle Stage of a project, following the Planning Stage, during which project design, environmental and other studies are advanced to ensure the project is ready for implementation. This stage includes completion of the environmental review process required under the National Environmental Policy Act (NEPA) and other related environmental laws, and advancement of the permitting processes as appropriate; completion of preliminary engineering and other design disciplines to develop estimates of risk, costs, benefits, and impacts, and sufficient to advance to Final Design; and identification of financial resources necessary to complete the project.

Project Planning Stage: the Lifecyle Stage of a project during which project concepts are identified to adequately address transportation needs and opportunities. The purpose of the Project Planning Stage is to identify and compare the costs, benefits, and impacts of project options as a means of providing private and government decisionmakers with information to reach transportation solutions. This stage includes the following activities to demonstrate a practical project proposal that addresses a clear project need and support of participant stakeholders: development of conceptual design to establish the type and scope of capital improvements to be made; advancement of technical studies (*e.g.,* railroad transportation market forecasting, operations analysis, etc.); and engagement of stakeholders and the public as appropriate.

Project Sponsor: the entity responsible for implementing a project that may also be an applicant seeking or grantee receiving Federal financial assistance.

Project Type: a categorization as either Major Backlog Projects, Defined Capital Renewal Projects, Improvement Projects, Stations Projects, or Planning Studies.

Shared Benefit Projects: projects that benefit both intercity and commuter rail services.

Total Project Cost: the aggregate estimated cost for all remaining Lifecycle Stages in year-of-expenditure dollars that accounts for inflation and appropriate contingency amounts.

II. Program Eligibility

A. Eligible Applicants

The following entities are eligible to submit applications for Partnership Program funds: a State (including the District of Columbia); a group of States; an Interstate Compact; a public agency or publicly chartered authority established by one or more States; a political subdivision of a State; Amtrak, acting on its own behalf or under a cooperative agreement with one or more States; a Federally recognized Indian Tribe; or any combination of these entities.

The following is a non-exhaustive list of potential eligible Project Sponsors for NEC Projects:

—States, including the District of Columbia, Maryland, Delaware, Pennsylvania, New Jersey, New York,

[2] While other definitions for the NEC exist, this definition is used in the Partnership Program and is consistent with definition used in 49 U.S.C. 24904(e).

Connecticut, Rhode Island, and Massachusetts;
—Public agencies or publicly chartered authorities established by one or more States, including the Maryland Transit Administration, Southeastern Pennsylvania Transportation Authority, New Jersey Transit Corporation, New York Metropolitan Transportation Authority, and Massachusetts Bay Transportation Authority; and
—Amtrak (formally known as the National Railroad Passenger Corporation).

In addition to the list above, other existing or future entities whose applications demonstrate that they satisfy the eligible applicant criteria may apply forand potentially receive—Partnership Program funding.

B. Eligible Projects

For a project to be eligible for NEC Partnership Program funding, a project must be an NEC Project and be included on the NEC Project Inventory consistent with 49 U.S.C. 24911(c). Under 49 U.S.C. 24911(c), the following projects, including acquisition of real property interests, are eligible to receive grants under the Partnership Program:

(1) A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring such assets into a state of good repair;

(2) A project to improve intercity passenger rail service performance, including reduced trip times, increased train frequencies, higher operating speeds, improved reliability, expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary;

(3) A project to expand or establish new intercity passenger rail service;

(4) A group of related projects described in paragraphs (1) through (3); and

(5) The planning, environmental studies, and final design for a project or group of projects described in paragraphs (1) through (4).[3]

Consistent with these requirements and the prohibition at 49 U.S.C. 22905(f),[4] NEC Projects that solely benefit commuter rail passenger transportation are not eligible to receive Partnership Program funding and will not be included in the NEC Project Inventory, even if such projects are included in the NEC CIP or C35. Partnership Program projects must result in reasonable investments for intercity rail passenger transportation. Such projects may be located on shared corridors with commuter rail passenger transportation and may benefit both intercity and commuter services. In this Notice, such projects are referred to as Shared Benefit projects. NEC Projects may also benefit freight rail service.

III. NEC Project Inventory

FRA's development of the NEC Project Inventory will be consistent with the requirements of 49 U.S.C. 24911(e).

FRA views the NEC Project Inventory as a logical outgrowth of the collaborative planning efforts and project pipeline development work completed as part of the NEC Commission's C35 and NEC CIP. In developing the NEC Project Inventory, FRA will rely in large part on C35, analyses and new information considered in updates to C35, and the NEC CIP (collectively referred to in this Notice as NEC Commission Planning Documents). FRA intends to rely on the best available information from these sources as of August 2022 to inform the first NEC Project Inventory. FRA will not accept requests from eligible entities to add their projects to the NEC Project Inventory, but rather FRA seeks public comment on the approach in developing the NEC Project Inventory via this Notice.

Following initial publication of the NEC Project Inventory, FRA will update it every two years at minimum, consistent with 49 U.S.C. 24911(e).

A. FRA's Approach To Developing the NEC Project Inventory

This section describes FRA's interpretation of each of the NEC Project Inventory requirements from § 24911(e). FRA will develop an inventory that:

(1) Identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels. 49 U.S.C. 24911(e)(1).

The NEC Project Inventory will include NEC Projects in all Lifecycle Stages and identify Project Sponsors for each project. FRA will review the NEC Commission Planning Documents and other sources of project information as appropriate to identify projects for inclusion on the NEC Project Inventory and preliminarily assess project eligibility under the Partnership Program.

In general, each project FRA finds eligible for funding under the Partnership Program will receive an individual entry on the NEC Project Inventory summarizing the project's scope, schedule, and cost information. If Defined Capital Renewal Projects are still in development and therefore not specifically identified in NEC Commission Planning Documents or other sources of information at the time of publication of the NEC Project Inventory, the FRA may identify and allocate proposed funding in the NEC Project Inventory for such projects that may become ready for funding after publication of the then-current NEC Project Inventory but prior to the next NEC Project Inventory update.

FRA will identify project applicants based on the Project Sponsor identified in the NEC Commission Planning Documents and other sources of project information as appropriate.

Proposed Partnership Program Federal funding levels for NEC Project Inventory projects may be described either in percentage levels (*i.e.,* percentage of total cost comprising Partnership Program funding in the project) or amounts.

Section IVA of this Notice (Program Administration) discusses initially available funds for the Partnership Program, and states that proposed funding levels on the NEC Project Inventory are not commitments, selections, or obligations of Federal funding, and are subject to changes identified under Section IVB.

(2) Specifies the order in which the Secretary will provide grant funding to projects that have identified sponsors and are located along the Northeast Corridor, including a method and a plan for apportioning funds to project sponsors for the two-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects in accordance with the anticipated schedule. 49 U.S.C. 24911(e)(2).

NEC Project Inventory Order

FRA will specify the order of funding for the identified NEC Projects over a two-year period starting from the publication of the NEC Project Inventory. In specifying the order of funding, FRA will group projects on the NEC Project Inventory based on the project's anticipated start year for the lifecycle stage for which Project Sponsors are expected to request Partnership Program funding. FRA will allocate a small portion of Partnership Program funding to Planning Studies. FRA will then prioritize projects by

[3] Applications for these activities under this eligibility category will be considered independently, regardless of whether the application also requests project funding for subsequent Lifecycle Stages such as Final Design Stage and Construction Stage.

[4] Under 49 U.S.C. 24911(i), Partnership Program grants are subject to the conditions in 49 U.S.C. 22905.

Project Type and, within Project Type, by Lifecycle Stage,[5] as follows:

First Priority

Major Backlog Projects in the following order based on Lifecycle Stage: (1) Project Planning Stage (2) Project Development Stage; (3) Final Design Stage; and (4) Construction Stage;

Second Priority

Defined Capital Renewal Projects in the following order based on Lifecycle Stage: (1) Project Planning Stage (2) Project Development Stage; (3) Final Design Stage; and (4) Construction Stage;

Third Priority

Improvement and Stations Projects in the following order based on Lifecycle Stage: (1) Construction Stage; (2) Final Design Stage; (3) Project Development Stage; and (4) Project Planning Stage.

Once projects have been prioritized, FRA will preliminarily assess readiness.[6] In assessing readiness for the anticipated start year, FRA will review the NEC Commission Planning Documents and other sources of project information as appropriate to understand the following information, which may vary in completeness based on Lifecycle Stage of the project:

Lifecycle Stage: The Project Sponsor's completion of prior Lifecycle Stage work;

Environmental risk: The project's environmental and permitting approvals, and likelihood of obtaining the any outstanding approval(s) affecting project obligation and completion;

Technical capacity: The Project Sponsor's capacity to successfully deliver the project in compliance with applicable Federal requirements; and

Financial completeness: For projects requiring funding for Lifecycle Stages beyond Project Development, the likelihood that sufficient financial resources are available to complete the project; for projects requiring funding for the Planning and Project Development Lifecycle Stages, the likelihood that sufficient financial resources are available to complete those Stages.

Funding Shares: For Shared Benefit projects, the proposed intercity passenger rail share, commuter rail share, and local share (if different from the combined intercity passenger rail share and commuter rail share) of the Total Project Costs.

FRA will also consider consistency with the United States Department of Transportation (USDOT) Strategic Goals. FRA will qualitatively determine, based on information in the NEC Commission Planning Documents and other sources of project information as appropriate, whether projects address the goals (described in detail at *https://www.transportation.gov/dot-strategic-plan*) of safety, economic strength and global competitiveness, equity, climate and sustainability, transformation of the transportation system to serve current and future transportation challenges, and organizational excellence that advances the mission of the USDOT.

Method and Plan for Apportioning Funds

In the NEC Project Inventory, FRA will identify proposed allocations for identified projects over a two-year period from the date of publication of the Inventory. The NEC Project Inventory will also describe FRA's method and plan for making such allocations.

(1) For Major Backlog Projects that will begin or are anticipated to begin the Construction Stage prior to Federal fiscal year 2027 and are selected for an award under the Partnership Program's competitive process, FRA intends to allocate sufficient funding to pay a Federal share up to 80 percent of Total Project Costs. For such projects, using NEC Commission Planning Documents and other sources of project information as appropriate, FRA will identify: the amount of funding, if any, received or committed from another Federal financial assistance program; and, the amount of funding, if any, that a project sponsor has requested a Federal agency consider including as part of a Federal funding recommendation. FRA will then allocate Partnership Program funding based on the remaining Total Project Cost. FRA may use Letters of Intent or Phased Funding Agreements discussed in subsection IVC below for this purpose.

(2) For Defined Capital Renewal Projects and Planning Studies that are selected for an award under the Partnership Program's competitive process, FRA may allocate a Federal share up to 80 percent of Total Project Costs.

(3) For certain Station Projects and Improvement Projects that are selected for an award under the Partnership Program's competitive process, Project Sponsors may be required to provide a greater than 20 percent non-Federal match. Specifically, for these projects, FRA will consider allocating the remaining Partnership Program funds commensurate with the intercity passenger rail benefits of the project.

As discussed in Program Administration (Section IV), proposed funding levels on the NEC Project Inventory are not commitments, selections, or obligations of Federal funding. The NEC Project Inventory identifies potential Projects and Project Sponsors expected to submit applications in response to the Partnership Program NOFO, and represents FRA's best understanding of the anticipated Partnership Program funding requests at the time of publication of the NEC Project Inventory. Award selections and award amounts may differ from the allocations and projects identified in the NEC Project Inventory.

Inclusion on the NEC Project Inventory does not limit Project Sponsors' ability to pursue and receive Federal financial assistance through other programs. Projects receiving funding commitments from other programs will enable the Partnership Program to fund additional projects.

FRA anticipates that the NEC Project Inventory published in Fall 2022 will identify NEC Projects with an anticipated start year in calendar years 2023–2024 for the lifecycle stage for which Project Sponsors are expected to request Partnership Program funding. Subsequent updates to the NEC Project Inventory will identify projects underway, projects with Letters of Intent or Phased Funding Agreements in effect, and NEC Projects ready for funding in the subsequent two-year periods.

Alterations to the NEC Project Inventory

FRA may alter the NEC Project Inventory as necessary if recipients are not carrying out projects in accordance with the anticipated schedule. Such changes will be incorporated into subsequent updates to the NEC Project Inventory.

(3) Takes into consideration the appropriate sequence and phasing of projects described in the Northeast Corridor capital investment plan developed pursuant to § 24904(b); and is consistent with the most recent Northeast Corridor service development plan update described in § 24904(a). 49 U.S.C. 24911(e)(3)–(4).

FRA will rely on the NEC Commission Planning Documents when developing the NEC Project Inventory. To the greatest extent feasible, FRA will ensure consistency between the NEC

[5] Within the NEC Project Inventory, FRA will consider allocating funding to multiple Lifecycle Stages.

[6] FRA will confirm readiness as part of the evaluation and selection process conducted for applications received in response to the NOFO for the Partnership Program (*see* Section IVB).

Commission Planning Documents and the NEC Project Inventory, directly incorporating information provided in the NEC Commission Planning Documents into the NEC Project Inventory. Such information may include sequencing and phasing project information, if available, as well as project names, Lifecycle Stage, Total Project Cost, project descriptions and scope, proposed start and end dates, and similar information.

(4) Takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary. 49 U.S.C. 24911(e)(5).

For a project identified on the NEC Project Inventory, FRA will identify, using NEC Commission Planning Documents and other sources of project information as appropriate, the amount of Federal funding, if any, that a project sponsor has received, or has requested a Federal agency consider including as part of a Federal funding recommendation, for all or a portion of Total Project Costs from non-Partnership Program funding. FRA will then allocate available Partnership Program funding based on the remaining amounts necessary to complete the project or project Lifecycle Stage(s). For example, if an NEC Project included on the NEC Project Inventory has received an award from another Federal source (*e.g.,* a USDOT modal agency or non-USDOT source), FRA would allocate Partnership Program funds solely to the unfunded remainder.

Unless specifically provided for in law, funding from other Federal programs counts toward the not-to-exceed 80 percent Federal share maximum for any project receiving Partnership Program funds. For example, if a project with a $100 million Total Project Cost receives a $20 million award from the Federal Transit Administration, FRA's Partnership Program contribution would be capped at $60 million to ensure the total Federal share from all Federal sources does not exceed 80 percent of the Total Project Cost.

(5) Is developed in consultation with the Northeast Corridor Commission and the owners of Northeast Corridor infrastructure and facilities. 49 U.S.C. 24911(e)(6).

This Notice is one component of FRA's consultation process with the NEC Commission and owners of NEC infrastructure and facilities. This Notice also permits interested industry and public sector entities and the public to comment on FRA's proposed approach to the NEC Project Inventory (*see* Section V). FRA's goal in publishing this Notice is to provide transparency about FRA's approach to developing the NEC Project Inventory, consult with the NEC Commission and the owners of the NEC infrastructure and facilities as required under 49 U.S.C. 24911(e)(6), and ultimately maximize efficiency and deliver the greatest benefits in implementing the Partnership Program for NEC Projects.

IV. Program Administration

A. Publication of NEC Project Inventory and Notice of Funding Opportunity

FRA will publish the NEC Project Inventory no later than November 15, 2022, and not less often than every other year thereafter. Projects and allocations in the NEC Project Inventory are not funding commitments and Project Sponsors must proceed through a competitive grant process and be selected for funding. Following publication of the initial NEC Project Inventory, FRA will publish a NOFO soliciting applications for eligible projects identified on the NEC Project Inventory. FRA intends to simplify the application solicitation where possible to both leverage the substantial information included in the NEC Project Inventory and the NEC Commission's Planning Documents, and to reduce application burden on Project Sponsors. The NOFO will describe the Program's requirements, the evaluation and selection criteria that each application will be expected to address, and outline the broader USDOT goals that selections made under this Program will help contribute towards. Additional information, such as the required documentation that will be included for a streamlined application package, will be further articulated in the NOFO. FRA also intends to streamline the selection and obligation process.

The NOFO is anticipated to make funds available that are appropriated in the Consolidated Appropriations Act, 2022, Public Law 117–103 and in Title VIII of the BIL, and any additional funding available at the time the NOFO is issued, such as fiscal year 2023 appropriations. Such annual appropriations may have different funding restrictions and requirements than currently available funding. If applicable, these differences will be summarized in the NOFO. Grantees must comply with all applicable Consolidated Appropriations Act, 2022, and other relevant requirements.

B. Project Selections

FRA will make project selections for Partnership Program funding consistent with the NEC Project Inventory, unless when necessary to address materially changed infrastructure or service conditions, changes in Project Sponsor capabilities or commitments, or other significant changes since the completion of the most recently issued NEC Project Inventory. Variation in amounts allocated on the NEC Project Inventory and the amounts requested in Partnership Program applications and selections may result in FRA updating the NEC Project Inventory more frequently than every two years.

Materially changed infrastructure or service conditions may result from external events such as natural disasters or pandemics, or events such as asset failures or loss of functionality that sever or impede normal infrastructure and service conditions.

Changes in Project Sponsor capabilities or commitments may include changes to fiscal capacity or organizational resources that limit or expand a Project Sponsor's ability to implement projects on the NEC Project Inventory.

Other significant changes may include a project receiving funding from other Federal or non-Federal sources that changes the project's need for Partnership Program funding, future Congressional direction, or projects that achieve (or fail to achieve) expected readiness milestones earlier (or later) than anticipated at the time the most recent NEC Project Inventory was issued.

Evaluation and Selection Process

FRA will review and evaluate applications received in response to the NOFO for consistency with the NEC Project Inventory, eligibility, and completeness. Ineligible and incomplete applications and applications for projects that are not on the NEC Project Inventory will not be evaluated for selection. Project Sponsors of rail projects who are ineligible to receive Partnership Program funding, who are not selected for Partnership Program funds, or who receive less than the requested Partnership Program funding amount, are encouraged to consider other FRA and Departmental grant programs which are found at *https://railroads.dot.gov/grants-loans/competitive-discretionary-grant-programs/competitive-discretionary-grant-programs* and *https://www.transportation.gov/grants.*

FRA intends to evaluate applications by taking into account the following factors:

—Proposed amount and commitment of non-Federal match and/or other Federal funds;
—Factors indicating project readiness for funding:

Lifecycle Stage: FRA will assess the applicant's completion of prior Lifecycle Stage work;

Environmental risk: FRA will assess the project's environmental and permitting approval(s) and likelihood of any outstanding approval(s) affecting project obligation or completion;

Technical capacity: FRA will assess the applicant's capacity to successfully deliver the project in compliance with applicable Federal requirements;

Financial completeness: FRA will assess identified financial resources necessary to complete the project. For a Project where an applicant is requesting funding for the Final Design and/or Construction Lifecycle Stages of projects, FRA will assess demonstration of commitment of the financial resources through the completion of the project.

—Consistency with Strategic Goals: FRA will assess, via a review of quantitative and/or qualitative metrics as appropriate, the extent to which a project achieves outcomes consistent with the following Strategic Goals (further detail at *https://www.transportation.gov/dot-strategic-plan*), to include safety, economic strength and global competitiveness, equity, climate and sustainability, transformation of the transportation system to serve current and future transportation challenges, and organizational excellence that advances the mission of the Department of Transportation.

FRA will make NEC Project selections or project component selections for Partnership Program funding consistent with the priority in the NEC Project Inventory as required under 49 U.S.C. 24911(d)(1)(A). Selected project scope, schedule and costs may vary from the NEC Project Inventory as a result of specific funding requests, detailed and updated application submissions, and FRA's assessment of the evaluation factors described above. Variation in amounts allocated on the NEC Project Inventory and the amounts requested in Partnership Program applications and selections may result in FRA updating the NEC Project Inventory more frequently than every two years.

Shared Benefit Projects

Shared Benefit Projects are eligible for Partnership Program funding. In evaluating applications for such projects, FRA will consider if the proposed project would be a reasonable investment in intercity passenger rail transportation separate from consideration of the proposed project's benefits to commuter railroad passenger transportation. FRA anticipates a substantial number of Shared Benefit projects will be included in the NEC Project Inventory since a majority of the NEC territory has shared operation, and thus resulting benefits, between intercity and commuter services.

For Shared Benefit Projects, FRA will only make such selections when Amtrak and the public authorities providing commuter rail transportation at the eligible project location:

(1) Are in compliance with 49 U.S.C. 24905(c)(2);

(2) Have identified funding for the intercity passenger rail share, the commuter rail share, and the local share of the eligible project before the commencement of the project in applications responsive to the NOFO. Development of the appropriate funding shares is the responsibility of the Project Sponsor in coordination with its project partners;

(3) Have demonstrated a fair allocation of financial responsibility between intercity and commuter rail transportation. For this purpose, Project Sponsors will be asked to provide in their applications a breakdown of the Total Project Cost and costs previously incurred (including for previous Lifecycle Stages) identified by funding source and provider. FRA will consider such costs in determining whether there has been a fair allocation of financial responsibility between intercity and commuter rail transportation.

Non-Federal Match

The Partnership Program requires, at 49 U.S.C. 24911(f)(2), that the Federal share of Total Project Costs for a project shall not exceed 80 percent.[7] The NOFO will state FRA's willingness to fund projects up to the 80 percent maximum Federal share of the Total Project Costs. Project Sponsors and their project partners will be responsible for a minimum 20 percent non-Federal share for Partnership Program grants. Consistent with Section IIIA of this Notice, FRA will expect Project Sponsors to propose a greater than 20 percent local match for certain Improvement and Station Projects and project components.

Total Project Costs shall be based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities. FRA believes the NEC Commission Planning Documents are among the best available information and will use those documents and other sources of project information as appropriate when validating Total Project Costs estimates.

C. Letters of Intent and Phased Funding Agreements

A Letter of Intent (LOI), authorized at 49 U.S.C. 24911(g)(1), is a letter from FRA to a grantee announcing ''an intention to obligate'' an amount to its project from future budget authority. LOIs are contingent commitments and not binding obligations of the Federal government. LOIs demonstrate FRA's intent to provide future Final Design and Construction Lifecycle Stage funding for Major Capital Projects assuming successful completion of Project Planning and Project Development Lifecycles for the project. FRA anticipates issuing LOIs primarily to projects currently in, or beginning, the Project Development Lifecycle Stage. In issuing the LOI, FRA may outline conditions and/or define readiness thresholds which the grantee may use to inform future funding requests for Partnership Program funds.

A Phased Funding Agreement (PFA), authorized at 49 U.S.C. 24911(g)(2), is an agreement associated with the obligation of an initial grant award under the Partnership Program. FRA may enter into a PFA with a Project Sponsor if:

(1) the project is highly rated, based on the evaluations and ratings described in the Partnership Program NOFO and as conducted by FRA, and

(2) the Federal assistance to be provided for the project under the Partnership Program is more than $80 million.

FRA may consider additional factors in determining whether a PFA is the appropriate funding approach for a project. A PFA shall:

(1) establish the terms of participation by the Federal Government in the project;

(2) establish the maximum amount of Federal financial assistance for the project;

(3) include the period of time for completing the project, even if such period extends beyond the period for which Federal financial assistance is authorized;

[7] In an apparent drafting error, 49 U.S.C. 24911(f)(2) states the Federal share ''shall not exceed 80 percent, except as specified under paragraph (4)'' of part (f), however no such paragraph (4) exists. FRA's interpretation of this language is that all Partnership Program projects are subject to the ''shall not exceed 80 percent'' requirement specified in 49 U.S.C. 24911(f)(2).

(4) make timely and efficient management of the project easier in accordance with Federal law; and

(5) if applicable, specify when the process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and related environmental laws will be completed for the project.

FRA will evaluate projects that meet the aforementioned requirements and consider if a PFA is an appropriate funding approach for a project. FRA anticipates limiting the use of PFAs to projects that are currently in, or beginning, the Final Design and/or the Construction Lifecycle Stages. FRA expects to issue PFAs for Major Backlog projects ready for Final Design and/or the Construction Lifecycle Stages to reflect the higher priority placed on these projects by FRA (*see* Section IIIA), thus providing project sponsors a higher degree of certainty that Federal funds will be available to complete the project. PFAs are contingent commitments and are not financial obligations of the Federal government. However, unlike LOIs, PFAs are agreements relating to the obligation of future funds and FRA commits to provide funding as specified in the PFA for the duration of the project, as long as the grantee continues to meet the terms of the PFA and Congress appropriates sufficient Partnership Program funding for such purpose. For a project with a PFA, FRA may provide grant funding in phases consistent with the terms of the PFA and within the established maximum amount of Federal financial assistance for the project.

The NEC Project Inventory will not identify projects for LOIs or PFAs, as those determinations will be made based on applications during project selection. In response to the NOFO, applicants may identify and describe project phases or elements that could be candidates for subsequent Partnership Program funding and may request LOIs or PFAs for their projects, as appropriate. *See* 49 U.S.C. 24911(g) for detailed information on LOIs and PFAs.

V. Comments

The purpose of this Notice is to provide transparency about FRA's proposed approach to developing the NEC Project Inventory, consult with the NEC Commission and the owners of the NEC infrastructure and facilities as required under 49 U.S.C. 24911(e)(6). FRA's proposed approach to the NEC Project Inventory and Partnership Program Implementation may change following consultation.

FRA encourages interested parties to submit a comment pertinent to the information in this Notice in docket number FRA–2022–0049, available at *https://www.regulations.gov.* Searches may be conducted by using the docket number and comments may be submitted by following the instructions provided. All comments will be due 30 days after the publication date of this Notice. All submissions must include docket number for this Notice. In order to facilitate comment tracking and response, we encourage commenters to provide their name.

While interested parties are not required to provide comments in the following areas, FRA is seeking targeted comment on the following specific areas:

(1) Information, if any, that may be missing or inaccurate if FRA relies primarily on the NEC Commission Planning Documents for project names, descriptions, sponsors, Lifecycle Stage, Project Type, start year, cost estimates, and other information, in addition to an explanation as to why the information was not included in NEC Commission Planning Documents.

(2) Other sources of information, if any, FRA should review for project information in preparing the NEC Project Inventory

(3) The proposal described in Section IIIA to allocate funds for Defined Capital Renewal Projects still in development at the time of publication of the NEC Project Inventory, but that may become ready for funding after publication of the NEC Project Inventory.

(4) The order, method, and plan for apportioning funds described in Section IIIA of this Notice.

(5) FRA's proposed use of Letters of Intent and Phased Funding Agreements permitted under 49 U.S.C. 24911(g) as described in Section IVC.

(6) Issues or concerns with the information FRA has provided in this Notice.

Notwithstanding the various forms of consultation, FRA advises that all comments should be submitted in writing to this notice to ensure proper consideration.

All comments received, including any personal information, will be posted without change to the docket and will be accessible to the public at *https://www.regulations.gov.* Do not include information in comments in the docket that should not be made public. Input submitted online via *https://www.regulations.gov* is not immediately posted to the site. It may take several business days before submissions are posted. Comments containing proprietary or confidential information may be submitted by contacting the agency for alternate submission instructions.

VI. Next Steps

FRA will review comments upon the closing of the comment period for consideration in developing the NEC Project Inventory. FRA will publish the NEC Project Inventory in the **Federal Register** no later than November 15, 2022, which may include a high-level summary and responses to comments received. Following the publication of the NEC Project Inventory, FRA will publish a NOFO soliciting applications for NEC Projects listed on the NEC Project Inventory. FRA will then evaluate applications consistent with the NOFO. FRA will publish an NEC Project Inventory at least every two years following the initial publication.

Issued in Washington, DC.

Paul Nissenbaum,

Associate Administrator, Office of Railroad Policy and Development.

[FR Doc. 2022–13495 Filed 6–23–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2022–0052]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on May 18, 2022, The Belt Railway Company of Chicago (BRC) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2022–0052.

Specifically, BRC requests permission to make permanent modifications to multiple locations on its 59th Street Line between milepost (MP) 2.0 and MP 4.0, on Main Tracks 1 and 2. The modifications would include the removal of an interlocking plant, removal of signals and switches, and conversion of a power-operated switch to an electric lock. BRC states that the removal of these signals will eliminate obsolete and redundant assets and that the installation of a microprocessor-based train control system for the electric lock will offer a higher level of safety and reliability.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by August 8, 2022 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2022–13494 Filed 6–23–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity: Community Development Financial Institutions Equitable Recovery Program (CDFI ERP)

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for grants under the CDFI Equitable Recovery Program (CDFI ERP).

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2022–ERP.

Catalog of Federal Domestic Assistance (CFCA) Number: 21.033.

Dates:

TABLE 1—CRITICAL DEADLINES FOR CDFI ERP APPLICANTS

Description	Deadline	Time (eastern time, ET)	Submission method
Submit OMB Standard Form-424 Mandatory (Application for Federal Assistance) (SF–424).	July 26, 2022	11:59 p.m. ET	Electronically via *Grants.gov.*
Enter Employer Identification Number (EIN) and Unique Entity Identifier (UEI) numbers in AMIS.	July 26, 2022	11:59 p.m. ET	Electronically via Awards Management Information System (AMIS).
Last day to contact CDFI Fund with questions about the CDFI ERP.	August 19, 2022 ...	5:00 p.m. ET	Service Request [1] via AMIS or *erp@cdfi.treas.gov* or 202–653–0421.
Last day to contact CDFI Fund with questions about Compliance or CDFI Certification.	August 19, 2022 ...	5:00 p.m. ET	Compliance and Reporting AMIS Service Request or 202–653–0423.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	August 23, 2022 ...	5:00 p.m. ET	Service Request via AMIS or *AMIS@cdfi.treas.gov* or 202–653–0422.
Submit complete CDFI ERP Application Package	August 23, 2022 ...	11:59 p.m. ET	Electronically via AMIS.

Executive Summary: The Community Development Financial Institutions Fund (CDFI Fund) is launching the CDFI Equitable Recovery Program (CDFI ERP) to provide awards of up to $15 million to Certified Community Development Financial Institutions (CDFIs) [2] for the following purposes: (1) to expand lending, grant making and investment activity in Low- or Moderate-Income communities and to borrowers, including minorities, that have significant unmet capital or financial services needs, and were disproportionately impacted by the COVID–19 pandemic; and (2) to enable CDFIs to build organizational capacity and acquire technology, staff, and other tools necessary to accomplish the activities under a CDFI ERP Award. All Awards provided through this NOFA are subject to funding availability.

I. Program Description

A. History: The CDFI Fund was established by the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325) (Riegle Act) to promote economic revitalization and community development through investment in and assistance to CDFIs. The CDFI ERP was authorized by Congress to provide grants to CDFIs to respond to the economic impact of the COVID–19 pandemic.

B. Authorizing Statutes and Regulations: Pursuant to § 523 (Section 523) of Division N of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), Congress authorized the CDFI ERP. The regulations governing the CDFI Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and are used by the CDFI Fund to govern, where applicable, the CDFI ERP. For a complete understanding of the program, the CDFI Fund encourages Applicants to review this NOFA; the CDFI ERP Application (the Application); all related materials and guidance documents found on the CDFI Fund's website (Application Materials); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 CFR part 200 (the Uniform Requirements). Capitalized terms used but not defined in this NOFA are defined in the Regulations, the Application, the Application Materials, or the Uniform Requirements. Details regarding Application content requirements are available in the

[1] Service Request means a written inquiry or notification submitted to the CDFI Fund via AMIS.

[2] Certified CDFI shall mean an entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements set forth in 12 CFR part 1805.

Application and Application Materials at *www.cdfifund.gov/erp.*

C. Priorities: The objectives of the CDFI ERP are: (1) to provide funding to CDFIs to expand lending, grant making and investment activities in Low- or Moderate-Income communities and to borrowers, including minorities, that have significant unmet capital or financial services needs, and were disproportionately impacted by the COVID–19 pandemic, and (2) to enable CDFIs to build organizational capacity and acquire technology, staff, and other tools necessary to accomplish the activities under a CDFI ERP Award. The activities funded with a CDFI ERP Award will respond to economic impacts of the COVID–19 pandemic such as job loss; disruptions in health and mental healthcare; disruptions in childcare; increased housing instability; decreased availability of and increased cost of financing for affordable housing and home ownership; exacerbated inaccessibility to broadband internet; increased food insufficiency; disruptions in operations for small businesses, Small Farms and nonprofit organizations; and other negative impacts.

To pursue these objectives, the CDFI Fund will prioritize funding Applications that commit to use their CDFI ERP Awards in ERP-Eligible Geographies. These geographies are defined in in Section II.D.2 of this NOFA in order to achieve the statutory objective of directing CDFI ERP activities to Low- or Moderate-Income communities and to borrowers, including minorities, that have significant unmet capital or financial services needs, and were disproportionately impacted by the COVID–19 pandemic. The CDFI Fund will also prioritize funding Applications that commit to provide one of the following: (1) Financial Products, Financial Services, Development Services and/or Grants to Low- or Moderate-Income Minority communities; (2) Financial Products, Financial Services, Development Services and/or Grants to Minorities that have significant unmet capital or financial services needs; (3) Financial Products, Financial Services, Development Services and/or Grants to serve Persistent Poverty Counties, Native Areas and/or U.S. Territories; (4) Financial Products, Financial Services, Development Services and/or Grants to small businesses with less than $1 million in annual gross revenue or to Small Farms, with an emphasis on serving small businesses with less than $100,000 in annual revenue; or (5) increased lending in ERP-Eligible Geographies.

In further pursuit of the program objectives, the CDFI ERP will prioritize Applicants with a track record of: (1) making loans, grants, or investments in Low- or Moderate-Income Minority communities that are also ERP-Eligible Geographies; (2) making loans, grants, or investments to Minorities that have significant unmet capital or financial services needs; (3) making loans, grants, or investments in Persistent Poverty Counties, Native Areas, and/or U.S. Territories; (4) making loans, grants, or investments to small businesses with less than $1 million in annual gross revenue or to Small Farms, with an emphasis on small businesses with less than $100,000 in annual gross revenue; (5) increasing lending in ERP-Eligible Geographies; (6) creating new Financial Products and Grants to support ERP-Eligible Geographies; and (7) expanding into previously unserved ERP-Eligible Geographies.

D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000): The Uniform Requirements codify financial, administrative, procurement, and program management standards that federal awarding agencies must follow. When evaluating Applications, awarding agencies must evaluate the risks posed by each Applicant, and each Applicant's merits and eligibility. These requirements are designed to ensure that Applicants for federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as certification status, financial and compliance performance, business strategy and proposed community impacts, organizational capacity, history of performance, and single audit findings, among other criteria outlined in this NOFA. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

II. Federal Award Information

A. Funding Availability: The CDFI Fund plans to award up to $1.73 billion in grants to CDFIs under this NOFA. The minimum Award size will be $500,000. The maximum Award size will be $15,000,000 or three times the Applicant's average on-balance sheet Financial Products closed in its five most recent historic fiscal years,[3] whichever is less. The average Award amount will depend on the number of CDFI ERP Awards made. For example, if there are 400 Awards, the estimated average Award would be approximately $4.3 million; if there are 550 Awards, the estimated average Award would be approximately $3.1 million. Final award sizes will be based on the number and quality of the Applications received, along with the evaluation factors outlined in Section V of this NOFA.

The CDFI Fund reserves the right, in its sole discretion, to provide a CDFI ERP Award in an amount less than that which the Applicant requests. The Award amount will not exceed the Applicant's Award request as stated in its Application, nor will the Award amount be less than the Applicant's minimum Award request if one is provided in the Application. Additionally, the CDFI Fund reserves the right to not award the full amount of funding available if it determines an insufficient number of qualified Applications has been received to effectively award all available funding. The CDFI Fund reserves the right to fund, in whole or in part, some, all, or none of the Applications submitted in response to this NOFA.

B. Anticipated Start Date and Period of Performance: The CDFI Fund anticipates the Period of Performance for the CDFI ERP to begin early calendar year (CY) 2023. The Period of Performance for each CDFI ERP Award begins with the date that the CDFI Fund announces the Recipients of the CDFI ERP Awards and includes a Recipient's five full consecutive fiscal years after the date of the CDFI ERP Award Announcement, during which time the Recipient must meet the Performance Goals and Measures (PG&Ms) set forth in the Assistance Agreement. The Budget Period[4] for a CDFI ERP Award

[3] For the purposes of this NOFA, an Applicant's most recent historic fiscal year is determined as follows:

(A) Applicants with a 3/31 fiscal year end date and a completed FY 2022 audit will treat FY 2022 as their most recent historic fiscal year.

(B) Applicants with a 3/31 fiscal year end date but without a completed FY 2022 audit will treat FY 2021 as their most recent historic fiscal year.

(C) Applicants with a 6/30 fiscal year end date will treat FY 2021 as their most recent historic fiscal year.

(D) Applicants with a 9/30 fiscal year end date will treat FY 2021 as their most recent historic fiscal year.

(E) Applicants with a 12/31 fiscal year end date will treat FY 2021 as their most recent historic fiscal year.

[4] Budget Period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which Recipients are authorized to expend the funds awarded. The Budget Period for CDFI ERP Program Awards begins with the date of the Award announcement and includes a Recipient's five full

Continued

is the same as the Period of Performance.

C. Types of Awards: The CDFI Fund will provide CDFI ERP Awards in the form of grants to support the eligible activities as set forth in this NOFA and Application.

D. Eligible Activities:

1. Eligible Uses of Funds. CDFI ERP Award funds may be expended for two types of eligible activities: (1) financial products and services and (2) operational support. Financial products and services may serve commercial real estate, small businesses, microenterprise, community facilities, and affordable housing, and also includes consumer financial products, consumer financial services, commercial financial products, commercial financial services, intermediary lending to non-profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following six eligible financial products and services categories: (i) Financial Products; (ii) Financial Services; (iii) Development Services: (iv) Grants; (v) Loan Loss Reserves; and (vi) Capital Reserves. In addition, a portion of a CDFI ERP Award may also be used for the following seven eligible operational support categories: (vii) Compensation—Personal Services; (viii) Compensation—Fringe Benefits; (ix) Professional Service Costs; (x) Travel Costs; (xi) Training and Education Costs; (xii) Equipment; and (xiii) Supplies. There are limitations on the portion of a CDFI ERP Award that may be used for different eligible activities categories. For any award size, no more than 25% of the Award amount may be used for Financial Services and Development Services combined. Additionally, the Recipient may use up to the greater of $166,667 or 15% of the Award amount, up to a maximum of $400,000, for eligible activities in the above operational support categories (vii)–(xiii) combined.

CDFI ERP Awards may only be used for Direct Costs associated with an eligible activity. Direct Costs are those incurred by the Recipient to carry out the eligible activities as described in section 2 CFR 200.413 of the Uniform Requirements. The eligible activity categories are not authorized for Indirect Costs or an associated Indirect Cost Rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are generally found in Subpart E-Cost Principles of the Uniform Requirements.

The CDFI ERP budget is the amount of the Award and must be expended in the 13 eligible activity categories by the end of the Budget Period. The CDFI Fund will not approve an amendment to extend the Period of Performance to allow a Recipient additional time to expend the CDFI ERP Award.

For purposes of this NOFA, the 13 eligible activity categories are defined below:

TABLE 2—CDFI ERP ELIGIBLE ACTIVITY CATEGORIES

Eligible activity	Eligible activity definition	Eligible CDFI institution types
i. Financial Products	Award funds expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by Certified CDFIs and the provision of loan guarantees. In the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or Emerging CDFIs, and deposits in Insured Credit Union CDFIs, Emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs.	All.
ii. Financial Services	Award funds expended for providing checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.	Regulated Institutions [5] only.
iii. Development Services	Award funds expended for activities undertaken by a CDFI, its Affiliate or contractor that (i) promote community development and (ii) prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include financial or credit counseling, homeownership counseling, business planning, and management assistance.	All.
iv. Grants	Award funds expended in the form of Grants to mitigate the economic impact of the COVID–19 pandemic. Grants are funds transferred without a repayment requirement to a person, business, or other organization that are designated for the specific purpose of mitigating the economic impacts of the COVID–19 pandemic.	All.
v. Loan Loss Reserves	Award funds set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.
vi. Capital Reserves	Award funds set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Regulated Institutions [5] only.

As described below, CDFI ERP Award funds may also be used for operational support in amounts of (1) up to 33% of the Award amount for Awards of $500,000 and (2) up to 15% of the Award Amount or $166,667, whichever is greater, for Awards above $500,000, up to a maximum amount of $400,000.

consecutive fiscal years after the date of the Award announcement.

[5] Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions and Depository Institution Holding Companies.

TABLE 2—CDFI ERP ELIGIBLE ACTIVITY CATEGORIES—Continued

Eligible activity	Eligible activity definition	Eligible CDFI institution types
vii. Compensation—Personal Services.	Award funds paid to cover all remuneration, paid currently or accrued, for services of Applicant's employees rendered during the Period of Performance under the CDFI ERP Award in accordance with section 200.430 of the Uniform Requirements. Any work performed directly, but unrelated to the purposes of the CDFI ERP Award, may not be paid as Compensation using a CDFI ERP Award. For example, the salaries for building maintenance personnel would not carry out the purpose of a CDFI ERP Award and would be deemed unallowable.	All.
viii. Compensation—Fringe Benefits	Award funds paid to cover allowances and services provided by the Applicant to its employees as Compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under formally established and consistently applied organizational policies of the Applicant.	All.
ix. Professional Service Costs	Award funds used to pay for professional and consultant services (*e.g.*, such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (*e.g.*, credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. The Applicant must comply, as applicable, with section 2 CFR 200.216 of the Uniform Requirements, with respect to payment of Professional Service Costs.	All.
x. Travel Costs	Award funds used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to the CDFI ERP Award, in accordance with section 200.475 of the Uniform Requirements. Travel Costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the CDFI ERP Award would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the CDFI ERP Award.	All.
xi. Training and Education Costs	Award funds used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.473 of the Uniform Requirements. Award funds can only be used to pay for training costs incurred by the Applicant's employees. Training and Education Costs may not be incurred by the Applicant's consultants.	All.
xii. Equipment	Award funds used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000, in accordance with section 200.439 of the Uniform Requirements. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to the purchase of Equipment.	All.
xiii. Supplies	Award funds used to pay for tangible personal property with a per unit acquisition cost of less than $5,000, in accordance with section 200.1 of the Uniform Requirements. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to the purchase of Supplies.	All.

2. ERP-Eligible Geographies. In order to achieve the statutory objective of directing CDFI ERP activities to Low- or Moderate-Income communities and to borrowers, including minorities, that have significant unmet capital or financial services needs, and were disproportionately impacted by the COVID–19 pandemic, the CDFI Fund has identified ERP-Eligible Geographies, which are defined as geographies that meet one of the following two criteria: (a) are census tracts that (i) demonstrate ''severe impact'' of the COVID–19 pandemic, and (ii) have a median income at or below 120% of the Area Median Income, and (iii) are CDFI Investment Areas; or (b) are Native Areas. A census tract is considered to have experienced ''severe impact'' of the COVID–19 pandemic if it meets one or more of the following criteria: (a) demonstrates severe mortality, based on being in the highest tercile of the number of deaths per 100,000 people, according to reported cumulative mortality for the period from April 1,

2020 to March 31, 2021, based on data from the Centers for Disease Control and Prevention and the Government of Puerto Rico;[6] or (b) demonstrates severe change in unemployment, based on (i) for the 50 States, the District of Columbia, and Puerto Rico, being in the highest tercile of reported change in the average unemployment rate for the twelve-month period from April 2020 to March 2021, compared to the same twelve-month period for the previous year (April 2019 to March 2020), based on data from Bureau of Labor Statistics, Local Area Unemployment Statistics,[7] and (ii) for American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands, being in the highest tercile of reported change in average county employment for the twelve-month period from April 2020 to March 2021, compared to county employment in January 2020, based on data from Argonne National Laboratory, Decision and Infrastructure Sciences Division, County Economic Impact Index (CEII) and Territorial Economic Impact Index (TEII);[8] or (c) demonstrates low community resilience, based on being in the highest tercile of the percentage of individuals or families that have 3 or more resilience-related risk factors relative to the impact of disasters such as pandemics, based on data from the U.S. Census Bureau, Community Resilience Estimates (CRE) Program.[9] Census tracts that were not included in the community resilience data from the CRE Program were deemed low community resilience if they were located within a Persistent Poverty County.[10] Native Areas is defined as Alaska Native Village Statistical Areas, Federal American Indian Reservations, State American Indian Reservations, Hawaiian Home Lands, Joint Use Areas, Off-Reservation Trust Lands, Oklahoma Tribal Statistical Areas, State Designated Tribal Statistical Areas, and Tribal Designated Statistical Areas (TDSAs). The list of ERP-Eligible Geographies is available on the CDFI Fund's website, and data on ERP-Eligible Geographies is available through the CDFI Fund's Community Impact Mapping System (CIMS). All CDFI ERP eligible activities must serve ERP-Eligible Geographies, except 10% of an Award amount, which may be deployed outside of ERP-Eligible Geographies to serve Low- or Moderate-Income persons and businesses (including non-profit organizations) disproportionately impacted by the COVID–19 pandemic that are included in CDFI Eligible Markets.[11]

III. Eligibility Information

A. Eligible Applicants: For purposes of this NOFA, Table 3 below sets forth the eligibility criteria to receive a CDFI ERP Award, including CDFI certification criteria and other requirements that apply to all CDFI ERP Applicants.

TABLE 3—ELIGIBILITY REQUIREMENTS FOR ALL CDFI ERP APPLICANTS

Applicant	• Applicant has been determined by the CDFI Fund to meet the CDFI certification requirements set forth in 12 CFR 1805.201 and as verified in the CDFI's AMIS account as of the publication date of this NOFA in the **Federal Register**. • Applicant has at least 30% of its average annual Financial Products closed and Grants made (both in dollar volume and number of transactions) have been in ERP-Eligible Geographies over its five most recent historic fiscal years. • Applicant has audited financial statements encompassing its two most recent historic fiscal years prior to the publication date of this NOFA. • Only the entity that will carry out the proposed Award activities may apply for an Award (other than Depository Institution Holding Companies[12]). Recipients may not create a new legal entity to carry out the proposed Award activities. • The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application, unless it relates to the provision of Development Services. • An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below). • As part of the Application review process, the CDFI Fund considers whether Applicants are Affiliates, as such term is defined in 12 CFR 1805.104. If an Applicant and its Affiliate(s) wish to submit an Application, they must do so through one of the Affiliated entities, in one Application; an Applicant and its Affiliates may not submit separate Applications. If Affiliates submit multiple or separate Applications, the CDFI Fund may, at its discretion, reject all such Applications received or select only one of the submitted Applications to be deemed eligible, assuming that Application meets all other eligibility criteria in Section III of this NOFA.
Application type and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the Required Application Documents listed in Table 4. • The CDFI Fund will only accept Applications that use the official Application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) the SF–424 in *Grants.gov* and (2) all other Required Application Documents in AMIS. • *Grants.gov* and the SF–424: ○ Grants.gov: Applicants must submit the SF–424, Application for Federal Assistance. ○ All Applicants must register in the *Grants.gov* system to submit an Application successfully. The CDFI Fund strongly encourages Applicants to register as soon as possible.

[6] *https://data.cdc.gov/NCHS/AH-Provisional-COVID-19-Death-Counts-by-Quarter-an/dnhi-s2bf; https://covid19datos.salud.gov.pr/#defunciones.*

[7] *https://www.bls.gov/lau/data.htm.*

[8] *https://www.anl.gov/dis/county-economic-impact-index; https://www.anl.gov/dis/territorial-economic-impact-index.*

[9] *https://www.census.gov/programs-surveys/community-resilience-estimates.html.*

[10] *https://www.cdfifund.gov/sites/cdfi/files/documents/cdfi-ppc-feb19-2020.xls.*

[11] Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

[12] Depository Institution Holding Company or DIHC means a Bank Holding Company or a Savings and Loan Holding Company.

TABLE 3—ELIGIBILITY REQUIREMENTS FOR ALL CDFI ERP APPLICANTS—Continued

	○ The CDFI Fund will not extend the SF–424 Application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline, except in the case of a federal government administrative or federal government technological error that directly resulted in a late submission of the SF–424. ○ The SF–424 must be submitted in *Grants.gov* on or before the deadline listed in Tables 1 and 6. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. ○ The deadline for the *Grants.gov* submission is before the AMIS submission deadline. ○ The SF–424 must be submitted under the CDFI ERP Funding Opportunity Number for the CDFI ERP Application. ○ If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible. • AMIS and all other Required Application Documents listed in Table 4: ○ AMIS is an enterprise-wide information technology system. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund. ○ Applicants are allowed only one CDFI ERP Application submission in AMIS. ○ Each Application in AMIS must be signed by an Authorized Representative. ○ Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. *Consultants or other contractors working on behalf of the organization may not be designated as Authorized Representatives.* ○ Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. ○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 6. The CDFI Fund will not extend the deadline for any Applicant, except in the case of a federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.
Employer Identification Number (EIN)	• Applicants must have a unique EIN assigned by the Internal Revenue Service. • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization. • The EIN in the Applicant's AMIS account must match the EIN in the Applicant's System for Award Management (SAM) account. The CDFI Fund reserves the right to reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its SAM account. • Applicants must enter their EIN into their AMIS profile by the deadline specified in Tables 1 and 6.
Unique Entity Identifier (UEI)	• The transition from DUNS to UEI is a federal government-wide initiative. See Section IV of this NOFA for more information. • The CDFI Fund will reject an Application submitted with the UEI number of a parent or Affiliate organization. • The UEI number in the Applicant's AMIS account must match the UEI number in the Applicant's *Grants.gov* and SAM accounts. • The CDFI Fund will reject an Application if the UEI number in the Applicant's AMIS account does not match the UEI number in its *Grants.gov* and SAM accounts. • Applicants must enter their UEI numbers into their AMIS profile on or before the deadline specified in Tables 1 and 6.
System for Award Management (SAM)	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants who have active SAM registration are already assigned a UEI. Applicants must also have an EIN number in order to register in SAM. • Applicants must be registered in SAM in order to submit an SF–424 in *Grants.gov*.
AMIS Account	• Each Applicant must register as an organization in AMIS and submit all required applicable Application Materials through the AMIS portal. • If the Applicant does not fully register its organization in AMIS by the deadline set forth in Table 1, its Application will be rejected without further consideration. • The Authorized Representative and/or Application Point of Contact must be included as "users" in the Applicant's AMIS account. • An Applicant that fails to properly update its AMIS account may miss important communication from the CDFI Fund and/or may not be able to successfully submit an Application.
501(c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a CDFI ERP Award.
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive a CDFI ERP Award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination made within the time period beginning three years prior to the publication of this NOFA until the execution of the Assistance Agreement that indicates the Applicant has violated any federal civil rights laws or regulations, including: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107).

TABLE 3—ELIGIBILITY REQUIREMENTS FOR ALL CDFI ERP APPLICANTS—Continued

Depository Institution Holding Company Applicant.	• In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of its Award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • If a Depository Institution Holding Company and its Certified CDFI Subsidiary Insured Depository Institution both apply for a CDFI ERP Award, only the Depository Institution Holding Company will receive an Award, not both. In such instances, the Subsidiary Insured Depository Institution will be deemed ineligible. • Authorized Representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the CDFI ERP Award will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Uses of Award	• All Awards made through this NOFA must be used to support the Applicant's activities in at least one of the Eligible Activity Categories listed in Section II.D. • With the exception of Depository Institution Holding Company Applicants, CDFI ERP Awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. • The Recipient of any Award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303, and section 2 CFR 200.216 of the Uniform Requirements, with respect to any Direct Costs.
Requested Award Amount	• An Applicant must state its requested Award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application. • The maximum award amount an Applicant may request is no more than three times its average on-balance sheet Financial Products closed in its five most recent historic fiscal years or $15 million, whichever is less. • The minimum Award amount an Applicant may request is $500,000. Organizations for which three times the average on-balance sheet Financial Products closed in in its five most recent historic fiscal years is less than $500,000 are eligible to request a $500,000 Award.
Pending resolution of noncompliance	• If an Applicant (or Affiliate of an Applicant) that is a prior recipient or allocatee under any CDFI Fund program: (i) Has demonstrated it has been in noncompliance with a previous assistance agreement, award agreement, allocation agreement, bond loan agreement, or agreement to guarantee and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with or default of its previous agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance.
Noncompliance or default status	• The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund award recipient or allocatee under any CDFI Fund Program if, as of the date of the AMIS Application deadline in this NOFA, (i) the CDFI Fund has made a final determination in writing that such Applicant (or Affiliate of such Applicant) is in noncompliance with or default of a previously executed assistance agreement, award agreement, allocation agreement, bond loan agreement, or agreement to guarantee and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.
Debarment/Do Not Pay Verification	• The CDFI Fund will conduct a debarment check and will not consider an Application submitted by an Applicant if the Applicant (or Affiliate of an Applicant) is delinquent on any federal debt. • The Do Not Pay Business Center was developed to support federal agencies in their efforts to reduce the number of improper payments made through programs funded by the federal government. The Do Not Pay Business Center provides delinquency information to the CDFI Fund to assist with the debarment check.
CDFI Certification Status	• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report if the CDFI Fund has not yet made a final compliance determination. • If a Certified CDFI loses its certification at any point prior to the Award announcement, the Application will be deemed ineligible and no longer be considered by the CDFI Fund. • In cases where the CDFI Fund has provided a Certified CDFI with written notification that it no longer meets one or more certification standards and it has been given an opportunity to cure, the CDFI Fund will continue to consider this Applicant to be a Certified CDFI until it has received a final determination letter that its certification has been terminated.
Regulated Institution	• To be eligible for an Award, each Regulated Institution Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of at least "4". • CDFI ERP Applicants with CAMELS/CAMEL ratings of "5" will not be eligible for a CDFI ERP Award. • The CDFI Fund will not approve a CDFI ERP Award for an Applicant that has a Community Reinvestment Act (CRA) assessment rating of below "Satisfactory" on its most recent examination.

TABLE 3—ELIGIBILITY REQUIREMENTS FOR ALL CDFI ERP APPLICANTS—Continued

Unregulated Institutions	• Applicants and/or their Appropriate Federal Banking Agency may be contacted by the CDFI Fund to provide additional information related to federal bank regulatory or CRA information. The CDFI Fund will consider this information and may choose not to approve a CDFI ERP Award for an Applicant if the information indicates that the Applicant may be unable to responsibly manage, re-invest, and/or report on a CDFI ERP Award during the Period of Performance. • The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Regulated Institution Applicants. • Application Assessment Tool (AAT) Total Financial Composite Score must be between 1 and 4. Applicants with an AAT Total Financial Composite Score of ''5'' will not be eligible for a CDFI ERP Award. • AAT Total Compliance Composite Score of 1, 2, or 3 are eligible for a CDFI ERP Award. Applicants that receive a 4 or 5 will receive a confirmatory review by CDFI Fund staff. Applicants deemed a high compliance risk at this point will not be eligible for a CDFI ERP Award.

Any Applicant that does not meet the criteria in Table 3 is ineligible to apply for a CDFI ERP Award under this NOFA.

IV. Application and Submission Information

A. Address to Request an Application Package: Application Materials can be found on *Grants.gov* and on the CDFI Fund's website at *www.cdfifund.gov.* Applicants may request a paper version of any Application material by contacting the CDFI Fund at *erp@cdfi.treas.gov.* Paper versions of Application Materials will only be provided if an Applicant cannot access the CDFI Fund's website.

B. Content and Form of Application Submission: All Applications must be prepared using the English language, and calculations must be computed in U.S. dollars. The following table (Table 4) lists the Required Application Documents for this CDFI ERP funding round. In addition, the CDFI Fund will post to its website, at *www.cdfifund.gov/erp,* instructions for accessing and submitting an Application. Detailed Application content requirements are found in the Application and related guidance documents. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant's activities. Information submitted must accurately reflect the Applicant's activities.

TABLE 4—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
OMB Standard Form-424 Mandatory (Application for Federal Assistance) (SF–424).	All Applicants	Fillable PDF in *Grants.gov*.
CDFI ERP Application	All Applicants	AMIS.
ATTACHMENTS TO THE APPLICATION:		
Audited financial statements for the Applicant's two most recent historic fiscal years prior to the publication date of this NOFA..	Loan funds, venture capital funds, and other Non-Regulated Institutions.	PDF in AMIS.
Management Letter for the Applicant's Most Recent Historic Fiscal Year The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during an audit. The Management Letter may include suggestions for improving identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the audit itself.	Loan funds, venture capital funds, and other Non-Regulated Institutions.	PDF in AMIS.
Statement in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year issued by the Board Treasurer or other Board member using the template provided in AMIS (required only if Management Letters are not available for audited financial statements).	All Applicants for which audited financial statements are available but a Management Letter is not available: loan funds, venture capital funds, and other Non-Regulated Institutions.	AMIS.
Unaudited financial statements for Applicant's current fiscal year as of March 31, 2022.	Loan funds, venture capital funds, and other Non-Regulated Institutions.	AMIS.
Year-end Call reports for Applicant's three most recent historic fiscal years prior to the publication date of this NOFA.	Regulated Institutions	AMIS.

TABLE 4—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
A current organizational chart outlining the Applicant's structure and staffing, as well as an updated, prospective organizational chart, if the Applicant plans to add staff resources to accomplish the activities under a CDFI ERP Award.	All Applicants	AMIS.

C. Application Submission: The CDFI Fund has a two-step process that requires the submission of Required Application Documents (listed in Table 4) on separate deadlines and on separate systems. The SF–424 must be submitted through *Grants.gov* and all other Required Application Documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved in writing by the CDFI Fund. The deadline for submitting the SF–424 and all other Application components is listed in Tables 1 and 6.

All Applicants must register in the *Grants.gov* system to successfully submit the SF–424. The CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible (refer to the following link: *http://www.grants.gov/web/grants/register.html*). The *Grants.gov* registration process requires Applicants to have UEI and EIN numbers. If an Applicant has not previously registered with *Grants.gov*, it must first successfully register in *SAM.gov*, as described in Section IV.E below.

The CDFI Fund will not extend the Application deadline for any Applicant that started the *Grants.gov* registration process, but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. An Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Applicants must ensure that only a qualified Authorized Representative signs the Application; Consultants or other contractors working on behalf of the Applicant may not be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS.

D. Unique Entity Identifier (UEI): The UEI has replaced the Dun and Bradstreet Data Universal Numbering System (DUNS) number effective April 4, 2022. The UEI, generated in the System for Award Management (*SAM.gov*), has become the official identifier for doing business with the government. This transition allows the federal government to streamline the entity identification and validation process, making it easier and less burdensome for entities to do business with the federal government. If an entity is registered in *SAM.gov* today, its UEI has already been assigned and is viewable in *SAM.gov*, including inactive registrations. New registrants will be assigned a UEI as part of their SAM registration.

E. System for Award Management (SAM): Any entity applying for federal grants or other forms of federal financial assistance through *Grants.gov* must be registered in SAM before submitting its SF–424 through that platform. When accessing *SAM.gov*, users will be asked to create a *login.gov* user account (if they do not already have one). Going forward, users will use their *login.gov* username and password every time when logging into *SAM.gov*. The SAM registration process can take four weeks or longer to complete, so Applicants are strongly encouraged to begin the registration process upon publication of this NOFA in order to avoid potential Application submission issues. An original, signed notarized letter identifying the authorized entity administrator for the entity associated with the UEI is required by SAM and must be mailed to the Federal Service Desk. This requirement is applicable to new entities registering in SAM, as well as existing entities with registrations being updated or renewed in SAM. Existing entities with registered entity administrators do not need to submit an annual notarized letter. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active.

Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active federal award or an Application under consideration by a federal awarding agency. The CDFI Fund will deem ineligible any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a UEI or EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes, as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit *https://www.sam.gov.*

TABLE 5—*Grants.gov* REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Register in SAM.gov	System for Award Management (*SAM.gov*). This step will include obtaining a UEI.	Four (4) Weeks.*
Register in *Grants.gov*	*Grants.gov*	One (1) Week.**

* Applicants are advised that the stated durations are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will deem ineligible any Applicant that fails to properly register or activate its SAM account and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant is already registered in *SAM.gov*.

F. Submission Dates and Times:

1. Submission Deadlines: The following table provides the critical deadlines for the CDFI ERP Funding Round.

TABLE 6—CRITICAL DEADLINES FOR CDFI ERP APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to submit SF–424 Mandatory (Application for Federal Assistance).	July 26, 2022	11:59 p.m. ET	Electronically via *Grants.gov*.
Last day to enter EIN and UEI numbers in AMIS	July 26, 2022	11:59 p.m. ET	AMIS.
Last day to contact CDFI Fund with questions about the CDFI ERP.	August 19, 2022 ...	5:00 p.m. ET	Service Request via AMIS or *erp@cdfi.treas.gov* or 202–653–0421.
Last day to contact CDFI Fund with questions about Compliance or CDFI Certification.	August 19, 2022 ...	5:00 p.m. ET	Compliance and Reporting AMIS Service Request or 202–653–0423.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	August 23, 2022 ...	5:00 p.m. ET	Service Request via AMIS or *AMIS@cdfi.treas.gov* or 202–653–0422.
Last day to submit CDFI ERP Application	August 23, 2022 ...	11:59 p.m. ET	AMIS.

2. Confirmation of Application Submission in Grants.gov and AMIS: Applicants are required to submit the SF–424, Application for Federal Assistance through the *Grants.gov* system, under the CDFI ERP Funding Opportunity Number by the applicable deadline. All other Required Application Documents (listed in Table 4) must be submitted through the AMIS website by the applicable deadline. Applicants must submit the SF–424 in *Grants.gov* prior to submitting the Application in AMIS. If a valid SF–424 is not submitted through *Grants.gov* by the corresponding deadline, the Applicant will not be able to submit the additional Application components in AMIS, and the Application will be deemed ineligible.

(a) *Grants.gov* Submission Information: Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

(b) AMIS Submission Information: AMIS is a web-based portal where Applicants will directly enter their Application information and add the required attachments listed in Table 4. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages Applicants to allow sufficient time to review and complete the Application components and documents included in Table 4, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that the Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact may submit an Application. Applicants may only submit one CDFI ERP Application. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way.

3. Multiple Application Submissions: Applicants are only permitted to submit one complete Application. However, the CDFI Fund does not administer *Grants.gov*, which does allow for multiple submissions of the SF–424. If an Applicant submits multiple SF–424 Applications in *Grants.gov*, the CDFI Fund will only review the SF–424 Application submitted in *Grants.gov* that is attached to the AMIS Application. Applicants can only submit one Application through AMIS.

4. *Late Submission:* The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the SF–424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

An exception will be made if an SF–424 or Application submission delay is as a direct result of a federal government administrative error or a federal government technological error. This exception includes any errors associated with *Grants.gov*, SAM.gov, AMIS or any other applicable government system.

(a) SF–424 Late Submission: In cases where a federal government administrative or federal government technological error directly resulted in the late submission of the SF–424, the Applicant must submit a written request for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS Service Request to the CDFI ERP with a subject line of ''Late SF–424 Submission Request.''

(b) AMIS Application Late Submission: In cases where a federal government administrative or federal government technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS Service Request

to the CDFI ERP with a subject line of ''Late AMIS Application Submission Request.''

G. Funding Restrictions: CDFI ERP Awards are limited by the following:

(a) A Recipient shall use the CDFI ERP Award only for the eligible activities in the ERP-Eligible Geographies as described in Section II of this NOFA and its Assistance Agreement. Financial Products and expended Award funds used to satisfy the CDFI ERP PG&Ms for reporting may not also be used to satisfy PG&Ms for CDFI Program and NACA Program awards, the Small Dollar Loan Program or the CDFI Rapid Response Program.

(b) With the exception of Depository Institution Holding Company Applicants, CDFI ERP Awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

(c) CDFI ERP Award payments shall only be made to the Recipient.

(d) The CDFI Fund, in its sole discretion, may issue CDFI ERP Awards in amounts, or under terms and conditions, which are different from those requested by an Applicant.

V. Application Review Information

A. Criteria: If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in this NOFA, the related Application guidance materials, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or the Application may be rejected. The CDFI Fund will review the CDFI ERP Applications in accordance with the process below. All reviewers will be subject to the CDFI Fund's conflict of interest review and process. The CDFI Fund's Application conflict of interest policy is located on the CDFI Fund's website.

1. CDFI ERP Application Award Determination Process: The CDFI Fund will evaluate each Application using a four-step review process described in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process.

(a) Step 1. Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

(b) Step 2. Financial Analysis and Compliance Risk Evaluation:

(i) Step 2(a). Financial Analysis: For Regulated Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 3, each Regulated Institution CDFI ERP Applicant must have a CAMELS/CAMEL rating of at least ''4'', a CRA Rating of at least ''Satisfactory'' (if applicable), and/or no significant materials concerns from its regulator.

For Non-Regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each Non-Regulated Applicant using financial information provided by the Applicant. For the Financial Analysis step, each Non-Regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), three (3), or four (4) to advance to Step 3. Applicants that receive a Total Financial Composite Score of five (5) will not advance to Step 3.

(ii) Step 2(b). Compliance Risk Evaluation: For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application, as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the Applicant's PG&Ms on all previous CDFI Fund awards. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive a Total Compliance Composite Score of one (1), two (2), or three (3), will advance to Step 3. If an Applicant receives an initial Total Compliance Composite Score of four (4) or five (5), the score will be confirmed by CDFI Fund staff. If the Applicant is confirmed as a high compliance risk (score of a 4 or 5) the Applicant will not advance to Step 3.

(c) Step 3: Application Evaluation and Initial Funding Recommendation: Applicants that proceed to Step 3 will be evaluated based on their submitted Application. The Step 3 evaluation will be conducted by one external non-federal reviewer and one internal CDFI Fund or other federal government reviewer. The external non-federal reviewers will be selected based on criteria that include: a professional background in affordable housing finance or in community and economic development finance. These reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund.

(i) External Reviewer: The external reviewer's evaluation of the Application has two components. First, the external reviewer will evaluate and score the Application based on the criteria outlined in Table 7. Each Application will receive a Step 3 score of up to 100 points based on this evaluation. Second, the external reviewer will also provide an Award recommendation as to whether the Application should be forwarded to Step 4 for an Award determination. This recommendation is independent from the Step 3 evaluation score and is based on whether an Application achieves minimal standards for clarity and consistency of business strategy; clear and eligible use of funding; and organizational capacity to deploy at least a minimum Award amount during the Period of Performance.

TABLE 7—STEP 3: EXTERNAL REVIEWER EVALUATION CRITERIA

Application Section	Points	Criteria
Applicant Information	0	• This section is not scored.
Business Strategy	40	• Application demonstrates a strong understanding of the economic impact of the COVID–19 pandemic on the geographies and populations the Applicant proposes to serve. • The planned use of a CDFI ERP Award is clearly described in the Application and the Applicant's business strategy directs Financial Products, Financial Services, Development Services and/or Grants to Low-to-Moderate Income populations that have been disproportionately impacted by the COVID–19 pandemic.

TABLE 7—STEP 3: EXTERNAL REVIEWER EVALUATION CRITERIA—Continued

Application Section	Points	Criteria
		• Applicant describes a clear link between the identified economic impacts of the COVID–19 pandemic on the geographies and populations it proposes to serve and the achievement of the identified outcomes. • Application demonstrates that the Applicant has engaged with and obtained input on its business strategy from geographies and populations that it proposes to serve with a CDFI ERP Award and that the Applicant proposes culturally and linguistically relevant marketing and/or outreach efforts that will support the deployment of CDFI ERP Award consistent with its business strategy. • A CDFI ERP Award amount requested for operational support to help build organizational capacity is clearly presented in the Application and aligns with the Applicant's business strategy.
Community Impact—Track Record	15	• Applicant's track record demonstrates that it has a history of reaching underserved communities, as measured by the level of activities for various CDFI ERP policy priorities identified in the Application.
Community Impact—Policy Priorities, Projected Performance, and Outcomes.	30	• Applicant commits to devote a portion of the Award requested (up to 100%) towards its selected CDFI ERP policy priority as indicated in the Application, or commits to increase its lending to ERP-Eligible Geographies by a multiplier of its Award amount. • Applicant's projected level of proposed activities is well-supported in the Application. • Applicant provides a feasible plan for data collection, activity tracking, and reporting in the Application.
Organizational Capacity	15	• Applicant's current staff and proposed staffing plan support its ability to execute the business strategy proposed in its Application. • Applicant's track record shows a strong ability to use available resources to assist communities and provide Financial Products, Financial Services, Development Services and/or Grants in ERP-Eligible Geographies proposed in its business strategy.

(ii) Federal Reviewer: The federal reviewer has three tasks. First, the federal reviewer will conduct quality control for the external reviewer's evaluation and scoring of the Application to ensure the external reviewer followed the review evaluation criteria outlined in Table 7. Second, the federal reviewer will also provide a recommendation as to whether an Application should be forwarded to Step 4 for an Award determination. This recommendation is independent from the Step 3 evaluation and is based on whether the Application achieves minimal standards for clarity and consistency in its business strategy, clear and eligible use of funding, and adequate organizational capacity to deploy at least a minimum Award amount during the Period of Performance. Finally, the federal reviewer will recommend an initial Award amount. The initial Award amount recommendation will generally be based on the numeric score assigned by the external reviewer. However, the federal reviewer may elect to make an initial Award amount recommendation below the amount indicated by the Step 3 score if a determination is made that the Step 3 score did not fully capture important due diligence concerns related to the Applicant's financial health or its ability to deploy the Award effectively. For example, the federal reviewer may reduce the initial Award amount recommendation for those Applicants that have a CAMEL/CAMELS, or equivalent, rating of four (4) or Total Financial Composite Score of four (4) during the Step 3 evaluation.

(d) Advancing to Step 4: Applications that are recommended to advance to Step 4 by both the external and federal reviewers will advance to Step 4. If either the external or the federal reviewer recommends that an Applicant should not advance to Step 4 and therefore not receive an Award, the Application will be forwarded to a reviewing official for a final determination. The reviewing official may agree with the recommendation to not fund the Application, or overturn the recommendation and forward the Application to Step 4 for a final award amount determination.

(e) Step 4. Final Award Amount Determination: Each Application that advances to Step 4 will be reviewed by a selecting official for quality control to ensure that the evaluation conducted in Step 3 was in accordance with the evaluation criteria. The selecting official will determine a preliminary Award amount for each Application by approving the Award amount recommended in Step 3. In cases where the Step 3 initial Award amount recommendation differs from the amount indicated by the Step 3 score, the selecting official may accept the Step 3 initial Award amount recommendation, reject it in favor of the amount indicated in the Step 3 score, or select another Award amount that is within 20% of the Step 3 initial Award amount recommendation. The selecting official may only adjust the Award amount from the Step 3 recommendation if there are concerns about the Applicant's ability to deploy the full, recommended Award amount within the Period of Performance. All approved Applicants will be awarded at least the minimum Award amount noted in Section II.A, and no Applicant will receive an Award amount greater than the maximum Award amount outlined therein. Once a preliminary final Award determination has been made for every Application in the Award pool, the CDFI ERP Program Manager (or designee) will compare the total amount awarded in the preliminary final Award pool to the amount of available funding. If the total amount awarded in the preliminary Award pool exceeds the amount available for Awards under this NOFA, the CDFI Fund will provide a proportional reduction to reduce all preliminary Award amounts such that only the amount available is awarded. This proportional reduction will not apply to those Applicants that received a preliminary $500,000 minimum Award amount during Step 4 and will not result in reducing an Applicant's

Award to an amount below the $500,000 minimum.

2. Regulated Institutions: The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the Award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

3. Non-Regulated Institutions: The CDFI Fund must ensure, to the maximum extent practicable, that Recipients which are Non-Regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the Award.

B. Anticipated Award Announcement: The CDFI Fund anticipates making CDFI ERP Award announcements in the first quarter of CY 2023; however, the anticipated Award Announcement Date is subject to change without notice.

C. Application Rejection: The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that adversely affects an Applicant's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's Award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's Award decisions are final, and there is no right to appeal decisions.

VI. Federal Award Administration Information

A. Award Notification: Each successful Applicant will receive an email ''notice of award'' notification from the CDFI Fund stating that its Application has been approved for a CDFI ERP Award. Each Applicant not selected for an Award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. Assistance Agreement: Each Applicant selected to receive an Award must enter into an Assistance Agreement with the CDFI Fund in order to receive payment. The Assistance Agreement will set forth the Award's terms and conditions, including but not limited to the: (i) Award Amount; (ii) Award type; (iii) the approved uses of Award; (v) PG&Ms; and (vi) reporting requirements. CDFI ERP Assistance Agreements will have a five-year Period of Performance. As a condition of their Award, CDFI ERP Recipients must meet certain PG&Ms, including, but not limited to: (i) All CDFI ERP Recipients must expend 60% of the Recipient's Award amount by the end of year three of the Period of Performance, 80% of the Award amount by the end of year four, and 100% of the Award amount by the Period of Performance end date; (ii) Recipients must deploy 90% of funds for program activities in the ERP-Eligible Geographies; and (iii) any Award funds deployed outside of ERP-Eligible Geographies must serve Low- or Moderate-Income persons or businesses disproportionately impacted by the COVID–19 pandemic that are included in CDFI Eligible Markets. Additional PG&Ms for each Recipient will be determined based on its proposed commitments relative to the CDFI ERP policy priorities in its Application. Final PG&Ms may differ and will be set forth in the CDFI ERP Assistance Agreement.

1. Certificate of Good Standing: All CDFI ERP Recipients that are not Regulated Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state's website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement.

2. Closing: Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and payment of an initial CDFI ERP Award amount may be made. The first payment is the estimated amount of the Award that the Recipient states in its Application that it will use for eligible CDFI ERP activities in the first 12 months after the Award announcement. The CDFI Fund reserves the right to increase or decrease the first payment amount to ensure that any subsequent payment is at least $75,000.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and making Award payment(s) in accordance with the Uniform Requirements. Advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional Award payments. There will be a maximum of four subsequent Award payments. Any documentation in addition to the Assistance Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. Requirements Prior to Entering into an Assistance Agreement: If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund's attention that adversely affects the Recipient's eligibility for an Award; adversely affects the Recipient's certification as a CDFI; adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed in the Uniform Requirements; indicates that the Recipient is not in compliance with a term or condition of a prior CDFI Fund award; indicates the Recipient has failed to execute and return a prior round Assistance Agreement to the CDFI Fund within the CDFI Fund's deadlines; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the Award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind the Award if the Recipient fails to return the Assistance Agreement, signed by the Authorized Representative of the Recipient, and/or provide the CDFI Fund with any

requested documentation, within the CDFI Fund's deadlines. The CDFI Fund reserves the right to rescind the Award if Recipient does not maintain an active SAM.gov account or does not re-activate, or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the Award made under this NOFA pending the criteria described in the following table:

TABLE 8—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements.	• If a Recipient received a prior award under any CDFI Fund program and is not in compliance with the reporting requirements of the previously executed assistance, award, allocation, bond loan agreement(s), or agreement to guarantee, as of the date of the notice of award, the CDFI Fund may delay entering into an Assistance Agreement and/or disbursing an award until such reporting requirements are met. If the Recipient is unable to meet the requirement(s) within the timeframe specified by the CDFI Fund, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA. • The automated systems the CDFI Fund uses only acknowledge a report's receipt and are not a determination of meeting reporting requirements.
Failure to maintain CDFI Certification.	• A Recipient must be a Certified CDFI as is defined in the CDFI ERP Application and this NOFA, prior to entering into an Assistance Agreement. • If, at any time prior to entering into an Assistance Agreement under this NOFA, an Applicant that is a Certified CDFI has submitted reports (or failed to submit an annual certification report as instructed by the CDFI Fund) to the CDFI Fund that demonstrate noncompliance with the requirements for certification, but the CDFI Fund has yet to make a final determination regarding whether or not the entity is Certified, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement and/or to delay making a payment of CDFI ERP Award, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. • If the Applicant is unable to meet this requirement, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the CDFI ERP Award made under this NOFA.
Pending resolution of noncompliance.	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI award agreement(s), assistance agreement(s), allocation agreement(s), bond loan agreement(s), or agreement(s) to guarantee if the CDFI Fund has not yet made a final compliance determination. • If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Noncompliance or default status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient (or an Affiliate of the Applicant) that is a prior CDFI Fund Recipient or allocatee, under any CDFI Fund Program is noncompliant or found in default with any previously executed award agreement(s), assistance agreement(s), allocation agreement(s), bond loan agreement(s), or agreement(s) to guarantee , and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the Award made under this NOFA.
Compliance with federal civil rights requirements.	• If, prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated any federal civil rights laws or regulations, including: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d *et seq.*); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), the CDFI Fund will terminate and rescind the Assistance Agreement and the Award made under this NOFA.
Do Not Pay	• The Do Not Pay Business Center was developed to support federal agencies in their efforts to reduce the number of improper payments made through programs funded by the federal government. • The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient (or Affiliate of a Recipient) is determined to be ineligible based on data in the Do Not Pay database.
Safety and soundness	• If it is determined the Recipient is, or will be, incapable of meeting its Award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve its safety and soundness prior to entering into an Assistance Agreement.

C. Reporting:

1. Reporting Requirements: On an annual basis during the Period of Performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual Report with the following components (Annual Reporting Requirements):

TABLE 9—ANNUAL REPORTING REQUIREMENTS [13]

Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions and State-Insured Credit Unions).	A Non-profit Recipient (including Insured Credit Unions and State-Insured Credit Unions) must submit a Financial Statement Audit (FSA) Report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit (FSA) Report (For-Profit Recipient).	For-profit Recipients must submit a FSA Report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.
Financial Statement Audit Report (Depository Institution Holding Company and Insured Depository Institution).	If the Recipient is a Depository Institution Holding Company or an Insured Depository Institution, it must submit an FSA Report in AMIS.
Single Audit Report (Non-Profit Recipients, if applicable).	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (see 2 CFR Subpart F-Audit Requirements) if it expends $750,000 or more in federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.501. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements) and optionally through AMIS.
Transaction Level Report (TLR)	The Recipient must submit a TLR to the CDFI Fund through AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI ERP Award through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a TLR. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the CDFI ERP Award, the Depository Institution Holding Company must submit a TLR.
Uses of Award Report	The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI ERP Award through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the CDFI ERP Award, the Depository Institution Holding Company must submit a Uses of Award Report.
Performance Progress Report	The Recipient must submit the Performance Progress Report through AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI ERP Award through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Performance Progress Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the CDFI ERP Award, the Depository Institution Holding Company must submit a Performance Progress Report.

The CDFI Fund may also collect data that will enable the Secretary of the Treasury to conduct a study of the impact of the CDFI ERP. Reporting requirements will be outlined in the final CDFI ERP Assistance Agreement and may include reporting beneficiary demographic data pertaining to borrowers and/or beneficiaries. The CDFI Fund intends to require Recipients to collect and report data on the race and ethnicity of borrowers and/or beneficiaries of the program. Final requirements will be outlined in the Assistance Agreement and required reports in Table 9, as applicable. Section 523(d) of the Authorizing Statute allows a CDFI that receives a CDFI ERP Award to collect such data, notwithstanding any limitations under the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) and without any adverse action related to that collection by the Consumer Financial Protection Bureau or any other federal agency. Recipients may use a portion of their Award, under the seven operational support eligible activity categories outlined in Section II.D of this NOFA, to fund data collection and reporting activities. Reporting requirements may be added or modified at any time at the discretion of the CDFI Fund.

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the CDFI ERP. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. Financial Management and Accounting: The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with federal statutes, regulations, and the terms and conditions of the federal award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the terms and conditions of the CDFI ERP, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with federal statutes, regulations, and the Assistance Agreement.

The cost principles used by Recipients must be consistent with federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the CDFI ERP Award. In addition, the CDFI Fund will require Recipients to maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor

[13] Personally Identifiable Information (PII) is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of individual borrowers in AMIS, Applicants should *not* include the following PII for the individuals who received the Financial Products or Financial Services in AMIS or in the supporting documentation (*i.e.,* name of the individual, Social Security Number, driver's license or state identification number, passport number, Alien Registration Number, etc.). *This information should be redacted from all supporting documentation.*

compliance; take appropriate action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. Contact Information: The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the dates listed in Table 1 and Table 6. The CDFI Fund strongly recommends Applicants submit questions to the CDFI Fund via an AMIS Service Request to the CDFI ERP, Office of Certification Policy and Evaluation, Office of Compliance Monitoring and Evaluation, or IT Help Desk. The CDFI Fund will post on its website information to clarify the NOFA and Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov.* Table 10 lists CDFI Fund contact information:

TABLE 10—CONTACT INFORMATION

Type of question	Preferred method	Telephone No. (not toll free)	Email addresses
CDFI ERP Questions	Service Request via AMIS	202–653–0421	*erp@cdfi.treas.gov.*
CDFI Certification	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
Compliance Monitoring and Evaluation	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
AMIS—IT Help Desk	Service Request via AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

B. Information Technology Support: For IT assistance, the preferred method of contact is to submit a Service Request within AMIS. For the Service Request, select ''Technical Issues'' from the Program dropdown menu of the Service Request. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653–0422 for assistance (this is not a toll-free number).

C. Communication with the CDFI Fund: The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative), email addresses, fax and phone numbers, and office locations.

D. Civil Rights and Diversity: Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to discrimination prohibited by federal civil rights laws or regulations. The Department of the Treasury's Office of Civil Rights and Diversity enforces various federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If anyone believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with Director, Office of Civil Rights and Diversity, U.S. Department of the Treasury, Departmental Offices, 1500 Pennsylvania Ave NW, Washington, DC 20220, or (202) 622–1160 (not a toll-free number).

E. Statutory and National Policy Requirements: The CDFI Fund will manage and administer the CDFI ERP to ensure that federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, federal law, and public policy requirements, including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

VIII. Other Information

A. Paperwork Reduction Act: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI ERP Application has been assigned the following control number: 1559–0052.

B. Application Information Sessions: The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at *http://www.cdfifund.gov.*

Authority: Pub. L. 116–260; 12 U.S.C. 4701, *et seq.;* 12 CFR parts 1805 and 1815; 2 CFR part 200.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2022–13452 Filed 6–23–22; 8:45 am]

BILLING CODE 4810–05–P

DEPARTMENT OF VETERANS AFFAIRS

Funding Opportunity Under Supportive Services for Veteran Families Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of funding availability.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for supportive services grants under the Supportive Services for Veteran Families (SSVF) Program. This Notice of Funding Availability (NOFA) contains information concerning the SSVF Program, the grant application processes and the amount of funding available. Awards made for supportive services grants will fund operations beginning August 19, 2022, for a non-renewable period ending September 30, 2026.

DATES: Applications for supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. Eastern Standard Time (EST), July 22, 2022. In the interest of fairness to all eligible applicants, as described in this NOFA, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages or other submission-related problems.

ADDRESSES: For a Copy of the Application Package: Copies of the application can be downloaded from the SSVF website at: *www.va.gov/homeless/ssvf.* Questions should be referred to the SSVF Program Office via email at: *SSVF@va.gov.* For detailed SSVF

Program information and requirements, see 38 CFR part 62.

Submission of Application Package: Applicants must submit applications electronically following instructions found at: *www.va.gov/homeless/ssvf.* Applications may not be mailed, hand carried or sent by facsimile. Applications must be received in the SSVF Program Office by 4:00 p.m. (EST) on the application deadline date. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. See II.D. of this NOFA for maximum allowable grant amounts.

Technical Assistance: Information regarding how to obtain technical assistance with the preparing a renewal supportive services grant application is available on the SSVF Program website at: *www.va.gov/HOMELESS/SSVF.*

FOR FURTHER INFORMATION CONTACT: Mr. John Kuhn, National Director, Supportive Services for Veteran Families at *SSVF@va.gov.*

SUPPLEMENTARY INFORMATION:

Funding Opportunity Title: Supportive Services for Veteran Families Program.

Announcement Type: Initial.

Funding Opportunity Number: VA–SSVF–071022.

Catalog of Federal Domestic Assistance Number: 64.033, VA Supportive Services for Veteran Families Program.

I. Funding Opportunity Description

A. Purpose: SSVF Program's purpose is to provide supportive services grants to private non-profit organizations and consumer cooperatives who will coordinate or provide supportive services to very low-income veteran families who (i) are residing in permanent housing and at risk of becoming homeless; (ii) are homeless and scheduled to become residents of permanent housing within a specified time period; or (iii) after exiting permanent housing within a specified time period, are seeking other housing that is responsive to such very low-income veteran family's needs and preferences.

SSVF prioritizes the delivery of rapid re-housing services to homeless veteran households. Rapid re-housing is an intervention designed to help individuals and families quickly exit homelessness, return to housing in the community and avoid homelessness again in the near term. The core components of a rapid re-housing program are housing identification, move-in and rent financial assistance and rapid re-housing case management and services. These core components represent the minimum that a program must be providing to households to be considered a rapid re-housing program, but do not provide guidance for what constitutes an effective rapid re-housing program. Applicants should familiarize themselves with the Homelessness Prevention and Rapid Re-housing Best Practice Standards found at: *https://www.va.gov/homeless/ssvf/ssvf-education/.*

B. Funding Priorities: This NOFA will provide non-recurring 4-year awards designed to supplement existing services and financial assistance for existing rapid re-housing programs. This will support SSVF's principal goal to provide support to those applicants who demonstrate the greatest capacity to end homelessness among veterans or sustain the gains made in ending homelessness among veterans, in communities that have already met U.S. Interagency Council on Homelessness (USICH) Federal Criteria and Benchmarks.

C. Definitions: 38 CFR part 62 contains definitions of terms used in the SSVF Program. In addition to the definitions and requirements described in 38 CFR part 62, this NOFA provides further clarification in this paragraph on the use of *Fees* and *Move-In Costs.* Fees and Move-In Costs may be provided by the SSVF grantee under 38 CFR 62.34(g) to assist veterans in remaining in or obtaining permanent housing. Grantees will be allowed to provide up to the equivalent of 2 months' rent to landlords under 38 CFR 62.34(g) as a fee for any lease of not less than 1 year when necessary to assist a veteran in remaining in or obtaining permanent housing. An example of such a fee could include a landlord incentive to facilitate leasing of rental units to high-risk tenants. Landlords are less likely to lease to certain groups due to the risk of non-payment of rent or concerns about damage or disruption to their buildings. High-risk tenants might include veterans with poor credit histories and background checks that might otherwise disqualify them from obtaining a lease. Veterans with histories of sex offenses are also generally considered a high-risk tenant by landlords.

Veterans are sometimes reluctant to move into apartments that do not offer any of the comforts typically associated with living independently. The General Housing Stability Assistance, provided under 38 CFR 62.34(e), while offering some funds for bedding and basic kitchen supplies, leaves significant needs unaddressed. Therefore, grantees will also be allowed to provide up to $1,000 for miscellaneous move-in expenses under 38 CFR 62.34(g) for the veteran's family to help obtain permanent housing with a lease of not less than 1 year. These funds are to be provided to assist veterans through accounts established at local merchants, such as grocery stores and retailers, in the enrolled veteran's name. These items could include food, furniture, household items, electronics (including televisions) or other items typically associated with independent living in permanent housing.

D. Approach: This application opportunity is open only to existing SSVF grantees. Communities included in Table 1 have been identified as facing significant challenges in placing veterans in permanent housing and as a result these communities have high numbers of unused U.S. Department of Housing and Urban Development VA Supportive Housing (HUD–VASH) vouchers. This NOFA is designed to help increase utilization of those vouchers. Greater efforts are needed to recruit landlords and expand the pool of affordable housing if VA is to advance towards the goal of ending homelessness among veterans. Through this NOFA, grantees can pay fees related to securing a lease of at least 1 year. In addition, as noted above, veterans are sometimes reluctant to move into apartments that do not offer any of the comforts typically associated with living independently. Pursuant to this NOFA, grantees would be able to use funds for miscellaneous expenses associated with moving into a new home. Moreover, SSVF grantees have proven to be effective housing navigators. VA believes that making these services available to more HUD–VASH eligible participants will enhance the use of existing HUD–VASH vouchers. As a result, VA is invoking the provision in 38 U.S.C. 2044(f)(6)(C) and 38 CFR 62.2, allowing VA to establish an income ceiling higher or lower than 50% of the median income for an area if VA determines that such variations are necessary because the area has unusually high or low construction costs, fair market rents (as determined under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f)) or family incomes. The communities in Table 1 have been identified as having unusually high fair market rents or low family incomes. For purposes of this NOFA, grantees will be able to serve veterans in the communities included in Table 1 who have up to 80% of the area median income. As HUD–VASH eligibility has an income limit of 80% of medium income, aligning SSVF and

HUD–VASH eligibility will allow SSVF grantees' housing navigators to assist all Veterans eligible for HUD–VASH in these target communities identify and obtain permanent housing.

E. Authority: Funding available under this NOFA is authorized by 38 U.S.C. 2044. VA implements the SSVF Program through regulations in 38 CFR part 62. Funds made available under this NOFA are subject to the requirements of these regulations.

F. Requirements for the Use of Supportive Services Grant Funds: The applicant's request for funding must be consistent with the limitations and uses of supportive services grant funds set forth in 38 CFR part 62 and this NOFA. In accordance with the regulations and this NOFA, the following requirements apply to supportive services grants awarded under this NOFA:

1. Grantees may use a maximum of 10% of supportive services grant funds for administrative costs identified in 38 CFR 62.70(e).

2. Grantees must use a minimum of 80% of the temporary financial assistance portion of their supportive services grant funds to serve very low-income veteran families who qualify under 38 CFR 62.11(b).

G. Guidance for the Use of Supportive Services Grant Funds: Grantees are expected to demonstrate adoption of evidence-based practices most likely to lead to reductions in homelessness or maintain gains that have been made in ending homelessness among veterans in communities that have successfully ended homelessness among veterans as defined by the USICH's Federal Criteria and Benchmarks.

SSVF follows the principles of Housing First and grantees are to prioritize the placement of veterans into permanent housing without pre-condition. However, Housing First does not mean housing only. Grantees must develop plans that will ensure that veteran participants have the level of income and economic stability needed to remain in permanent housing after the conclusion of SSVF intervention. Both employment and benefits assistance from VA and non-VA sources represent a significant underutilized source of income stability for homeless veterans. Case management should include income maximization strategies to ensure households have access to benefits, employment and financial counseling. The complexity of program rules and the stigma some associate with entitlement programs contribute to their lack of use. For this reason, grantees are encouraged to consider strategies that can lead to prompt and successful access to employment and benefits that are essential to retaining housing. Consistent with 38 CFR 62.30–62.34, grantees are expected to offer the following supportive services: counseling participants about housing; assisting participants in understanding leases; securing utilities; making moving arrangements; providing representative payee services concerning rent and utilities when needed; using health care navigation services to help participants access health and mental health care; providing legal services; and providing mediation and outreach to property owners related to locating or retaining housing. Grantees may also assist participants by providing rental assistance, security or utility deposits, moving costs, emergency housing or general housing stability assistance; or using other Federal resources, such as the HUD Emergency Solutions Grants Program, or supportive services grant funds subject to the limitations described in 38 CFR 62.34. The focus of this non-recurring grant is:

1. The augmentation of housing navigation services to veterans with HUD–VASH vouchers;

2. To provide up to $1,000 supplemental assistance to every veteran household who obtains a lease of not less than 1-year to cover miscellaneous move-in expenses; and

3. To pay landlords up to an amount equal to 2 months' rent for fees related to securing a lease of at least 1 year.

II. Award Information

A. Overview: This NOFA announces the availability of funds for supportive services grants under the SSVF Program and is open only to existing grantees. This NOFA's awards will extend through September 30, 2026. Existing grantees are SSVF grantees that have a Memorandum of Agreement (MOA) for operations through September 30, 2023. If this existing grant is not renewed, awards made under this NOFA will be discontinued.

B. Funding: Only existing SSVF grantees are eligible to apply.

C. Areas of Consideration: Applicants can apply for funding only in the areas they currently serve with existing rapid re-housing services. The eligible communities for this NOFA are limited to communities served by VA medical centers (VAMC) listed in Table 1 below.

TABLE 1—AREAS ELIGIBLE FOR FUNDING

Veterans integrated service network (VISN)	Parent facility VAMC name (formal name)
1	(V01) (689) Connecticut Health Care System (HCS).
1	(V01) (523) Boston, MA HCS.
1	(V01) (631) Central Western Massachusetts HCS.
1	(V01) (650) Providence, RI HCS.
1	(V01) (518) Bedford, MA HCS.
2	(V02) (630) New York Harbor HCS.
2	(V02) (561) New Jersey HCS.
2	(V02) (526) Bronx, NY HCS.
4	(V04) (642) Philadelphia, PA HCS.
4	(V04) (542) Coatesville, PA HCS.
5	(V05) (688) Washington, DC HCS.
5	(V05) (512) Baltimore, MD HCS.
6	(V06) (659) Salisbury, NC HCS.
6	(V06) (590) Hampton, VA HCS.
6	(V06) (558) Durham, NC HCS.
7	(V07) (508) Atlanta, GA HCS.
7	(V07) (534) Charleston, SC HCS.
7	(V07) (544) Columbia, SC HCS.

TABLE 1—AREAS ELIGIBLE FOR FUNDING—Continued

Veterans integrated service network (VISN)	Parent facility VAMC name (formal name)
8	(V08) (573) Gainesville, FL HCS.
VISN—Parent Facility VAMC Name (Formal Name).	
8	(V08) (546) Miami, FL HCS.
8	(V08) (516) Bay Pines, FL HCS.
8	(V08) (675) Orlando, FL HCS.
8	(V08) (673) Tampa, FL HCS.
8	(V08) (548) West Palm Beach, FL HCS.
9	(V09) (626) Middle Tennessee HCS.
9	(V09) (621) Mountain Home, TN HCS.
10	(V10) (541) Cleveland, OH HCS.
10	(V10) (553) Detroit, MI HCS.
10	(V10) (515) Battle Creek, MI HCS.
10	(V10) (539) Cincinnati, OH HCS.
10	(V10) (583) Indianapolis, IN HCS.
10	(V10) (506) Ann Arbor, MI HCS.
12	(V12) (537) Chicago, IL HCS.
12	(V12) (695) Milwaukee, WI HCS.
12	(V12) (578) Hines, IL HCS.
16	(V16) (580) Houston, TX HCS.
16	(V16) (629) New Orleans, LA HCS.
16	(V16) (520) Gulf Coast, MS HCS.
16	(V16) (586) Jackson, MS HCS.
16	(V16) (667) Shreveport, LA HCS.
17	(V17) (674) Temple, TX HCS.
17	(V17) (549) Dallas, TX HCS.
17	(V17) (671) San Antonio, TX HCS.
19	(V19) (554) Aurora, CO HCS.
19	(V19) (623) Muskogee, OK HCS.
19	(V19) (660) Salt Lake City, UT HCS.
19	(V19) (635) Oklahoma City, OK HCS.
19	(V19) (436) Montana HCS.
20	(V20) (663) Puget Sound, WA HCS.
20	(V20) (648) Portland, OR HCS.
20	(V20) (668) Spokane, WA HCS.
20	(V20) (687) Walla Walla, WA HCS.
20	(V20) (692) White City, OR HCS.
20	(V20) (463) Anchorage, AK HCS.
21	(V21) (640) Palo Alto, CA HCS.
21	(V21) (612A4) N. California HCS.
VAMC—Parent Facility VAMC Name (Formal Name).	
21	(V21) (662) San Francisco, CA HCS.
21	(V21) (570) Fresno, CA HCS.
21	(V21) (593) Las Vegas, NV HCS.
21	(V21) (459) Honolulu, HI HCS.
21	(V21) (654) Reno, NV HCS.
22	(V22) (691) Greater Los Angeles, CA HCS.
22	(V22) (664) San Diego, CA HCS.
22	(V22) (605) Loma Linda, CA HCS.
22	(V22) (600) Long Beach, CA HCS.
22	(V22) (644) Phoenix, AZ HCS.
22	(V22) (678) Southern Arizona HCS.
22	(V22) (501) New Mexico HCS.
23	(V23) (618) Minneapolis, MN HCS.

D. Allocation of Funds: Funding will be awarded under this NOFA to existing grantees for a 4-year non-recurring period beginning August 19 2022. The following requirements apply to supportive services grants awarded under this NOFA:

1. In response to this NOFA, only existing SSVF grantees may apply.

2. The applicant's funding request for fiscal years (FY) 2023–2026 operations cannot exceed the amount indicated in their current MOA. The requested funds are expected to support 4 years of operations, so 25% of the award funds will be expected to be available in each year of operations.

3. If, during the course of the grant year, VA determines that grantee spending is not meeting the minimum percentage milestones below, VA may

elect to recoup projected unused funds and reprogram such funds to provide supportive services in areas with higher need. Should VA elect to recoup unspent funds, reductions in available grant funds would take place the first business day following the end of the quarter. VA may elect to recoup funds under the following circumstances:

(a) By the end of FY 2023 (September 30, 2023) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds are less than an amount equal to 15% of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 35% of the total supportive services grant award.).

(b) By the end of FY 2024 (September 30, 2024) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds are less than an amount equal to 40% of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 60% of the total supportive services grant award.)

(c) By the end of FY 2025 (September 30, 2025) of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds are less than an amount equal to 65% of total supportive services grant award. (During this same period, the grantee's cumulative requests for supportive services grant funds may not exceed 80% of the total supportive services grant award.).

4. Should additional funding become available over the course of the grant term from funds recouped under the Award Information section of this Notice, funds that are voluntarily returned by grantees, funds that become available due to a grant termination, or other funds still available for grant awards, VA may elect to offer these funds to grantees in areas where demand has exceeded available SSVF resources. Additional funds will be provided first to the highest scoring grantee in the selected area who is in compliance with their grant agreement and has the capacity to utilize the additional funds.

E. Supportive Services Grant Award Period: Grants are made for a non-recurring 4-year period.

III. Eligibility Information

A. Eligible Applicants: Only existing SSVF grantees may apply. Eligible locations are restricted to those listed in Table 1. Grantees can only apply for funds in areas they currently serve.

B. Cost Sharing or Matching: None.

IV. Application and Submission Information

A. Obtaining an Application Package: Only existing SSVF grantees currently serving an area designated in Table 1 are eligible to apply. Applications only require a letter of intent and a budget. These letters of intent and budget forms are located at *www.va.gov/homeless/ssvf.* Any questions regarding this process should be referred to the SSVF Program Office at *SSVF@va.gov.* For detailed SSVF Program information and requirements, see 38 CFR part 62.

B. Content and Form of Application: Applicants must submit applications electronically following instructions found at *www.va.gov/homeless/ssvf.*

C. Submission Dates and Times: Applications for supportive services grants under the SSVF Program must be received by the SSVF Program Office by 4:00 p.m. (EST) on July 22 2022. Awards made for supportive services grants will fund operations beginning August 19, 2022. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. Additionally, in the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages, or other delivery-related problems.

D. Funding Restrictions: Funding will be awarded for supportive services grants under this NOFA depending on funding availability. Applicants should submit separate applications for each supportive services funding request.

1. Funding used for staff education and training cannot exceed 1% of the overall program grant award. This limitation does not include the cost to attend VA mandated training. All training costs must be directly related to the provision of services to homeless veterans and their families.

V. Application Review Information

A. Criteria: Only existing SSVF grantees serving the areas (as identified in their MOA for SSVF services through September 30, 2023) listed in Table 1 are eligible to apply. VA will select eligible applicants that meet the threshold requirements described in 38 CFR 62.21.

B. Review and Selection Process: VA will review all supportive services grant applications in response to this NOFA according to the following steps:

1. Should available funding not be sufficient to fully fund all requests, VA may either fund only selected awards based on its determination of highest need (based on latest HUD point-in-time data and lowest HUD–VASH voucher utilization) or grant awards will be made proportionally, with each grantee receiving the same percentage of their award request up to the amount of available funding.

2. Conversely, should additional funds become available, grant awards will be increased proportionally with each grantee receiving the same percentage increase to their award funding.

3. VA will also utilize the following considerations in 38 CFR 62.23(d) to select applicants for funding:

(a) VA will give preference to applicants that provide, or coordinate the provision of, supportive services for very low-income veteran families transitioning from homelessness to permanent housing; and

(b) To the extent practicable, VA will ensure that supportive services grants are equitably distributed across the areas identified in Table 1.

VI. Award Administration Information

A. Award Notices: Although subject to change, the SSVF Program Office expects to announce grant recipients for all applicants in the fourth quarter of FY 2022 with grants beginning August 19, 2022. Prior to executing a funding agreement, VA will contact the applicants, make known the finalized amount of proposed funding and verify that the applicant would still like the funding. Once VA verifies that the applicant is still seeking funding, VA will execute an agreement and make payments to the grant recipient in accordance with 38 CFR part 62 and this NOFA.

B. Administrative and National Policy Requirements: As SSVF grants cannot be used to fund treatment for mental health or substance use disorders, applicants must provide evidence that they can provide access to such services to all program participants through formal and informal agreements with community providers.

C. Reporting: VA places great emphasis on the responsibility and accountability of grantees. As described in 38 CFR 62.63 and 62.71, VA has procedures in place to monitor

supportive services provided to participants and outcomes associated with the supportive services provided under the SSVF Program. Applicants should be aware of the following:

1. Upon execution of a supportive services grant agreement with VA, grantees will have a VA regional coordinator assigned by the SSVF Program Office who will provide oversight and monitor supportive services provided to participants. The regional coordinator assigned will be the same regional coordinator currently assigned to the applicant's FY 2023 MOA associated with this application.

2. Grantees will be required to enter data into a Homeless Management Information System (HMIS) web-based software application. This data will consist of information on the participants served and types of supportive services provided by grantees. Grantees must treat the data for activities funded by the SSVF Program separate from that of activities funded by other programs. Grantees will be required to work with their HMIS Administrators to export client-level data for activities funded by the SSVF Program to VA on at least a monthly basis. The completeness and quality of grantee uploads into HMIS will be factored into the evaluation of their grant performance.

3. VA will complete annual monitoring evaluations of each grantee. Monitoring will also include the submittal of quarterly and annual financial and performance reports by the grantee. The grantee will be expected to demonstrate adherence to the grantee's proposed program, as described in the grantee's application. All grantees are subject to audits conducted by VA or its representative.

4. Grantees will be assessed based on their ability to meet critical performance measures. In addition to meeting program requirements defined by the regulations and applicable NOFA(s), grantees will be assessed on their ability to place participants into housing and the housing retention rates of participants served. Higher placement for homeless participants and higher housing retention rates for at-risk participants are expected for very low-income veteran families when compared to extremely low-income veteran families with incomes below 30% of the area median income.

5. Grantees' performance will be assessed based on their consumer satisfaction scores. These scores include the participation rates and results of both the standardized survey offered to all participant households and unannounced visits to assess screening and intake procedures (commonly known as a mystery shopper program).

VA Goals and Objectives for Funds Awarded Under this NOFA: VA seeks to accelerate the pace of permanent housing placements in high-need areas through this NOFA in pursuit of the Secretary's goal of placing 38,000 homeless veterans in permanent housing by the end of 2022. This NOFA provides new tools to support permanent housing placements by expanding the stock of available housing in communities that have currently have severely constrained affordable housing options.

VII. Other Information

A. Payments of Supportive Services Grant Funds: Grantees will receive payments electronically through the U.S. Department of Health and Human Services' Payment Management System. Grantees will have the ability to request payments as frequently as they choose subject to the following limitations:

1. During the first year of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 35% of the total supportive services grant award without written approval by VA.

2. By the end of the second year of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 60% of the total supportive services grant award without written approval by VA.

3. By the end of the third year of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 80% of the total supportive services grant award without written approval by VA.

4. By the end of the fourth year of the grantee's supportive services annualized grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 100% of the total supportive services grant award.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on June 17, 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,

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

[FR Doc. 2022–13505 Filed 6–23–22; 8:45 am]

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Part II

Department of Energy

10 CFR Part 431

Energy Conservation Program: Energy Conservation Standards for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2019–BT–STD–0035]

RIN 1904–AE66

Energy Conservation Program: Energy Conservation Standards for Packaged Terminal Air Conditioners and Packaged Terminal Heat Pumps

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

ACTION: Notification of proposed determination and request for comment.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including Packaged Terminal Air Conditioners (''PTACs'') and Packaged Terminal Heat Pumps (''PTHPs''). EPCA also requires the U.S. Department of Energy (''DOE'') to periodically review standards. In this notification of proposed determination (''NOPD''), DOE has preliminarily determined that it lacks clear and convincing evidence that more-stringent standards for PTACs and PTHPs would be economically justified. As such, DOE has preliminarily determined that energy conservation standards for PTACs and PHTPs do not need to be amended. DOE requests comment on this proposed determination and the associated analyses and results.

DATES: *Meeting:* DOE will hold a public meeting via webinar on Wednesday, July 20, 2022, from 1:00 p.m. to 4:00 p.m. See section VII, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: Written comments and information are requested and will be accepted on or before August 23, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE–2019–BT–STD–0035. Follow the instructions for submitting comments.

Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0035, by any of the following methods:

(1) *Email: PTACHP2019STD0035@ee.doe.gov.* Include the docket number EERE–2019–BT–STD–0035in the subject line of the message.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC, 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

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

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

The docket web page can be found at *www.regulations.gov/docket/EERE-2019-BT-STD-0035.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII, ''Public Participation,'' for further information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (202) 287–5904. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC, 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whiting@Hq.Doe.Gov.*

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

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I. Synopsis of the Proposed Determination

Title III, Part C [1] of EPCA,[2] established the Energy Conservation Program for Certain Industrial Equipment. (42 U.S.C. 6311–6317) Such equipment includes PTACs and PTHPs, the subject of this rulemaking. Pursuant to EPCA, DOE is to consider amending the energy efficiency standards for certain types of commercial and industrial equipment, including the equipment at issue in this document, whenever the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (''ASHRAE'') amends the standard levels or design requirements prescribed in ASHRAE Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings,'' (''ASHRAE Standard 90.1''). Under a separate provision of EPCA, DOE is required to review the existing energy conservation standards for those types of covered equipment subject to ASHRAE Standard 90.1 every six 6 years to determine whether those standards need to be amended. (42 U.S.C. 6313(a)(6)(A)–(C)) DOE is conducting this review of the energy conservation standards for PTACs and PTHPs under EPCA's six-year-lookback authority. (42 U.S.C. 6313(a)(6)(C))

For this proposed determination, DOE analyzed PTACs and PTHPs subject to standards specified in Title 10 of the Code of Federal Regulations (''CFR'') part 431.97. DOE first analyzed the technological feasibility of more energy efficient PTACs and PTHPs. For those PTACs and PTHPs for which DOE determined higher standards to be technologically feasible, DOE estimated energy savings that would result from potential energy conservation standards by conducting a national impacts analysis (''NIA''). DOE also considered whether potential energy conservation standards would be economically justified. As discussed in the following sections, DOE has tentatively determined that it lacks clear and convincing evidence that amended energy conservation standards for PTACs and PTHPs would be economically justified. DOE evaluated whether higher standards would be cost effective by conducting life-cycle cost (''LCC'') and payback period (''PBP'') analyses, and estimated the net present value (''NPV'') of the total costs and benefits experienced by consumers.

Based on the results of the analyses, summarized in section V of this document, DOE has tentatively determined that it lacks clear and convincing evidence that more-stringent standards would result in significant additional energy savings and be technologically feasible and economically justified.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed determination, as well as some of the historical background relevant to the establishment of standards for PTACs and PTHPs.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part C of EPCA (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes PTACs and PTHPs, the subject of this document. (42 U.S.C. 6311(1)(I)) EPCA prescribed initial standards for this equipment. (42 U.S.C. 6313(a)(3))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316; 42 U.S.C. 6296).

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of covered equipment. (42 U.S.C. 6314(a)(2)) Manufacturers of covered equipment must use the Federal test procedures as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)) Similarly, DOE uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. The DOE test procedures for PTACs and PTHPs appear at title 10 of the CFR part 431 section 96(g).

EPCA contains mandatory energy conservation standards for commercial heating, air-conditioning, and water-heating equipment. (42 U.S.C. 6313(a)) Specifically, the statute sets standards for small, large, and very large commercial package air conditioning and heating equipment, packaged terminal air conditioners and packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks. *Id.* In doing so, EPCA established Federal energy conservation standards that generally corresponded to the levels in the ASHRAE Standard 90.1 in effect on October 24, 1992 (*i.e.,* ASHRAE Standard 90.1–1989), for each type of covered equipment listed in 42 U.S.C. 6313(a)

If ASHRAE Standard 90.1 is amended with respect to the standard levels or design requirements applicable under that standard for certain commercial equipment, including PTACs and PTHPs, not later than 180 days after the amendment of the standard, DOE must publish in the **Federal Register** for public comment an analysis of the energy savings potential of amended energy efficiency standards. (42 U.S.C.

[1] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Pub. L. 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

6313(a)(6)(A)(i)) DOE must adopt amended energy conservation standards at the new efficiency level in ASHRAE Standard 90.1, unless clear and convincing evidence supports a determination that adoption of a more-stringent efficiency level as a national standard would produce significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii))

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

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

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

(3) The total projected amount of energy savings likely to result directly from the standard;

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

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

(6) The need for national energy conservation; and

(7) Other factors the Secretary considers relevant.

(42 U.S.C. 6313(a)(6)(B)(ii))

If DOE adopts as a national standard the efficiency levels specified in the amended ASHRAE Standard 90.1, DOE must establish such a standard not later than 18 months after publication of the amended industry standard. (42 U.S.C. 6313(a)(6)(A)(ii)(I)) If DOE determines that a more-stringent standard is appropriate under the statutory criteria, DOE must establish the more-stringent standard not later than 30 months after publication of the revised ASHRAE Standard 90.1. (42 U.S.C. 6313(a)(6)(B)(i))

EPCA also requires that every six years DOE shall evaluate the energy conservation standards for each class of certain covered commercial equipment, including PTACs and PTHPs, and publish either a notice of determination that the standards do not need to be amended, or a notice of proposed rulemaking (''NOPR'') that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6313(a)(6)(C)(i)) EPCA further provides that, not later than three years after the issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6313(a)(6)(C)(iii)(II)) DOE must make the analysis on which the determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6313(a)(6)(C)(ii))

DOE is publishing this NOPD in satisfaction of the 6-year review requirement in EPCA, having initially determined that DOE lacks clear and convincing evidence that amended standards for PTACs and PTHPs would be economically justified.

B. Background

1. Current Standards

In a final rule published on July 21, 2015 (''July 2015 final rule''), DOE prescribed the current energy conservation standards for PTACs and PTHPs. 80 FR 43162. These levels are expressed in energy efficiency ratio (''EER'') for the cooling mode and in coefficient of performance (''COP'') for the heating mode for PTHPs. EER is defined as the ratio of the produced cooling effect of an air conditioner or heat pump to its net work input, expressed in British thermal units (''Btu'')/watt-hour. 10 CFR 431.92. COP is defined as the ratio of the produced cooling effect of an air conditioner or heat pump (or its produced heating effect, depending on the mode of operation) to its net work input, when both the cooling (or heating) effect and the net work input are expressed in identical units of measurement. 10 CFR 431.92.

The current energy conservation standards are located at 10 CFR 431.97, Table 7 and Table 8 and repeated in Table II–1.

TABLE II–1—FEDERAL ENERGY CONSERVATION STANDARDS FOR PTACS AND PTHPS

Equipment Class			Efficiency level *	Compliance date: products manufactured on or after
Equipment type	Category	Cooling capacity (British thermal units per hour (''Btu/h''))		
PTAC	Standard Size **	<7,000 Btu/h	EER − 11.9	January 1, 2017.
		≥7,000 Btu/h and ≤15,000 Btu/h	EER-14.0—(0.300 × Cap‡)	January 1, 2017.
		>15,000 Btu/h	EER-9.5	January 1, 2017.
\	Non-Standard Size †	<7,000 Btu/h	EER-9.4	October 7, 2010.
		≥7,000 Btu/h and ≤15,000 Btu/h	EER-10.9—(0.213 × Cap †)	October 7, 2010.
		>15,000 Btu/h	EER-7.7	October 7, 2010.
PTHP	Standard Size **	<7,000 Btu/h	EER-11.9 COP = 3.3	October 8, 2012.
		≥7,000 Btu/h and ≤15,000 Btu/h	EER-14.0—(0.300 × Cap‡) COP = 3.7—(0.052 × Cap ‡)	October 8, 2012.
		>15,000 Btu/h	EER-9.5 COP-2.9	October 8, 2012.
	Non-Standard Size †	<7,000 Btu/h	EER-9.3 COP-2.7	October 7, 2010.
		≥7,000 Btu/h and ≤15,000 Btu/h	EER-10.8—(0.213 × Cap ‡) COP = 2.9—(0.026 × Cap ‡)	October 7, 2010.

TABLE II–1—FEDERAL ENERGY CONSERVATION STANDARDS FOR PTACS AND PTHPS—Continued

Equipment Class			Efficiency level *	Compliance date: products manufactured on or after
Equipment type	Category	Cooling capacity (British thermal units per hour (''Btu/h''))		
	.....	>15,000 Btu/h	EER-7.6 ..... COP-2.5	October 7, 2010.

* For equipment rated according to the DOE test procedure prescribed at 10 CFR 431.96(g).
** Standard size means a PTAC or PTHP with wall sleeve dimensions having an external wall opening of greater than or equal to 16 inches high or greater than or equal to 42 inches wide, and a cross-sectional area greater than or equal to 670 square inches. 10 CFR 431.92.
† Non-standard size means a PTAC or PTHP with existing wall sleeve dimensions having an external wall opening of less than 16 inches high or less than 42 inches wide, and a cross-sectional area less than 670 square inches. *Id.*
†† Cap means cooling capacity in thousand Btu/h at 95°F outdoor dry-bulb temperature.

2. History of Standards Rulemakings for PTACs and PTHPs

In the July 2015 final rule, DOE published amendments to the PTAC and PTHP standards in response to the 2013 update to ASHRAE Standard 90.1 (''ASHRAE Standard 90.1–2013''). 80 FR 43162. DOE determined that ASHRAE Standard 90.1–2013 amended the standards for three of the 12 PTAC and PTHP equipment classes: PTAC standard size less than 7,000 Btu/h, PTAC standard size greater than or equal 7,000 Btu/h and less than or equal to 15,000 Btu/h, and PTAC standard size greater than 15,000 Btu/h. 80 FR 43162, 43163. DOE adopted the standard levels for these three equipment classes as updated by ASHRAE Standard 90.1–2013, with compliance with the amended standards required for equipment manufactured on or after January 1, 2017. *Id.* DOE did not amend the energy conservation standards for the remaining nine equipment classes which were already aligned with the standards in ASHRAE Standard 90.1–2013. 80 FR 43162, 43166. DOE was unable to show with clear and convincing evidence that energy conservation standards at levels more stringent than the minimum levels specified in the ASHRAE Standard 90.1–2013 for any of the 12 equipment classes would be economically justified. 80 FR 43162, 43163.

Since ASHRAE Standard 90.1–2013 was published, ASHRAE Standard 90.1 has undergone two further revisions. A revision was published on October 26, 2016 (''ASHRAE Standard 90.1–2016'') and a revision was published on October 24, 2019 (''ASHRAE Standard 90.1–2019''). Neither of these publications amended the minimum EER and COP levels for PTACs and PTHPs.

In support of the present review of the PTACs and PTHPs energy conservation standards, DOE published an early assessment review request for information (''RFI'') on December 21, 2020 (''December 2020 ECS RFI''), which identified various issues on which DOE sought comment to inform its determination of whether the standards need to be amended. 85 FR 82952.

DOE received comments in response to the December 2020 ECS RFI from the interested parties listed in Table II–2 of this document. These comments are discussed in detail in section IV of this document.

TABLE II–2—DECEMBER 2020 ECS RFI WRITTEN COMMENTS

Commenter(s)	Reference in this NOPD	Commenter type
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	Trade Association.
Appliance Standards Awareness Project	ASAP	Efficiency Organizations.
GE Appliances	GEA	Manufacturer.
Northwest Energy Efficiency Alliance	NEEA	Efficiency Organizations.
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison.	CA IOUs	Utilities.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[3]

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430 subpart C, appendix A (''appendix A''), applicable to covered equipment under 10 CFR 431.4, DOE notes that it is deviating from the provision in appendix A regarding the comment period for a NOPR. Section 6(f)(2) of appendix A specifies that the length of the public comment period for a NOPR will not be less than 75 days. For this proposed determination, DOE has opted to instead provide a 60-day comment period. As stated previously, DOE requested comment in the December 2020 ECS RFI on the technical and economic analyses that would be used to determine whether a more stringent standard would result in significant conservation of energy and is technologically feasible and economically justified. DOE has determined that a 60-day comment period, in conjunction with the prior December 2020 ECS RFI, provides sufficient time for interested parties to review the proposed rule and develop comments.

III. General Discussion

DOE developed this proposed determination after considering comments, data, and information from interested parties that represent a variety of interests. This proposed determination addresses issues raised by these commenters.

A. Equipment Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered equipment into

[3] The parenthetical reference provides a reference for information located in the docket. (Docket No. EERE–2019–BT–STD–0035, which is maintained at *www.regulations.gov).* The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

equipment classes by the type of energy used or by capacity or other performance-related features that justify differing standards. This proposed determination covers PTACs and PTHPs.

PTAC is defined as a wall sleeve and a separate un-encased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall, and that is industrial equipment. 10 CFR 431.92. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity. *Id.*

PTHP is defined as a PTAC that utilizes reverse cycle refrigeration as its prime heat source, that has a supplementary heat source available, with the choice of hot water, steam, or electric resistant heat, and that is industrial equipment. *Id.*

The scope of coverage is discussed in further detail in section IV.A.1 of this document. The PTAC and PTHP classes for this proposed determination are discussed in further detail in section IV.A.2 of this document.

B. Test Procedure

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6314(a)) Manufacturers of covered equipment must use these test procedures to certify to DOE that their product complies with energy conservation standards and to quantify the efficiency of their product. (42 U.S.C. 6314(d)) As discussed, DOE's current energy conservation standards for PTACs and PTHPs are expressed in terms of EER and COP. 10 CFR 431.97.

DOE's current test procedures for PTACs and PTHPs were last updated in a test procedure final rule on June 30, 2015 (''June 2015 TP final rule''). 80 FR 37136. The current test procedure for cooling mode incorporates by reference AHRI Standard 310/380–2014, ''Standard for Packaged Terminal Air-Conditioners and Heat Pumps'' (''AHRI Standard 310/380–2014'') with the following sections applicable to the DOE test procedure: sections 3, 4.1, 4.2, 4.3, and 4.4; American National Standards Institute (''ANSI'')/ASHRAE 16–1983 (RA 2014), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners'' (''ANSI/ASHRAE Standard 16–1983'') and ANSI/ASHRAE 37–2009, ''Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment'' (''ANSI/ASHRAE Standard 37–2009''). 10 CFR 431.96(g)(1) The current test procedure for heating mode testing incorporates by reference AHRI Standard 310/380–2014, with the following sections applicable to the DOE test procedure: sections 3, 4.1, 4.2 (except section 4.2.1.2(b)), 4.3, and 4.4; and ANSI/ASHRAE Standard 58–1986 (RA 2014), ''Method of Testing for Rating Room Air-Conditioner and Packaged Terminal Air-Conditioner Heating Capacity'' (''ANSI/ASHRAE Standard 58–1986''). 10 CFR 431.96(g)(2). The currently applicable DOE test procedures for PTACs and PTHPs appear at 10 CFR 431.96 (g).

The current test procedures also include additional provisions in paragraphs (c) and (e) of 10 CFR 431.96. 10 CFR 431.96(b)(1). Paragraph (c) of 10 CFR 431.96 specifies provisions for an optional compressor break-in period, and paragraph (e) of 10 CFR 431.96 details what information sources can be used for unit set-up and provides specific set-up instructions for refrigerant parameters (*e.g.,* superheat) and air flow rate.[4]

DOE's current test procedure for PTACs and PTHPs do not include a seasonal metric that includes part-load performance. As part of an ongoing test procedure rulemaking, DOE published a RFI on May 25, 2021 (''May 2021 TP RFI''), in which DOE requested information and data to consider amendments to DOE's test procedure for PTACs and PTHPs. 86 FR 28005. Specifically, DOE requested comment on whether it should consider adopting for PTACs and PTHPs a cooling-mode metric and a heating-mode metric that integrates part-load performance to better represent full-season efficiency. 86 FR 28005, 28010–28011. Were DOE to amend the PTAC and PTHP test procedure to incorporate a part-load metric, it would conduct any analysis for future standards rulemakings, if any, based on the amended test procedure.

DOE received general comments related to the test procedure in response to the December 2020 ECS RFI. DOE will consider such comments in the ongoing test procedure rulemaking. Discussion of part-load technologies as they relate to standards is contained in section IV.A.3 of this document.

For the purpose of this NOPD, DOE relied on the test procedures for PTACs and PTHPs as currently established at 10 CFR 431.96(g).

[4] The amendatory instructions in the June 2015 TP final rule for PTACs and PTHPs includes the reference to AHRI Standard 310/380–2014 in paragraphs (c) and (e), indicating that the requirements do apply to this equipment, even though the current CFR does not include this reference. 80 FR 37136, 37149 (June 30, 2015).

C. Technological Feasibility

1. General

In evaluating potential amendments to energy conservation standards, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the determination. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. These technology options are discussed in detail in section IV.A.3 of this document. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. See generally 10 CFR 431.4; sections 6(b)(3)(i) and 7(b)(1) of appendix A to 10 CFR part 430 subpart C (''Process Rule'').

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety; and (4) unique-pathway proprietary technologies. See generally 10 CFR 431.4; sections 6(b)(3)(ii)–(v) and 7(b)(2)–(5) of the Process Rule. Section IV.A.4 of this document discusses the results of the screening analysis for PTACs and PTHPs, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this proposed determination. For further details on the screening analysis for this proposed determination, see section IV.A.4 of this document.

2. Maximum Technologically Feasible Levels

As when DOE proposes to adopt an amended standard for a type or class of covered equipment, in this analysis it would result in significant conservation of energy and is technologically feasible and economically justified. (*See* 42 U.S.C. 6313(a)(6)(A)(ii)(II)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for PTACs and PTHPs, using the design parameters for the most efficient products available on the market or in

working prototypes. The max-tech levels that DOE determined for this analysis are described in section IV.B.4 of this proposed determination.

D. Energy Savings

1. Determination of Savings

For each efficiency level (''EL'') evaluated, DOE projected energy savings from application of the EL to the PTACs and PTHPs purchased in the 30-year period that begins in the assumed year of compliance with the potential standards (2026–2055). The savings are measured over the entire lifetime of the PTACs and PTHPs purchased in the previous 30-year period. DOE quantified the energy savings attributable to each EL as the difference in energy consumption between each standards case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for a product would likely evolve in the absence of amended energy conservation standards. DOE used its NIA spreadsheet model to estimate national energy savings (''NES'') from potential amended or new standards for PTACs and PTHPs. The NIA spreadsheet model (described in section V.B of this document) calculates energy savings in terms of site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports NES in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. DOE also calculates NES in terms of full-fuel-cycle (''FFC'') energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.[5] DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.G of this document.

2. Significance of Savings

In determining whether amended standards are needed, DOE must consider whether such standards will result in significant conservation of energy.[6] (42 U.S.C. 6313(a)(6)(C)(i)(I)); (42 U.S.C. 6313(a)(6)(A)(ii)(II)) The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[7] For example, the United States has now rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing GHG emissions in order to limit the rise in mean global temperature.[8] As such, energy savings that reduce GHG emission have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and FFC effects for different covered products and equipment when determining whether energy savings are significant. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

E. Economic Justification

As noted, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)(I)–(VII)) The following sections discuss how DOE has addressed each of those seven factors in this proposed determination.

1. Economic Impact on Manufacturers and Consumers

In determining the impacts of a potential amended standard on manufacturers, DOE conducts a manufacturing impact analysis (''MIA''). DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include (1) industry net present value, which values the industry on the basis of expected future cash flows, (2) cash flows by year, (3) changes in revenue and income, and (4) other measures of impact, as appropriate. However, DOE is not proposing amended standards for PTACs and PTHPs, and, therefore, this proposed determination would have no cash-flow impacts on manufacturers. Accordingly, as discussed further in section IV.G of this document, DOE did not conduct an MIA for this NOPD.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value (''NPV'') of the consumer costs and benefits expected to result from particular standards. DOE also evaluates the impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a standard. However, DOE is not proposing amended standards for PTACs and PTHPs, and, therefore, this proposed determination would have no disproportionate impact on identifiable subgroups of consumers. Accordingly, DOE did not conduct a subgroup analysis for this NOPD.

2. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6313(a)(6)(B)(ii)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and discount rates appropriate for consumers. To account for uncertainty and variability in specific inputs, such as product lifetime and

[5] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

[6] In setting a more stringent standard for ASHRAE equipment, DOE must have ''clear and convincing evidence'' that doing so ''would result in significant additional conservation of energy'' in addition to being technologically feasible and economically justified. 42 U.S.C. 6313(a)(6)(A)(ii)(II). This language indicates that Congress had intended for DOE to ensure that, in addition to the savings from the ASHRAE standards, DOE's standards would yield additional energy savings that are significant. In DOE's view, this statutory provision shares the requirement with the statutory provision applicable to covered products and non-ASHRAE equipment that ''significant conservation of energy'' must be present (42 U.S.C. 6295(o)(3)(B)) —and supported with ''clear and convincing evidence''—to permit DOE to set a more stringent requirement than ASHRAE.

[7] *See* 86 FR 70892, 70901 (Dec. 13, 2021).

[8] *See* Executive Order 14008, 86 FR 7619 (Feb. 1, 2021) (''Tackling the Climate Crisis at Home and Abroad'').

discount rate, DOE uses a distribution of values, with probabilities attached to each value.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more-stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

For its LCC and PBP analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with new or amended standards. The LCC savings for the considered efficiency levels are calculated relative to the case that reflects projected market trends in the absence of new or amended standards. DOE's LCC and PBP analysis is discussed in further detail in section IV.E of this document.

3. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6313(a)(6)(B)(ii)(III)) As discussed in section IV.G of this document, DOE uses the NIA spreadsheet models to project national energy savings.

4. Lessening of Utility or Performance of Products

In establishing product classes and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6313(a)(6)(B)(ii)(IV)) DOE is not proposing amended standards for PTACs and PTHPs, and, therefore, this proposed determination would not impact the utility of such equipment.

5. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General that is likely to result from a proposed standard. (42 U.S.C. 6313(a)(6)(B)(ii)(V)) Because DOE is not proposing standards for PTACs and PTHPs, DOE did not transmit a copy of its proposed determination to the Attorney General for anti-competitive review.

6. Need for National Energy Conservation

DOE also considers the need for national energy and water conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)(VI)) The energy savings from the proposed standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the Nation's needed power generation capacity. However, DOE is not proposing amended standards for PTACs and PTHPs, and therefore, did not conduct this analysis.

DOE maintains that environmental and public health benefits associated with the more efficient use of energy are important to take into account when considering the need for national energy conservation. For example, energy conservation standards result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases (''GHGs'') associated with energy production and use. DOE conducts an emissions analysis to estimate how potential standards may affect these emissions. DOE also estimates the economic value of emissions reductions resulting from each trial standard level (''TSL'') (*i.e.,* standards case above the base case).[9] However, DOE is not proposing amended standards for PTACs and PTHPs, and, therefore, did not conduct this analysis.

7. Other Factors

In determining whether an energy conservation standard is economically justified, DOE may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6313(a)(6)(B)(ii)(VII)) To the extent DOE identifies any relevant information regarding economic justification that does not fit into the other categories described previously, DOE could consider such information under ''other factors.''

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

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this proposed determination with regard to PTACs and PTHPs. Separate subsections address each component of DOE's analyses. DOE used several analytical tools to estimate the impact of potential energy conservation standards. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential energy conservation standards. The NIA uses a second spreadsheet set that provides shipments projections and calculates NES and net present value of total consumer costs and savings expected to result from potential energy conservation standards. These spreadsheet tools are available on the website: *www.regulations.gov/docket/EERE–2019–BT–STD–0035.*

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this proposed determination include: (1) a determination of the scope and classes, (2) market and industry trends and (3) technologies or design options that could improve the energy efficiency of PTAC and PTHPs. The key findings of DOE's market assessment are summarized in the following sections. See the supplemental file DOE made available for comment (Document ID No. EERE–2019–BT–STD–0035–0001) for a review of the current PTAC and PTHP market and efficiency distributions.

1. Scope of Coverage

In this analysis, DOE relied on the definition of PTACs and PTHPs in 10 CFR 431.92. Any equipment meeting the definition of PTAC or PTHP is included in DOE's scope of coverage.

PTAC is defined as a wall sleeve and a separate un-encased combination of heating and cooling assemblies

specified by the builder and intended for mounting through the wall, and that is industrial equipment. 10 CFR 431.92. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation, and heating availability by builder's choice of hot water, steam, or electricity. *Id.*

PTHP is defined as a PTAC that utilizes reverse cycle refrigeration as its prime heat source, that has a supplementary heat source available, with the choice of hot water, steam, or electric resistant heat, and that is industrial equipment. *Id.*

On October 7, 2008, DOE published a final rule (''October 2008 final rule'') amending the energy conservation standards for PTACs and PTHPs in which DOE divided equipment classes based on whether a PTAC or PTHP is a standard size or non-standard size. 73 FR 58772.

DOE defines ''standard size'' as a PTAC or PTHP with wall sleeve dimensions having an external wall opening of greater than or equal to 16 inches high or greater than or equal to 42 inches wide, and a cross-sectional area greater than or equal to 670 square inches. 10 CFR 431.92.

DOE defines ''non-standard size'' as a PTAC or PTHP with existing wall sleeve dimensions having an external wall opening of less than 16 inches high or less than 42 inches wide, and a cross-sectional area less than 670 square inches. *Id.*

In the December 2020 ECS RFI, DOE requested comment on whether the definitions for PTACs, PTHPs, standard size and non-standard size require any revisions—and if so, what revisions are needed and how those definitions should be revised. 82 FR 82952, 82956. DOE also requested comment on whether additional equipment definitions are necessary to close any potential gaps in coverage between equipment types and whether there were opportunities to combine equipment classes that could reduce regulatory burden. *Id.*

In response, AHRI stated that the current definitions for PTACs and PTHPs do not require revisions at this time and the subcategory definitions currently in place for ''standard size'' and ''non-standard size'' are also appropriate and require no modifications. AHRI also explained that the current equipment classes are appropriate and that any modifications should be first made through ASHRAE Standard 90.1 process. AHRI further commented that DOE is required to consider amending its standards for PTACs and PTHPs when ASHRAE Standard 90.1 is amended, which includes equipment definitions and classes, and as no amendment has occurred the existing scheme is appropriate (AHRI, No. 8 at p. 4) DOE did not receive any further comments pertaining to these issues of coverage.

For this NOPD DOE maintains the current definitions for PTACs, PTHPs, standard size and non-standard size.

2. Equipment Classes

For PTACs and PTHPs, the current energy conservation standards specified in 10 CFR 431.97(c) are based on 12 equipment classes determined according to the following: whether the equipment is an air conditioner or a heat pump, whether the equipment is standard size or non-standard size, and the cooling capacity in Btu/h. Table IV–1 lists the current 12 equipment classes for PTACs and PTHPs specified in Table 7 and Table 8 to 10 CFR 431.97.

TABLE IV–1—CURRENT PTAC AND PTHP EQUIPMENT CLASSES

Equipment Class			
1	PTAC	Standard Size	<7,000 Btu/h.
2	PTAC	Standard Size	≥7,000 Btu/h and ≤15,000 Btu/h.
3	PTAC	Standard Size	>15,000 Btu/h.
4	PTAC	Non-Standard Size	<7,000 Btu/h.
5	PTAC	Non-Standard Size	≥7,000 Btu/h and ≤15,000 Btu/h.
6	PTAC	Non-Standard Size	>15,000 Btu/h.
7	PTHP	Standard Size	<7,000 Btu/h.
8	PTHP	Standard Size	≥7,000 Btu/h and ≤15,000 Btu/h.
9*	PTHP	Standard Size	>15,000 Btu/h.
10	PTHP	Non-Standard Size	<7,000 Btu/h.
11	PTHP	Non-Standard Size	≥7,000 Btu/h and ≤15,000 Btu/h.
12	PTHP	Non-Standard Size	>15,000 Btu/h.

*Based on DOE's review of equipment currently available on the market, DOE did not identify any Standard Size PTHP models with a cooling capacity greater than 15,000 Btu/h.

In the December 2020 ECS RFI, DOE requested feedback on the current PTAC and PTHP equipment classes and whether any changes to these individual equipment classes and their descriptions should be made or whether certain classes should be merged or separated. 85 FR 82952, 82957. Specifically, DOE requested comment on opportunities to combine equipment classes that could reduce regulatory burden. *Id.* DOE further requested feedback on whether combining certain classes could impact equipment utility by eliminating any performance-related features or impact the stringency of the current energy conservation standard for this equipment. *Id.* DOE also requested comment on separating any of the existing equipment classes and whether it would impact equipment utility by eliminating any performance-related features or reduce any compliance burdens. *Id.*

In response, AHRI commented that they do not recommend changes at this time (AHRI, No. 8 at p. 4) DOE did not receive any further comments on this issue.

DOE also sought information regarding any other new product classes it should consider for inclusion in its analysis. 85 FR 82952, 82957. Specifically, DOE requested information on the performance-related features that provide unique consumer utility and data detailing the corresponding impacts on energy use that would justify separate product classes (*i.e.,* explanation for why the presence of these performance-related features would increase energy consumption). *Id.*

In response, AHRI stated that they support the current equipment classes and that they should not be expanded. (AHRI, No. 8 at p. 5) DOE did not receive any further comments on this issue.

For this NOPD, DOE maintains the current equipment classes.

a. Make-Up Air PTACs and PTHPs

In the May 2021 TP RFI, DOE described ''make-up air'' PTACs and their additional function of dehumidification. 86 FR 28005, 28007–28009. As discussed in section II.B.1 of this document, for PTACs and PTHPs, DOE currently specifies EER as the test metric for cooling efficiency and COP as the metric for heating efficiency. Neither the current test procedure, at 10 CFR 431.96(g), nor the industry test procedure incorporated by reference, AHRI Standard 310/380–2014, account for the energy associated with the conditioning of make-up air introduced by the unit.

In the December 2020 ECS RFI, DOE requested comment on appropriate definitions for ''make-up air PTAC'' and ''make-up air PTHP'' and what characteristics could be used to distinguish make-up air PTACs and PTHPs from other PTACs and PTHPs. 85 FR 82952, 82957. DOE requested information on the consumer utility and the energy use associated with the function of providing ''make-up air.'' *Id.* DOE also requested comment on whether the same capacity ranges used for non- ''make-up air'' PTACs and PTHPs would be appropriate to use for equipment classes for possible ''make-up air'' PTAC and PTHP equipment classes (*i.e.,* less than 7,000 Btu/h, greater than or equal to 7,000 Btu/h and less than or equal to 15,000 Btu/h, and greater than 15,000 Btu/h). *Id.* Finally, DOE requested comment on if there are both Standard Size and Non-Standard Size ''make-up air'' PTACs and PTHPs. *Id.*

AHRI commented that make-up air PTACs and make-up air PTHPs are not included as equipment categories in ASHRAE Standard 90.1 and therefore should not be considered as separate equipment categories in this DOE rulemaking. (AHRI, No. 8 at p. 5) AHRI further commented that their research did not indicate that a sufficient number of products would benefit from a separate class to include the energy for either a specialized feature for outdoor air conditioning or dehumidification. *Id.* AHRI stated that no manufacturer has submitted a waiver to modify the current test procedure indicating that the results of the test procedure remain representative of actual energy use or efficiency and all products defined as PTACs and PTHPs and are able to be tested in accordance with AHRI Standard 310/380. *Id.* AHRI also asserted that there is a significant testing barrier to accurately measuring dehumidification, stating that psychrometric chambers are not enabled to test dehumidification of outside air and any changes to incorporate dehumidification would therefore require research to determine an appropriate procedure. *Id.*

GEA also commented that PTACs [10] with make-up air capabilities do not require separate product classes, stating that: these units do not make a sufficient segment of the market to justify a separate class; they are not included as equipment classes in ASHRAE Standard 90.1; all equipment defined as PTACs and PTHPs are able to be tested in accordance with AHRI Standard 310/380 and that there are significant issues with testing of make-up air units related to the design of existing test rooms, particularly with respect to dehumidification, which would require substantial investment to modify test facilities. (GEA, No. 10 at p. 2)

The CA IOUs stated that more research is needed before a determination can be made with respect to whether units that provide make-up air warrant separate equipment classes, including testing the equipment and market analysis. (CA IOUs, No. 7 at p. 4) The commenters recommended that DOE investigate the size and potential market growth for this feature. *Id.* Additionally, they also stated that appendix M1 (to subpart B of 10 CFR part 430), which the CA IOUs recommended that DOE adopt for PTACs and PTHPs, does not have provisions for testing units while they provide make-up air. *Id.* The commenters urged DOE to use caution in creating a separate product class for units that provide make-up air, asserting it will likely make compliance, enforcement, and product comparison difficult. *Id.*

DOE notes that while the market for make-up air PTACs and PTHPs may be small currently, new building code requirements may lead to increased demand for these units. As discussed in the May 2021 TP RFI, building designs that supply make-up air via corridors are generally no longer permissible under the building codes adopted in most U.S. states. 86 FR 28005, 28008. Chapter 10, Section 1018.5 of the 2009 International Building Code (''IBC'') states that, with some exceptions, ''corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.'' [11] The International Code Council (''ICC'') tracks the adoption of the IBC by state. The ICC reports that, as of February 2022, only seven states had not fully adopted the 2009 version or a more recent version of the IBC.[12]

DOE is cognizant of the potential testing challenges associated with the testing of make-up air PTACs and PTHPs and is considering this in the ongoing test procedure rulemaking. 86 FR 28005, 28008–28009. Were DOE to amend the PTAC and PTHP test procedure to incorporate measurement of dehumidification energy for make-up air PTACs and PTHPs, a separate equipment class for this type of units may be warranted. At such time, DOE would conduct the analysis for future standards rulemakings, if any, based on the amended test procedure. However, DOE is not proposing to establish separate equipment classes for make-up air PTACs and PTHPs at this time.

3. Technology Options

In the December 2020 ECS RFI, DOE identified several technology options that would be expected to improve the efficiency of PTACs and PTHPs, as measured by the DOE test procedure. 85 FR 82952, 82957–82958. Based on the technologies identified in the analysis for the July 2015 final rule and a preliminary survey of the current market using the DOE Compliance Certification Database (''CCD''),[13] DOE separately provided potential technology options in two categories: technologies that may increase efficiency at both full-load and part-load conditions (designated as Table II.2 in the December 2020 ECS RFI and re-listed as Table IV–2 in this document); and technologies that may only increase efficiency at part-load conditions (designated as Table II.3 in the December 2020 ECS RFI and re-listed as Table IV–3 in this document). *Id.*

[10] In their comments, GEA referred generally to ''PTACs.'' However, based on the context of their comments, DOE understands GEA's comments to apply to both PTACs and PTHPs.

[11] International Code Council. 2009 International Building Code. Available at: *https://codes.iccsafe.org/content/chapter/4641/.*

[12] International Code Council (2022). ''International Codes—Adoption by State.'' Available at: *https://www.iccsafe.org/wp-content/uploads/Master-I-Code-Adoption-Chart-FEB-22.pdf.*

[13] DOE's Compliance Certification Database can be found at: *www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A** (accessed March 9th, 2022).

TABLE IV–2—TECHNOLOGY OPTIONS FOR PTACS AND PTHPS PRESENTED IN THE DECEMBER 2020 ECS RFI THAT MAY INCREASE EFFICIENCY AT BOTH FULL-LOAD AND PART-LOAD CONDITIONS

Technology options	Source
Heat Exchanger Improvements:	
Increased Heat Exchanger Area	July 2015 Final Rule.
Indoor Blower and Outdoor Fan Improvements:	
Higher Efficiency Fan Motors	July 2015 Final Rule.
Improved Air Flow and Fan Design	July 2015 Final Rule.
More Efficient Fan Geometries	New Technology Option.
Compressor Improvements:	
Higher Efficiency Compressors	July 2015 Final Rule.
Scroll Compressors	Screened out of July 2015 Final Rule.
Other Improvements:	
Heat Pipes	Screened out of July 2015 Final Rule.
Alternative Refrigerants	Screened out of July 2015 Final Rule.

TABLE IV–3—TECHNOLOGY OPTIONS FOR PTACS AND PTHPS PRESENTED IN THE DECEMBER 2020 ECS RFI THAT MAY INCREASE EFFICIENCY AT ONLY PART-LOAD CONDITIONS

Technology options	Source
Indoor Blower and Outdoor Fan Improvements:	
Variable speed condenser fan/motor	* New Technology Option.
Variable speed indoor blower/motor	New Technology Option.
Compressor Improvements:	
Variable Speed Compressors	July 2015 Final Rule. *
Other Improvements:	
Electronic Expansion Valves (“EEV”)	New Technology Option.
Thermal Expansion Valves (“TEV”).	July 2015 Final Rule.*

* Identified technology was not analyzed in the July 2015 because of no full-load benefit.

In the December 2020 ECS RFI, DOE requested information on the technologies listed in Table IV–2 regarding their applicability to the current market, how these technologies may impact the efficiency of PTACs and PTHPs, how these technologies have changed since the July 2015 final rule and the range of efficiencies or performance characteristics that are currently available for each technology option. 85 FR 82952, 82958. DOE also sought comment on whether the new technologies mentioned would affect a determination as to whether DOE could propose a ‘‘no new standard’’ determination because a more stringent standard: would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of the foregoing. *Id.* Specifically, DOE sought information on the new technologies regarding their market adoption, costs, and any concerns with incorporating them into equipment (*e.g.,* impacts on consumer utility, potential safety concerns, manufacturing/production/implementation issues, etc.), particularly as to changes that may have occurred since the July 2015 final rule. *Id.* DOE also sought comment on other technology options that it should consider for inclusion in its analysis and if these technologies may impact equipment features or consumer utility. *Id.*

AHRI suggested that DOE contact manufacturers independently to provide feedback on the technologies listed in in the December 2020 ECS RFI regarding their applicability to the current market and how these technologies may impact the efficiency of PTACs and PTHPs as measured according to the DOE test procedure. (AHRI, No. 4 at p. 6) Additionally, AHRI stated that it was not aware of any advanced development of technologies screened out in the July 2015 final rule, with the exception of variable speed compressors. *Id.* AHRI stated that two manufacturers offer PTACs and PTHPs with variable speed compressors; however, the current test procedure referencing AHRI Standard 310/380–2014 provides only a full load performance rating. AHRI further stated that in its review of the certification database, AHRI found only a handful of products that may benefit from the additional test burden that would be imposed by moving to a part-load metric. *Id.* AHRI commented that determining performance at multiple load points, rather than one, and the additional calculations to determine a seasonal efficiency adds considerable time to testing and a change in metric requires all existing products to be retested, which will benefit few products on the market. *Id.* AHRI commented that no manufacturer had submitted a waiver to modify the current test procedure indicating that the results of a test procedure remain representative of actual energy use or efficiency and all products defined as PTACs and PTHPs are able to be tested in accordance with AHRI Standard 310/380. AHRI also commented that to their knowledge, no manufacturer is currently using the new technology options captured in Table IV–3. *Id.* AHRI stated that they had no suggestions on additional technology options that DOE should consider for inclusion in its analysis. *Id.*

NEEA agreed with the list of technology options included in the 2015 ECS final rule and recommended that DOE continue to include those technologies in this rulemaking. In addition to the listed technology options, NEEA suggested the following technology options for consideration: use of intake and exhaust ducts to reduce infiltration, alternative refrigerants, microchannel heat

exchangers and separate indoor and outdoor blower motors. (NEEA, No. 9 at pp. 4–5) NEEA noted that separate indoor and outdoor blower motors are used as a strategy to improve efficiency while also reducing unit noise by at least one manufacturer. *Id.*

ASAP encouraged DOE to evaluate the range of technology options identified in the RFI, stating that many of these technology options were not analyzed in the July 2015 final rule, which, per ASAP, suggests that significantly greater energy savings may be possible than the max-tech levels in the previous rule. (ASAP, No. 6 at p. 1) ASAP commented that the technology options that can increase part-load efficiency such as variable-speed compressors, variable-speed fans, and electronic expansion valves have the potential to provide large savings. *Id.* ASAP also encouraged DOE to consider improvements to heating performance at low temperatures as technology options—stating that design changes such as added defrost capability can allow a PTHP to continue to use the heat pump cycle at lower ambient temperatures to provide significant energy savings. (ASAP, No. 6 at p. 2) ASAP suggested that improved defrost control strategies be added as a technology option. *Id.*

The CA IOUs recommended that DOE include low global warming potential (''GWP'') refrigerants, such as R–32, in its engineering analysis. (CA IOUs, No. 7 at p. 3) The CA IOUs asserted that PTAC and PTHPs manufactured after an updated standard takes effect will likely use low-GWP refrigerants. *Id.*

As discussed earlier in section III.B of this document, DOE may consider adopting for PTACs and PTHPs a cooling-mode metric and a heating-mode metric that integrates part-load performance. In the December 2020 ECS RFI, DOE requested data on the market penetration and efficiency improvement associated with the technology options that may increase efficiency at part-load conditions, as listed in Table IV–3 of this document. 85 FR 82952, 82958. In addition, DOE requested data on any other technology options not listed above that would improve the efficiency of equipment under part-load conditions. *Id.*

AHRI and GEA did not support moving to a part-load metric. (AHRI, No. 8 at p.7; GEA, No. 10 at p.2) AHRI commented that very few products use advanced compressors, but all products would be required to be retested if a part-load metric was adopted. (AHRI, No. 8 at p. 7) AHRI asserted that industry burdens would make a switch to a new metric untimely. *Id.* GEA stated that moving the entire industry to a part load metric would have little benefit to consumers and would have little to no effect on energy efficiency, while creating substantial cost and testing burden. (GEA, No. 10 at p. 2) GEA suggested that instead DOE should allow the industry to follow the test procedure waiver process which allows for adding appropriate provisions for variable speed compressor products while maintaining stability in the vast majority of the market that does not include variable speed compressors. *Id.* GEA stated that once the technology is sufficiently mature, moving the test procedure and standards to a part load metric may make sense—however, this product category has not yet reached that stage. *Id.*

ASAP, NEEA and CA IOUs expressed support for moving to a part-load metric. (ASPA, No. 6 at p. 1; NEEA, No.9 at p. 1–2; CA IOUs, No.7 at p. 1) ASAP recommended that DOE evaluate potential amended standard levels based on metrics that reflect annual energy consumption and capture low-temperature heating performance. (ASAP, No. 6 at p. 1) NEEA recommended that DOE update energy conservation standard efficiency levels for PTACs and PTHPs, even if it does not proceed with a test procedure update, asserting that a range of efficiencies exist today with many models exceeding the current federal standards by approximately 10–30 percent, depending on the product category. (NEEA, No. 9 at p. 3) Additionally, NEEA stated that their market research suggested an increasing number of inverter-driven variable speed units have been introduced, and asserted that the Federal test procedure captures some of the efficiency impact of this technology, as evidenced by the higher EER and COP values shown for inverter-driven units. *Id.* at p. 4. NEEA suggested inclusion of technology options that can improve part-load and low temperature performance including electronic expansion valves, variable speed fans, multistage or variable speed compressors, demand-based defrost controls, electric resistance boost control strategies and compressor cut out controls. (NEEA, No. 9 at p. 2) NEEA stated that demand-based defrost controls (as compared to time-based defrost) can reduce energy use by defrosting only when needed, rather than at set time intervals. *Id.* They also stated that electric resistance boost features can result in significant increased energy use and that DOE should consider control strategies that limit the use of electric resistance boost usage in technology options. *Id.* NEEA also suggested that DOE should consider compressor cut out controls, which control the temperature below which the compressor will not operate and the temperature at which it resumes operation, and include compressor cut out control strategies as a technology option. *Id.*

CA IOUs stated that under the 2015 ECS final rule, several technologies, such as variable-speed compressors and thermal expansion valves, were not included in the engineering analysis despite their potential improvements to part-load performance, commenting that DOE did not consider these technologies because it was believed that PTAC and PTHPs operate at full-load conditions more often than at part-load conditions. (CA IOUs, No. 7 at p. 2) CA IOUs referenced product marketing literature from compressor manufacturers that claimed efficiency improvements of 25 to 35 percent when replacing single-speed compressors with variable-speed compressor. *Id.* CA IOUs also commented that at least five manufacturers now sell variable-speed compressor products, and that it is expected this technology will increase in prevalence. *Id.*

For this analysis, DOE considered the technology options shown in Table IV–4 of this document, including options listed in the December 2020 ECS RFI and options suggested in stakeholder comments, for improving energy efficiency of PTACs and PTHPs.

TABLE IV–4—POTENTIAL TECHNOLOGY OPTIONS FOR IMPROVING ENERGY EFFICIENCY OF PTACS AND PTHPS

Technology options	Source
Heat Exchanger Improvements:	
Increased Heat Exchanger Area	July 2015 Final Rule.
Microchannel Heat Exchangers	Screened out of July 2015 final rule; Suggested for Inclusion by Commenter.

TABLE IV–4—POTENTIAL TECHNOLOGY OPTIONS FOR IMPROVING ENERGY EFFICIENCY OF PTACS AND PTHPS—Continued

Technology options	Source
Indoor Blower and Outdoor Fan Improvements:	
Higher Efficiency Fan Motors	July 2015 Final Rule.
Improved Air Flow and Fan Design (including more Efficient Fan Geometries)	July 2015 Final Rule.
Variable speed condenser fan/motor	New Technology Option.
Variable speed indoor blower/motor	New Technology Option.
Separate indoor and outdoor motors (to improve efficiency while reducing noise)	New Technology Option Suggested by Commenter.
Compressor Improvements:	
Higher Efficiency Compressors	July 2015 Final Rule.
Scroll Compressors	Screened out of July 2015 Final Rule.
Variable Speed Compressors	July 2015 Final Rule.*
Other Improvements:	
Heat Pipes	Screened out of July 2015 Final Rule.
Alternative Refrigerants	Screened out of July 2015 Final Rule.
EEV	New Technology Option.
TEV	July 2015 Final Rule.*
Intake and Exhaust Ducts (to reduce infiltration through and around the unit)	New Technology Option Suggested by Commenter.
Defrost Control Strategies & Demand-based Defrost Controls (for improved low ambient heating).	New Technology Option Suggested by Commenter.
Electric resistance boost control strategies (to limit the use of electric resistance boost)	New Technology Option Suggested by Commenters.
Compressor cut out control strategies (to allow compressor operation at lower temperatures).	New Technology Option Suggested by Commenter.

* Identified technology was not analyzed in the July 2015 final rule because of no full-load benefit.

EEVs regulate the flow of liquid refrigerant entering the evaporator and can adapt to changes in operating conditions, such as variations in temperature, humidity, and compressor staging. As a result, EEVs can control for optimum system operating parameters over a wide range of operating conditions and are a consideration in evaluating improved seasonal efficiency. Variable-speed compressors enable modulation of the refrigeration system capacity, allowing the unit to adjust capacity to match the cooling or heating load. This modulation can improve efficiency by reducing off-cycle losses and can improve heat exchanger effectiveness at part-load conditions by operating at a lower mass flow rate. Variable speed condenser fan motors and variable speed indoor blower allow for varying fan speed to reduce airflow rate at part-load operation.

Detailed descriptions of the technology options from the July 2015 final rule can be found in chapters 3 and 4 of the July 2015 final rule technical support document (''TSD'').[14]

4. Screening Analysis

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

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

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

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

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

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

See 10 CFR part 430, subpart C, appendix A, sections 6(c)(3) and 7(b). In summary, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

a. Screened-Out Technologies

In the July 2015 final rule, DOE screened out three technology options based on the applicable criteria discussed previously. The screened-out technology options are presented below in Table IV–5.

[14] Available at: *www.regulations.gov/document/EERE-2012-BT-STD-0029-0040.*

TABLE IV–5—PREVIOUSLY SCREENED OUT TECHNOLOGY OPTIONS FROM THE JULY 2015 FINAL RULE

Screened technology option	Technological feasibility	Screening criteria (X = basis for screening out)			
		Practicability to manufacture, install, and service	Adverse impact on equipment utility	Adverse impacts on health and safety	Unique-pathway proprietary technologies
Scroll Compressors	X				
Heat Pipes	X				
Alternative Refrigerants	X				

In the December 2020 ECS RFI, DOE requested comment on these technology options previously screened out in the July 2015 final rule. 85 FR 82952, 82959. Specifically, DOE requested information as to whether these options would, based on current and projected assessments regarding each of them, remain screened out under the four screening criteria [15] described in this section and what steps, if any, could be (or have already been) taken to facilitate the introduction of each option as a means to improve the energy performance of PTACs and PTHPs and the potential to impact consumer utility of the PTACs and PTHPs. *Id.*

Heat Pipes, Scroll Compressors

AHRI commented that there had been no technical advances in heat pipes and thus no reason to include the technology option in the analysis. (AHRI, No. 8 at p. 7) AHRI commented that scroll compressors should remain screened out stating that compressor manufacturers are currently working to develop full product lines to accommodate A2L [16] refrigerants. Since this effort requires significant research and design resources, PTAC and PTHP manufacturers must prioritize obtaining compliant components for a single complete product line using new refrigerants for jurisdictions limiting GWP. *Id.* AHRI asserted that because of this additional product options, such as scroll compressors, will likely take time to bring to market and conduct all of the product research, design, and testing. *Id.*

DOE did not receive any further comments for heat pipes or scroll compressors. DOE is not aware of any PTACs or PTHPs that are currently using heat pipes or PTHPs using scroll compressors. Regarding scroll compressors, DOE is not aware of any scroll compressors of suitable capacity and size with better efficiency than available rotary compressors. DOE has therefore tentatively concluded to keep heat pipes and scroll compressors screened out of the engineering analysis.

Alternate Refrigerants

Nearly all PTAC and PTHP equipment is designed with R–410A as the refrigerant. The U.S. Environmental Protection Agency (''EPA'') Significant New Alternatives Policy (''SNAP'') Program evaluates and regulates substitutes for the ozone-depleting chemicals (such as air conditioning refrigerants) that are being phased out under the stratospheric ozone protection provisions of the Clean Air Act (''CAA''). (42 U.S.C. 7401 *et seq.*) [17] The EPA SNAP Program currently includes 31 [18] acceptable alternatives for refrigerant used in the new Residential and Light Commercial Air Conditioning class of equipment (which includes PTAC and PTHP equipment).[19] On May 6, 2021, the EPA published a final rule allowing the use of R–32, R–452B, R–454A, R–454B, R–454C and R–457A, subject to use conditions. 86 FR 24444.

On December 27, 2020, the American Innovation and Manufacturing Act of 2020 was enacted in section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260; codified at 42 U.S.C. 7675). The American Innovation and Manufacturing Act of 2020 provides EPA specific authority to address hydrofluorocarbons (''HFC''), including to: (1) phase down HFC production and consumption of listed HFCs through an allowance allocation and trading program, (2) establish requirements for the management of HFCs and HFC substitutes in equipment (*e.g.,* air conditioners); and (3) facilitate sector-based transitions away from HFCs. 42 U.S.C. 7675(e), (h), (i) Under the American Innovation and Manufacturing Act of 2020, EPA is authorized to issue rules in response to petitions to establish sector-based HFC restrictions. 42 U.S.C. 7675(i)(3) On October 14, 2021, EPA granted ten petitions in full, including one petition by AHRI et al., titled, ''Restrict the Use of HFCs in Residential and Light Commercial Air Conditioners'' (''AHRI petition''), in which the petitioners requested EPA to require residential and light commercial air conditioners (which includes PTAC and PTHP equipment) to use refrigerants with GWP of 750 or less, with such requirement applying to these equipment manufactured after January 1, 2025, excluding variable refrigerant flow (''VRF'') equipment.[20] 86 FR 57141. DOE is also aware that the California Air Resources Board (''CARB'') finalized a rulemaking effective January 1, 2022, which prohibits the use of refrigerants with a GWP of 750 or greater starting January 1, 2023, in several new air-conditioning equipment, including PTACs and PTHPs.[21]

In response to the December 2020 ECS RFI, DOE received several comments regarding the consideration of alternate refrigerants as a technology option. AHRI suggested that alternative refrigerants should remain a screened-out technology. (AHRI, No. 8 at p. 7) AHRI stated that California is seeking to establish a January 1, 2023, effective date to limit the GWP of refrigerants in PTACs and PTHPs to 750,[22]

[15] While the December 2020 ECS RFI referenced four screening criteria, DOE notes that there are five screening criteria under Appendix A. 86 FR 70924. *See* 10 CFR part 430, subpart C, appendix A, sections 6(c)(3) and 7(b).

[16] A2L is an ASHRAE safety group classification for refrigerants denoting lower toxicity and lower flammability. More information regarding ASHRAE refrigerant safety classification can be found here: *www.ashrae.org/file%20library/technical%20resources/refrigeration/factsheet_ashrae_english_20200424.pdf.*

[17] Additional information regarding EPA's SNAP Program is available online at: *www.epa.gov/ozone/snap/.*

[18] Refrigerant THR–03 is not included in this count because it is acceptable for use only in residential window air conditioners; Refrigerants R–1270 and R–443A were deemed unacceptable as of Jan 3, 2017; Refrigerants R–417C, R–427A and R–458A are only approved for retrofit applications.

[19] Information available at: *www.epa.gov/snap/substitutes-residential-and-light-commercial-air-conditioning-and-heat-pumps.*

[20] Available at: *www.regulations.gov/document/EPA-HQ-OAR-2021-0289-0011.*

[21] Available at: *ww2.arb.ca.gov/rulemaking/2020/hfc2020.*

[22] As discussed previously, the CARB finalized this regulation order effective January 1, 2022.

commenting that only R–32 is available currently, but six other options are pending EPA approval as part of SNAP Rule 23.[23] *Id.* AHRI commented that sourcing components for new refrigerants in a complete product line will be challenging, particularly to meet a deadline less than two years away, without a full range of refrigerant options approved. Additionally, for any new refrigerant, AHRI asserted that manufacturers will need to retest products for both efficiency and to meet relevant safety standards. *Id.* GEA requested that DOE consider the substantial regulatory burden created by the complex refrigeration transition from both state-led low-GWP refrigerant requirements and by shifting federal requirements for refrigerant use and restrictions in municipal building codes. (GEA, No. 10 at pp. 2–3)

NEEA, ASAP and CA IOUs recommended that DOE consider alternate refrigerants in the analysis. NEEA stated that additional refrigerants have been proposed by the EPA for SNAP since standards were last considered for PTACs and PTHPs and that given the likelihood that the new SNAP rules will be finalized in advance of an updated standard, DOE should consider efficiency improvements from alternative refrigerants, such as hydrocarbons. (NEEA, No. 9 at p. 5) The CA IOUs asserted that PTAC and PTHPs manufactured after an updated standard takes effect will likely use low-GWP refrigerants. (CA IOUs, No. 7 at p. 3) The CA IOUs stated that the passage of the American Innovation and Manufacturing Act of 2020 effectively mandates a phase-out of HFCs and therefore, urged DOE to consider the potential benefits of these low-GWP refrigerants. *Id.* The CA IOUs additionally commented that California and other states are also pursuing regulations to require low-GWP refrigerants in residential air conditioners and heat pumps starting January 1, 2025. *Id.*

DOE is aware of the changing landscape of refrigerants as they relate to PTACs and PTHPs, particularly the AHRI petition that requested the EPA to require residential and light commercial air conditioners to use refrigerants with GWP of 750 or less, with such requirement applying to this equipment manufactured after January 1, 2025, excluding VRF,[24] and that was granted on October 14, 2021. 86 FR 57141.[25] On December 29, 2021, EPA published a notification informing the public that they would not be using the negotiated rulemaking procedure to develop a proposed rule or rules associated with the eleven American Innovation and Manufacturing Act of 2020 petitions (including the AHRI petition), but will instead use the traditional regular notice-and-comment rulemaking process. 86 FR 74080.

In light of the petition to require use of with GWP of 750 or less in PTAC and PTHP equipment, DOE reviewed certain SNAP approved substitutes that met this criterion. These are listed in Table IV–6.

TABLE IV–6—POTENTIAL SUBSTITUTES FOR HFCS IN NEW RESIDENTIAL AND LIGHT COMMERCIAL AIR CONDITIONING EQUIPMENT, WITH GWP OF 750 OR LESS

Approved substitute	GWP value	Approval date	ASHRAE safety classification[26]
R–290 (Propane)	3	April 10, 2015	A3.
R–441A	<5	April 10, 2015	A3.
R–457A	140	May 6, 2021	A2L.
R–454C	150	May 6, 2021	A2L.
R–454A	240	May 6, 2021	A2L.
R–454B	470	May 6, 2021	A2L.
HFC–32 (R–32)	675	May 6, 2021	A2L.
R–452B	700	May 6, 2021	A2L.

DOE had previously considered the feasibility of including R–290 and R–441A as alternative refrigerants in the July 2015 final rule, in which DOE noted that the EPA's final rule published on April 10, 2015 (''EPA April 2015 final rule'') limited the maximum design charge amount of these refrigerants in PTAC and PTHP applications. 80 FR 43162, 43171. For instance, for a PTAC or PTHP with cooling capacity of 9,000 Btu/h, the EPA April 2015 final rule imposes a maximum design charge of 140 grams of R–290 or 160 grams of R–441A. 80 FR 19454, 19500. In comparison, DOE reverse engineered eleven units with cooling capacities around 9,000 Btu/h and found that these units had refrigerant charges ranging from 600 grams to 950 grams and all units used refrigerant R–410A. 80 FR 43162, 43171. The refrigerant charges currently used in current PTAC and PTHP designs far exceed the maximum charges that are allowed for these alternative refrigerants under the EPA April 2015 final rule. Additionally, in response to the December 2020 ECS RFI, CA IOUs commented that R–290 will likely not be used in PTAC and PTHPs because the model safety code that most states will likely adopt, Board of Standards Review (''BSR'')/ASHRAE Standard 15.2P, ''Safety Standard for Refrigeration Systems in Residential Applications'' (''BSR/ASHRAE Standard 15.2P''), does not allow the use of A3 refrigerants in residential air conditioners and heat pumps. (CA IOUs, No. 7 at p. 3) PTACs and PTHPs are commercial equipment under DOE's regulations, but DOE is aware of their use in certain applications that are treated as ''residential'' under BSR/ASHRAE Standard 15.2P (*e.g.,* multi-family housing). Therefore, DOE did not further consider R–290 and R–441A as alternate refrigerants in this analysis.

For the remaining substitute refrigerants, DOE considered comments received and conducted a literature review to evaluate whether these alternate refrigerants could enable better

[23] EPA finalized a rule on May 6, 2021, allowing R–452B, R–454A, R–454B, R–454C, R–457A and R–32 for new residential and light commercial air conditioning and heat pumps. 86 FR 24444.

[24] Available at: *www.regulations.gov/document/EPA-HQ-OAR-2021-0289-0011.*

[25] After granting a petition, EPA must initiate a rulemaking and publish a final rule within 2 years of the petition grant date *i.e.* Oct 15, 2023.

[26] ASHRAE assigns safety classification to the refrigerants based on toxicity and flammability data. The capital letter designates a toxicity class based on allowable exposure and the numeral denotes flammability. For toxicity, Class A denotes refrigerants of lower toxicity, and Class B denotes refrigerants of higher toxicity. For flammability, class 1 denotes refrigerants that do not propagate a flame when tested as per the standard; class 2 and 2L denotes refrigerants of lower flammability; and class 3, for highly flammable refrigerants such as the hydrocarbons.

energy efficiency than R–410A for PTAC and PTHP equipment. ASAP stated that it was their understanding that typical PTACs and PTHPs use R–410A as the refrigerant and that alternatives to R–410A such as R–32, R–452B, and R–454B can improve efficiency by at least 5%. (ASAP, No. 6 at p. 1) The CA IOUs also stated that R–32 is the likely replacement for R–410A in air conditioners and heat pumps, and recommended that DOE consider R–32 as a design option in this standards analysis, citing initial studies showing that R–32 improved the COP for VRF systems by five percent. (CA IOUs, No. 7 at p. 3)

DOE reviewed several studies to gauge the efficiency improvements of the substitute refrigerants as compared to R–410A. Most of these studies suggested comparable performance to R410A, with some studies showing slightly below-par performance and others showing improvement as high as 6% (for R–32). DOE notes that most of these studies were performed with drop-in applications (where an alternate refrigerant replaces the existing refrigerant in a system that is optimized for the existing refrigerant) and were not performed on PTAC or PTHP equipment specifically. It is possible that these substitute refrigerants might show efficiencies higher than R–410A in specific applications that have been optimized for such refrigerants. However, given the uncertainty associated with the studies reviewed, DOE was unable to conclude whether these refrigerants will improve energy efficiency and by how much. Therefore, DOE has tentatively decided to keep alternate refrigerants as a screened-out technology.

Intake and Exhaust Ducts To Reduce Infiltration

DOE has tentatively determined to screen out intake and exhaust ducts as a technology option. NEEA suggested that infiltration through and around a PTAC or PTHP can result in significant wasted energy and that DOE should consider technology options that reduce infiltration such as the use of air intake and exhaust ducts. (NEEA, No. 9 at p. 5) NEEA provided information pertaining to a unit that uses intake and exhaust air ducts. *Id.*

DOE notes that the use of intake and exhaust air ducts would be inconsistent with the definition of a PTAC and PTHP. PTAC and PTHP are equipment that are intended for mounting through the wall as opposed to using ductwork to bring in or exhaust air. *See* 10 CFR 431.92. Therefore, DOE has screened out this technology option.

In summary, DOE screened out four technology options based on the applicable criteria discussed previously. The screened-out technology options are presented below in Table IV–7.

TABLE IV–7—SCREENED OUT TECHNOLOGY OPTIONS

Screened technology option	Technological feasibility	Screening criteria (X = basis for screening out)			
		Practicability to manufacture, install, and service	Adverse impact on equipment utility	Adverse impacts on health and safety	Unique-pathway proprietary technologies
Scroll Compressors	X				
Heat Pipes	X				
Alternative Refrigerants	X				
Intake and Exhaust Ducts	X				

b. Other Technologies Not Considered in the Engineering Analysis

Typically, energy-saving technologies that pass the screening analysis are evaluated in the engineering analysis. However, in some cases technologies are not included in the analysis for reasons other than the screening criteria. These are discussed in the following paragraphs.

Technologies Previously Eliminated From the July 2015 Final Rule

In the July 2015 final rule, DOE identified several technology options that were not included in the engineering analysis because of three additional considerations: (1) efficiency benefits of the technologies were negligible; (2) data was not available to evaluate the energy efficiency characteristics of the technology; and/or (3) test procedure and EER and COP metrics did not measure the energy impact of the technology. 80 FR 43161, 43172; *see* 79 FR 55538, 55555–55556 (September 16, 2014). These technologies are listed below under each consideration:

(1) Efficiency benefits of the technologies were negligible:

- Re-circuiting heat exchanger coils;
- Rifled interior tube walls;

(2) Data was not available to evaluate the energy efficiency characteristics of the technology:

- Microchannel heat exchangers;

(3) Test procedure and EER and COP metrics did not measure the energy impact of the technology:

- Variable speed compressors;
- Complex control boards (fan motor controllers, digital ''energy management'' control interfaces, heat pump controllers);
- Corrosion protection;
- Hydrophobic material treatment of heat exchangers;
- Clutched motor fans; and
- TEVs.

In the December 2020 ECS RFI, DOE requested comment on its prior exclusion of these technologies and whether there have been changes that would warrant further consideration. 85 FR 82952, 82959.

In response, AHRI said they supported the DOE's conclusions regarding the additional technologies identified in development of the July 2015 final rule, but not included in the engineering analysis. (AHRI, No. 8 at p. 8).

DOE maintains its position expressed in the July 2015 final rule that re-circuiting heat exchanger coils and rifled interior tube walls are used in baseline products, so no additional energy savings would be expected from their use. 80 FR 43162, 43172 and 79 FR 55538, 55555. Regarding microchannel heat exchangers, NEEA stated that the technology can improve heat transfer efficiency by up to 40 percent compared to traditional fin and tube heat exchangers. (NEEA, No. 9 at p. 4) However, NEEA did not provide any information indicating efficiency improvement potential in terms of EER or COP for PTACs and PTHPs and DOE

is not aware of any substantiated performance data for PTAC or PTHP operation with microchannels.

Any potential energy savings of complex controls boards, corrosion protection, hydrophobic material treatment of heat exchangers and clutched motor fans cannot be measured with the established energy efficiency metrics (EER and COP) because those technologies are associated with performance, which is not captured in the EER or COP metrics used for rating PTACs and PTHPs. Therefore, DOE is proposing to keep these previously eliminated technologies excluded from the engineering analysis.

Consideration of variable speed compressors and TEVs is presented under the next header.

Technology Options Benefiting Part-Load and Low Temperature Performance

As the current EER and COP metrics do not measure part-load performance and low temperature heating performance, DOE is proposing to exclude the following technologies from the engineering analysis:

- Variable speed condenser fan/motor;
- Variable speed indoor blower/motor;
- Variable speed compressors;
- TEVs
- EEVs
- Defrost control strategies
- Electric resistance boost control strategies
- Compressor cut-out controls

As discussed, DOE may consider adopting for PTACs and PTHPs a cooling-mode metric that integrates part-load performance and a heating metric that includes performance at low ambient temperatures in the ongoing test procedure rulemaking. 86 FR 28005, 28009–28011. If DOE amends the PTAC and PTHP test procedure to incorporate these changes, it will conduct any analysis for future standards rulemakings, if any, based on the amended test procedure. DOE is still evaluating potential amendments to the test procedure. At present, DOE is unable to consider energy savings from a part-load metric or low temperature heating performance.

DOE also considered any benefit that these technologies may provide for the existing full-load metrics (EER and COP), particularly variable-speed technology. DOE conducted a review of the CCD and has tentatively concluded that while an increased number of PTACs and PTHPs are employing variable-speed compressors and fans as compared to the market at the time of the 2015 rulemaking, the efficiency distributions of PTACs and PTHPs have not changed significantly. This suggests that the full-load efficiency benefit of these variable-speed technologies is minimal.

DOE is also excluding separate indoor and outdoor blower motors as a technology option from the engineering analysis because this technology option is already incorporated in most baseline models, and therefore, no additional energy savings would be expected from their use. NEEA stated that one manufacturer is using separate indoor and outdoor blower motors as a strategy to improve efficiency, while also reducing unit noise. (NEEA, No. 9 at p. 5) DOE's past and recent physical teardowns of PTACs and PTHPs suggest that this technology option is already incorporated in most baseline models and therefore little to no additional energy savings would result in consideration of this technology option.

c. Remaining Technologies

After reviewing each technology, DOE did not screen out the following technology options and considers them as design options in the engineering analysis. These technology options are the same as those retained in the July 2015 final rule:

(1) Higher Efficiency Compressors
(2) Higher Efficiency Fan Motors
(3) Increased Heat Exchanger Area
(4) Improved Air Flow and Fan Design

DOE has tentatively determined that these technology options are technologically feasible because they are being used or have previously been used in commercially available products or working prototypes and improve efficiency as determined by the DOE test procedure. For additional details on the technologies included in the engineering analysis, see chapter 4 of the July 2015 final rule TSD.

B. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of PTACs and PTHPs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency equipment, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each equipment class evaluated, DOE estimates the baseline cost, as well as the incremental cost for the product/equipment at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

1. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) relying on observed efficiency levels in the market (*i.e.,* the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.,* the design-option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing products (in other words, based on the range of efficiencies and efficiency level ''clusters'' that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual products on the market) may be extended using the design option approach to ''gap fill'' levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the max-tech level (particularly in cases where the max-tech level exceeds the maximum efficiency level currently available on the market).

In the July 2015 final rule, DOE adopted an efficiency-level approach combined with a cost-assessment approach to determine the cost-efficiency relationship. 80 FR 43162, 43173. Based on the technology options considered in section IV.A.3 of this document and a review of available efficiencies in the market, DOE has tentatively concluded that the available efficiencies on the market have not significantly changed since the 2015 rulemaking. DOE's review of current PTAC and PTHP designs also leads to the tentative conclusion that design options used to achieve higher EER and/or COP have not changed since 2015. Therefore, in this proposed determination, DOE utilized the same analysis as in the July 2015 final rule, but with updated costs to account for inflation and other effects.

The methodology used to perform the analysis and derive the cost-efficiency relationship is described in chapter 5 of the July 2015 final rule TSD.

2. Equipment Classes Analyzed

In the July 2015 final rule, DOE developed its engineering analysis for the six equipment classes associated with standard-size PTACs and PTHPs. 80 FR 43162, 43174–43177. DOE did not conduct an engineering analysis for non-standard size equipment classes because of their low and declining market share and because of a lack of adequate information to analyze these units. 80 FR 43162, 43174. To assess whether to develop an analysis for non-standard size equipment classes, DOE requested comment in the December 2020 ECS RFI as to whether the technology improvements discussed in IV.A.3 are applicable to both standard size and non-standard size units and if they have similar impacts on efficiency. 85 FR 82952, 82960. DOE also requested comment on whether it is necessary to individually analyze all or some of the available equipment classes. *Id.*

In response, AHRI commented that the non-standard size market was never large and has contracted over the years, and in a shrinking market new product development is unlikely as it is not economically justified for the manufacturers. (AHRI, No. 8 at p. 8) AHRI stated that there have been no significant technology improvements for these equipment classes to their knowledge. *Id.* AHRI said that DOE should employ best efforts to develop a robust and complete analysis and analyze all six standard-size equipment classes individually, but recognized this may not be possible. *Id.* AHRI stated that if DOE does not analyze all products, then the 9,000 and 12,000 Btu/h, nominal cooling capacities should be prioritized, followed by the 7,000 Btu/h and 15,000 Btu/h categories. *Id.*

In light of AHRI's comment regarding the non-standard size market contracting, and given the lack of market data pertaining to the non-standard size equipment classes, DOE has tentatively decided to not analyze amended standards for the non-standard size equipment classes. For the six standard size equipment classes, DOE has tentatively decided to use the analysis from the July 2015 final rule, in which DOE selected two cooling capacities for analysis: 9,000 Btu/h and 15,000 Btu/h. *See* 80 FR 43162, 43174. Inclusion of the 9,000 Btu/h category as in the July 2015 final rule is consistent with AHRI's suggestion to prioritize that category. DOE also retained the 15,000 Btu/h category to stay consistent with the analysis in the July 2015 final rule, in which DOE selected 15,000 Btu/h as a representative capacity in response to manufacturer comments stating that it is technically challenging to achieve high efficiency in 15,000 Btu/h models and the analysis should explicitly analyze the 15,000 Btu/h capacity. *See* 80 FR 43162, 43174.

Table IV–8 sets out the equipment classes analyzed in this rulemaking.

TABLE IV–8—EQUIPMENT CLASSES ANALYZED IN THIS RULEMAKING

Equipment class		
Equipment	Category	Cooling capacity
PTAC	Standard Size	<7,000 Btu/h. ≥7,000 Btu/h and ≤15,000 Btu/h. >15,000 Btu/h.
PTHP	Standard Size	<7,000 Btu/h. ≥7,000 Btu/h and ≤15,000 Btu/h. >15,000 Btu/h.

3. Baseline Efficiency Levels

DOE considered the current minimum energy conservation standards to establish the baseline efficiency levels for each standard size equipment class, using the 9,000 btu/h and 15,000 Btu/h cooling capacities as representative capacities for the standard size equipment classes. The baseline efficiency levels for the analyzed representative units are presented below in Table IV–9.

TABLE IV–9—BASELINE EFFICIENCY LEVELS

Equipment type	Equipment class	Baseline efficiency equation	Cooling capacity	Baseline efficiency level
PTAC	Standard Size	EER = 14.0 − (0.300 × Cap †/1000)	9,000 Btu/h	11.3 EER.
			15,000 Btu/h	9.5 EER.
PTHP	Standard Size	EER = 14.0 − (0.300 × Cap †/1000)	9,000 Btu/h	11.3 EER. 3.2 COP.
		COP = 3.7 − (0.052 × Cap †)	15,000 Btu/h	9.5 EER. 2.9 COP.

† Cap means cooling capacity in thousand Btu/h at 95°F outdoor dry-bulb temperature.

4. Maximum Available and Maximum Technologically Feasible Levels

As part of DOE's analysis, the maximum available efficiency level is the highest efficiency unit currently available on the market. DOE also considers the max-tech efficiency level, which it defines as the level that represents the theoretical maximum possible efficiency if all available design options are incorporated in a model. In many cases, the max-tech efficiency level is not commercially available because it is not economically feasible.

As mentioned earlier, the technology options that were screened in for this analysis are the same as those considered for the July 2015 final rule. In the July 2015 final rule, DOE determined the max-tech improvements in energy efficiency for PTACs and PTHPs in the engineering analysis using the design parameters that passed the screening analysis, a combination of the efficiency-level approach, and the

reverse engineering analysis. 80 FR 43162, 43168.

Table IV–10 shows the max-tech efficiency levels presented in the December 2020 ECS RFI, which were those from the July 2015 Final rule and set to be 16.2 percent above the baseline, and the maximum-available efficiency levels based on the current market for each equipment class. 85 FR 82952, 82960–82961. DOE has test data to verify that one standard size PTHP unit belonging to the equipment class of cooling capacity greater than 7,000 Btu/h and less than 15,000 Btu/h, demonstrated a cooling efficiency at this ''max tech'' level. 79 FR 55538, 55558.

TABLE IV–10—MAX-TECH AND MAXIMUM-AVAILABLE EFFICIENCY LEVELS

Equipment class	Max-tech July 2015 final rule	Maximum-available current market
Standard Size PTAC <7,000 Btu/h	13.8 EER [a]	13.0 EER.
Standard Size PTAC ≥7,000 Btu/h and ≤15,000 Btu/h.	EER = 16.3 − (0.354 × Cap [b])	EER = 15.8 − (0.308 × Cap [b]) [c].
Standard Size PTAC >15,000 Btu/h	11.0 EER	9.7 EER.
Standard Size PTHP <7,000 Btu/h	13.8 EER [a]	13.1 EER.
	3.8 COP [a]	4.0 COP.
Standard Size PTHP ≥7,000 Btu/h and ≤15,000 Btu/h.	EER = 16.3 − (0.354 × Cap [b])	EER = 15.8 − (0.308 × Cap [b]) [c].
	COP = 4.3 − (0.073 × Cap [b])	COP = 4.6 − (0.075 × Cap [b]) [c].
Standard Size PTHP >15,000 Btu/h [3]	11.0 EER	N/A [d].
	3.2 COP	

[a] Based on Max Tech equation shown for Standard Size PTACs and PTHPs, ≥7,000 Btu/h and ≤15,000 Btu/h at a value of 7,000 Btu/h.
[b] Cap means cooling capacity in thousand Btu/h.
[c] Based on method of creating a linear fit between the two models in the CCD Database that were the highest absolute value above the baseline.
[d] Based on DOE's review of equipment currently available on the market, DOE did not identify any PTHP models with a cooling capacity greater than 15,000 Btu/h.

In the December 2020 ECS RFI, DOE sought input on whether these maximum available efficiency levels are appropriate as the max-tech for potential consideration as possible energy conservation standards for the equipment at issue—and if not, what efficiency levels should be considered max-tech. 85 FR 82952, 82961. DOE also requested feedback on what design options to incorporate at the max-tech efficiency level and whether there are any limitations on the use of certain combinations. *Id.* DOE also requested comment on whether certain design options may not be applicable to specific equipment classes. *Id.*

AHRI stated that based on their analysis per the AHRI Directory, the ranges of efficiencies available for PTACs and PTHPs are very limited and that there are no significant advances or changes in technology. (AHRI, No. 8 at p. 9) AHRI provided tables showing efficiency ranges of PTACs and PTHPs that it stated identifies several instances where the max tech identified in the July 2015 final rule is above the current market. *Id.* AHRI also stated that there are issues with implementing bent heat exchangers and improved air flow and fan design as concurrent design options, stating that bent heat exchangers may impose an additional pressure drop that the indoor fan must overcome, thus not improving EER of the equipment. (AHRI, No. 8 at p. 9) AHRI stated that if both bent heat exchangers and improved air flow and fan design are implemented as design options, DOE should account for the significant additional design, evaluation and testing that would be required to optimize the system to achieve the desired efficiency. *Id.* at 11. AHRI stated that in the 2015 rulemaking DOE did not account for this interaction, nor the cost associated to resolve it in the analysis. *Id.* AHRI also commented that higher efficiency compressors, particularly at smaller capacities, are still in development, and cautioned DOE to consider state and federal regulations impacting the equipment (such as requiring to use low-GWP refrigerants) accordingly so that new efficiency standards do not precede market developments. (AHRI No. 8 at pp. 11–12)

AHRI also commented that the efficiency ranges available for PTACs and PTHPs are limited, which is consistent with with DOE's findings based on its own market research. (AHRI No. 8 at p. 9) DOE was unable to identify significant advances since the July 2015 final rule, based on a review of the CCD. DOE is aware that in some instances, the max-tech levels identified in the July 2015 final rule are higher than the current maximum available efficiencies in the market per CCD and the AHRI directory—however, DOE has tentatively determined that the max-tech levels from 2015 are still suitable for this analysis because these levels were achieved by models that were commercially available. Since the screened in design options for this engineering analysis are the same as those considered in the July 2015 final rule and the available efficiencies have not significantly changed since the 2015 rulemaking, DOE sees no reason to revise the max-tech levels. Regarding the design interaction described by AHRI, DOE notes that the analysis presented in the July 2015 final rule did consider pressure drop impacts associated with bent heat exchangers. *See* 80 FR 43162, 43173. In its analysis, DOE considered at least three units that contained a bent heat exchanger. DOE based its analysis on the measured performance of these units (one of which performed at the max-tech efficiency level). The measured performance of these units includes the impact of additional pressure drop associated with the bent heat exchangers. *Id.* Regarding AHRI's comment on higher efficiency compressors, DOE is cognizant of the changing landscape of state and federal regulations, especially as they relate to alternate refrigerants and how they affect the development of higher efficiency compressors. As discussed in Section IV.A.4.a of this document, DOE has tentatively decided to keep alternate refrigerants as a screened-out technology.

The CA IOUs stated that they identified 30 PTHP models that meet or exceed the heating max-tech COP level from DOE's 2015 final rule TSD and encouraged DOE to investigate the technologies used in these products to improve their efficiencies and update the engineering analysis accordingly. (CA IOUs, No. 7 at p. 2)

DOE is aware that there are PTHP models on the market that exceed the

max-tech COP levels in the July 2015 final rule. DOE notes that a PTHP's EER and COP are related and cannot be independently analyzed, therefore the COP max-tech levels in the July 2015 final rule were developed by correlating the COP associated with each efficiency level with the efficiency level's EER based on COP and EER ratings from the AHRI database. 80 FR 43162, 43175. DOE then established a representative curve based on this data to obtain a relationship for COP in terms of EER and used this relationship to select COP values corresponding to each efficiency level. *Id.* Therefore, the COP max-tech values correspond to the max-tech EER values. DOE is aware that these COP max-tech values may not align with the highest COP values currently available in the market, but DOE considers them to be more representative of a max-tech unit at the highest EER.

In summary, because the design options retained for this rulemaking are the same as those considered for the July 2015 final rule, and a review of the CCD suggests that that the available efficiencies have not significantly changed since the 2015 rulemaking, DOE is proposing to maintain the same max-tech levels for this rulemaking.

5. Incremental Efficiency Levels

DOE analyzed several incremental efficiency levels between the baseline and max-tech levels and obtained incremental cost data at each of these levels. DOE considered five efficiency levels beyond the baseline efficiency level up to the max-tech level for each equipment class. These levels are 2.2%, 6.2%, 10.2%, 14.2% and 16.2% more efficient than the amended PTAC and PTHP standards that became effective on July 21, 2015 and are the same incremental efficiency levels evaluated in the July 2015 final rule. These levels are presented in Table IV–11.

TABLE IV–11—INCREMENTAL EFFICIENCY LEVELS FOR STANDARD SIZE PTACS AND PTHPS

Equipment type	Cooling capacity	Efficiency levels (percentages relative to 2015 ECS)					
		Baseline *	EL1, 2.2%	EL2, 6.2%	EL3, 10.2%	EL4, 14.2%	EL5, 16.2% (max-tech)
PTAC	All, EER	14.0 – (0.300 × Cap †).	14.4 – (0.312 × Cap †).	14.9 – (0.324 × Cap †).	15.5 – (0.336 × Cap †).	16.0 – (0.348 × Cap †).	16.3 – (0.354 × Cap †)
	9,000 Btu/h.	11.3 EER	11.5 EER	12.0 EER	12.4 EER	12.9 EER	13.1 EER
	15,000 Btu/h.	9.5 EER	9.7 EER	10.0 EER	10.4 EER	10.8 EER	11.0 EER
PTHP	All, EER	14.0 – (0.300 × Cap †).	14.4 – (0.312 × Cap †).	14.9 – (0.324 × Cap †).	15.5 – (0.336 × Cap †).	16.0 – (0.348 × Cap †).	16.3 – (0.354 × Cap †)
	All, COP	3.7 – (0.052 × Cap †).	3.8 – (0.058 × Cap †).	4.0 – (0.064 × Cap †).	4.1 – (0.068 × Cap †).	4.2 – (0.070 × Cap †).	4.3 – (0.073 × Cap †)
	9,000 Btu/h.	11.3 EER	11.5 EER	12.0 EER	12.4 EER	12.9 EER	13.1 EER
		3.2 COP	3.3 COP	3.4 COP	3.5 COP	3.6 COP	3.6 COP
	15,000 Btu/h.	9.5 EER	9.7 EER	10.0 EER	10.4 EER	10.8 EER	11.0 EER
		2.9 COP	2.9 COP	3.0 COP	3.1 COP	3.2 COP	3.2 COP

* This level represents the current Federal minimum standards for PTAC and PTHP equipment.
† Cap means cooling capacity in thousand Btu/h at 95°F outdoor dry-bulb temperature.

In response to the December 2020 ECS RFI, AHRI commented that in the July 2015 rulemaking DOE assumed that PTACs and PTHPs are fundamentally the same and should be able to meet the same efficiency levels with the same technology options. (AHRI, No. 8 at p. 10) AHRI asserted that this is not the case and there are certain intrinsic characteristics which allow PTHPs to operate more efficiently than PTACs. *Id.* AHRI stated that if the construction between a given PTAC and PTHP is essentially the same (*i.e.,* same coils, refrigerant circuiting, components, etc.), and differs only by the presence of a reversing valve, then for a given design target superheat at the compressor inlet, there is an opportunity for the PTHP to operate the evaporator at a lower outlet superheat, thereby allowing for more evaporative capacity for a tradeoff of little to no more total power input. *Id.* AHRI stated this allows PTHPs to operate at higher EER than a similar PTAC. *Id.* at 11.

DOE's review of CCD listings of standard size PTACs and PTHPs with cooling capacities greater than 7,000 btu/h and less than 15,000 btu/h indicates that the cooling efficiency distributions of the two classes are comparable. This suggests that using the same incremental efficiency levels are appropriate for PTACs and PTHPs. DOE notes that AHRI did not recommend a distinction between the PTAC and PTHP incremental efficiency levels and considers it a clarification. As such, DOE proposes to maintain the same incremental efficiency levels for PTACs and PTHPs in this rulemaking.

6. Cost Analysis

The cost analysis portion of the engineering analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including the availability and reliability of public information, characteristics of the regulated product, the availability and timeliness of purchasing the equipment on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles a commercially available product, component-by-component, to develop a detailed bill of materials for the product.
- *Catalog teardowns:* In lieu of physically deconstructing a product, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the product.
- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (*e.g.* large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the July 2015 final rule, DOE performed a cost analysis that involved testing and then conducting physical teardowns on several test units to develop a manufacturing cost model and to evaluate key design features (*e.g.,* improved heat exchangers, compressors, fans/fan motors). 80 FR 43162, 43176. The design options being considered in this rulemaking are the same as in the

2015 rulemaking. Furthermore, DOE's review of CCD and comments received from AHRI, suggest that the efficiency distributions for available PTACs and PTHPs have not changed compared to the 2015 rulemaking. Therefore, DOE considers that the cost analysis conducted for the July 2015 final rule is still relevant for this rulemaking. Details of the cost-efficiency analysis conducted for the July 2015 final rule can be found in chapter 5 of the July 2015 final rule TSD. Because of the time that has passed since the July 2015 final rule, DOE adjusted the cost analysis for inflation and other market effects. To adjust the cost analysis, DOE used industry specific producer price index (''PPI'') data published by the Bureau of Labor Statistics (''BLS''). The PPI measures the average change over time in the selling prices from the perspective of the seller. DOE evaluated the change in PPI from the year 2013 (used in the previous rulemaking) to year 2021 (current rulemaking), and used the percent increase to scale the manufacturer production costs (''MPCs'') from the previous rulemaking.

7. Cost-Efficiency Results

The results of the engineering analysis are reported as a set of cost-efficiency data (or ''curves'') in the form of MPC (in dollars) versus EER, which form the basis for other analyses in the NOPD. DOE created cost-efficiency curves for the two representative cooling capacities within the two standard-size equipment classes of PTACs and PTHPs, as discussed in section IV.B.2 previously. DOE developed the incremental cost-efficiency results shown in Table IV–12 for each representative cooling capacity. These cost results are incremented from a baseline efficiency level equivalent to the current federal minimum standards.

TABLE IV–12—INCREMENTAL MANUFACTURING PRODUCTION COSTS (MPC) FOR STANDARD SIZE PTACS AND PTHPS

Equipment type	Cooling capacity	Efficiency levels					
		Baseline *	EL1	EL2	EL3	EL4	EL5
PTAC	9,000 Btu/h	$0.00	$5.22	$15.36	$26.32	$38.11	$44.31
	15,000 Btu/h	0.00	5.00	18.71	36.37	58.00	70.30
PTHP	9,000 Btu/h	0.00	5.22	15.36	26.32	38.11	44.31
	15,000 Btu/h	0.00	5.00	18.71	36.37	58.00	70.30

* This level represents the current federal minimum standards for PTAC and PTHP equipment.

In the December 2020 ECS RFI, DOE requested information on how it could conduct the cost-efficiency analyses for PTHPs greater than 15,000 Btu/h, for which there are no models on the market and for which DOE does not have data. 85 FR 82952, 82961.

In response, AHRI noted that they had identified six model listings for PTACs with cooling capacities greater than 15,000 Btu/h and that it would be reasonable to expect a PTHP of similar size to be slightly more efficient, based on reasoning discussed earlier. (AHRI, No. 8 at p. 12) For heating, AHRI stated that it is reasonable to consider the efficiency of PTHP with cooling capacity greater than 15,000 Btu/h to be equivalent to PTHP with cooling capacity equal to 15,000 Btu/h. *Id.*

For this analysis, DOE considered the cooling efficiency of PTHP greater than 15,000 Btu/h to be equivalent to PTACs greater than 15,000 Btu/h. As discussed earlier in Section IV.B.5, the overall cooling efficiency distributions of standard size PTACs and PTHPs with cooling capacities greater than 7,000 Btu/h and less than 15,000 Btu/h are very similar, suggesting that using an equivalent cooling efficiency for PTHP greater than 15,000 btu/h to that of PTACs greater than 15,000 Btu/h is appropriate.

To account for manufacturers' non-production costs and profit margin, DOE applied a non-production cost multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. In the December 2020 ECS RFI, DOE requested comment on whether a manufacturer markup of 1.27, as used in July 2015 final rule, is appropriate for PTACs and PTHPs. 85 FR 82952, 82961. DOE did not receive any comments pertaining to this, and therefore DOE retained the manufacturer markup of 1.27 for this analysis.

C. Markups Analysis

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

In the July 2015 final rule, DOE identified four distribution channels for PTACs and PTHPs to describe how the equipment passes from the manufacturer to the consumer. 80 FR 43162, 43177. The four distribution channels are listed:

The first distribution channel is only used in the new construction market, and it represents sales directly from a manufacturer to the end use customer through a national account.

Manufacturer → National Account → End user

The second distribution channel represents replacement markets, where a manufacturer sells to a wholesaler, who sells to a mechanical contractor, who in turn sells to the end user.

Manufacturer → Wholesaler → Mechanical Contractor → End user

The third distribution channel, which is used in both new construction and replacement markets, the manufacturer sells the equipment to a wholesaler, who in turn sells it to a mechanical contractor, who in turn sells its to a general contractor, who sells it to the end user.

Manufacturer → Wholesaler → Mechanical Contractor → General Contractor→ End user

Finally, in the fourth distribution channel, which is also used in both the new construction and replacement markets, a manufacturer sells to a wholesaler, who in turn sells directly to the end user.

Manufacturer → Wholesaler → End User

80 FR 43162, 43177.

In the December 2020 ECS RFI, DOE requested information on the existence of any distribution channels other than these four distribution channels identified in the July 2015 Final Rule and also requested data on the fraction of PTAC and PTHP sales that go through each of the four identified distribution channels as well as the fraction of sales through any other identified channels. 85 FR 82952, 82962.

AHRI commented that DOE's assumption that no replacements are made through direct sales from the manufacturer to the customer was incorrect in the July 2015 final rule. (AHRI, No. 8 at p. 12) AHRI stated that certain national accounts purchase replacements through direct sales. *Id.* DOE did not receive any comments about the fraction of PTAC and PTHP sales through each distribution channel.

DOE did not find any data to indicate the magnitude of PTAC/PTHP replacement sales through national accounts and AHRI did not provide any estimates of the national account replacement channel. However, DOE understands that while certain PTAC and PTHP owners may purchase replacement units through a national accounts channel, DOE does not expect the replacement volume to be very large. Thus, DOE believes that this channel is likely to be a minimal part of the market and has not added it to the analysis.

In summary, DOE considered the four distribution channels shown in Table IV–13 and estimated percentages of the total sales in the new construction and replacement markets for each of the four distribution channels as listed in Table IV–14.

TABLE IV–3—DISTRIBUTION CHANNELS FOR PTAC AND PTHP EQUIPMENT

Channel 1	Channel 2	Channel 3	Channel 4
Manufacturer (through national accounts)	Manufacturer	Manufacturer	Manufacturer.
	Wholesaler	Wholesaler	Wholesaler.
		Mechanical Contractor	Mechanical Contractor.
			General Contractor.
Consumer	Consumer	Consumer	Consumer.

TABLE IV–14—SHARE OF MARKET BY DISTRIBUTION CHANNEL FOR PTAC AND PTHP EQUIPMENT

Distribution channel	New construction (percent)	Replacement (percent)
Wholesaler-Consumer	30	15
Wholesaler-Mech Contractor-Consumer	0	25
Wholesaler-Mech Contractor-General Contractor-Consumer	38	60
National Account	32	0
Total	100	100

DOE updated the sources used in the July 2015 final rule to derive markups for each step of the distribution channels with the following data sources: (1) the 2017 Annual Wholesale Trade Survey,[27] to develop wholesaler markups; (2) the Air Conditioning Contractors of America's (''ACCA'') ''2005 Financial Analysis for the HVACR Contracting Industry'' [28] and 2017 U.S. Census Bureau economic data [29] to develop mechanical contractor markups; and (3) 2017 U.S. Census Bureau economic data for the commercial and institutional building construction industry to develop general contractor markups.[30] The overall markup is the product of all the markups (baseline or incremental markups) for the different steps within a distribution channel. Replacement channels include sales taxes, which were calculated based on State sales tax data reported by the Sales Tax Clearinghouse.

Chapter 6 of the NOPD TSD provides details on DOE's development of the markups.

D. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual unit energy consumption (''UEC'') of PTACs and PTHPs at different efficiencies in representative U.S. commercial buildings, and to assess the energy savings potential of increased PTAC and PTHP efficiency. The energy use analysis estimates the range of energy use of PTACs and PTHPs in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

In the July 2015 final rule, DOE adjusted the UECs that were used in the October 2008 final rule to account for the different efficiency levels and equipment classes. 80 FR 43162, 43178; *see* 73 FR 58772. DOE began with the cooling UECs for PTACs and the cooling and heating UECs for PTHPs from the October 2008 final rule. Where identical efficiency levels and cooling capacities were available, DOE used the cooling and heating UEC directly from the October 2008 final rule. For additional efficiency levels, DOE scaled the cooling UECs based on interpolations between EERs and scaled the heating UECs based on interpolations of COPs, both at a constant cooling capacity. For additional cooling capacities, DOE scaled the UECs based on interpolations between cooling capacities and a constant EER. Once DOE determined the UECs by EL and product class, DOE adjusted the base-year UEC to account

[27] U.S. Census Bureau. *2017 Annual Wholesale Trade Report, NAICS 4236: Household Appliances and Electrical and Electronic Goods Merchant Wholesalers.* 2017. Washington, DC *www.census.gov/wholesale/index.html.*

[28] ''2005 Financial Analysis for the HVACR Contracting Industry,'' Air Conditioning Contractors of America. 2005.

[29] ''Plumbing, Heating, and Air-Conditioning Contractors. Sector 23: 238220. Construction: Industry Series, Preliminary Detailed Statistics for Establishments, 2017,'' U.S. Census Bureau. 2017. Available at: *www.census.gov/data/tables/2017/econ/economic-census/naics-sector-23.html.*

[30] ''2017 Economic Census, Construction Industry Series and Wholesale Trade Subject Series,'' U.S. Census Bureau. Available online at *www.census.gov/data/tables/2017/econ/economic-census/naics-sector-23.html.*

for changes in climate between 2008 and 2013 based on a typical meteorological year (''TMY'') hourly weather data set (referred to as TMY2) and an updated data set (referred to as TMY 3). 80 FR 43162, 43178.

In the December 2020 ECS RFI, DOE requested comment on the approach used in the July 2015 final rule to develop UECs along with a request for comment on the approach to measure energy use of make-up air PTACs and PTHPs. 85 FR 82952, 82962.

AHRI commented that it has concerns regarding the approach used to develop UECs in the energy use analysis for the July 2015 final rule. AHRI stated that DOE should account for the following changes in ASHRAE Standard 90.1 at a minimum: (1) section 6.3.2g mandates that the system be controlled by a manual changeover or dual set point thermostat, (2) section 6.3.2h applicable to PTHPs with auxiliary internal electric resistance heaters, mandates that controls must be provided to prevent supplemental heater operation when the heating load can be met by the heat pump alone, and (3) section 6.4.3.1 requires thermostatic controls to include off-hour controls, automatic shutdown and setback controls. (AHRI, No. 8 at p. 13).

AHRI also commented that the 2008 analysis assumed that PTACs and PTHPs would be used to cool the lobby and lounge space of a small hotel and that this space is typically not conditioned by PTACs/PTHPs. *Id.* AHRI also commented that the UECs were higher in the July 2015 final rule than in the September 2014 Notice of Data Availability and does not understand how the UECs at identical efficiency levels could increase in that time period. (AHRI, No. 8 at p. 14).

Regarding make-up air units, AHRI stated that DOE should focus on making the changes to the energy use analysis mentioned above before it expends resources on a small market segment. (AHRI, No. 8 at p. 14) NEEA suggested that DOE include the ability to provide ventilation and make-up air to a space and measure the energy use associated with cooling, heating, and dehumidifying ventilation air. (NEEA, No. 9 at p. 5)

NEEA also suggested that DOE's energy use analysis should capture a range of operating conditions for PTACs and PTHPs. (NEEA, No. 9 at p. 6) NEEA suggested that DOE model the energy use in lodging applications as well as residential care and multifamily buildings. *Id.*

In response to the comments from AHRI and NEEA, DOE updated its energy use analysis for this NOPD. To develop UECs, DOE began with the cooling and heating loads from the new construction 2004 vintage, small hotel commercial reference building prototype.[31] While more recent prototypes are available that reflect more current building codes, DOE notes that its energy use analysis is meant to represent the energy use in the current stock of buildings that use PTACs and PTHPs and the 2004 prototype is more reflective of the stock than a newer prototype.[32] This prototype is a four floor, rectangular building with 35 guest rooms, each of which uses a PTAC for cooling and heating. The cooling and heating loads were developed in EnergyPlus[33] using TMY3 weather data along with the default assumptions for building envelope, ventilation, occupancy schedule, cooling and heating thermostat set points, and square footage. A detailed description of the small hotel commercial reference building can be found on the DOE commercial reference building website.[34] The UECs were developed only using the guestroom load profiles and the PTHP UECs use the heat-pump to meet the heating loads. DOE notes that it provided an explanation for the higher UECs in the July 2015 final rule, as DOE added a multiplier to account for the change in weather data (the 2008 analysis was run using TMY2 and in 2015 TMY3 data was available), which led to higher UECs. 80 FR 43162, 43178–9.

DOE understands NEEA's suggestion to model variability by building type, however, DOE notes that small hotels make up the large majority of PTAC and PTHP shipments (approximately 80 percent) and the internal loads of residential care guestrooms and apartments in multifamily buildings that would use a PTAC or PTHP should not be significantly different than those of small hotel guestrooms, therefore DOE only modeled the energy use in small hotels. DOE also notes that the building cooling and heating loads include ventilation, therefore the UEC includes the energy required to cool, heat, and dehumidify outside air.

Of the 35 hotel rooms in the small hotel commercial reference building prototype, 20 have a design day size below 10,000 Btu/h and the others have design day sizes above 20,000 Btu/h. The largest standard size PTACs and PTHPs in CCD[35] are less than 17,000 Btu/h, therefore, DOE did not consider the small hotel guestroom loads with design days over 20,000 Btu/h. To create full load cooling and heating hours, for each climate zone DOE took the sum of the cooling and heating loads from the 20 guestrooms with a design day size below 10,000 Btu/h and divided them by the sum of the design day capacities for the same hotel guestrooms. DOE then took the full-load cooling and heating hours and multiplied them by the full-load cooling and heating power for each efficiency level. The full-load cooling power was derived by dividing the representative cooling capacity of either 9,000 Btu/h or 15,000 Btu/h by the EERs of the representative efficiency levels. The heating power for PTHPs was derived by converting the 9,000 Btu/h and 15,000 Btu/h capacities into Watts, and dividing them by the representative COPs.

DOE created UECs for each of the 16 International Energy Conservation Code (''IECC'') Climate Zones in the U.S. by simulating the small hotel prototype in one representative city for each climate zone. DOE used county level population data from the U.S. Census Bureau[36] along with a Pacific Northwest Laboratory report,[37] which assigned a climate zone to each county in the U.S. to develop population weighting factors for each climate zone. Next, DOE used the county level population data and climate zones to determine the weighted average UEC for each Census Division, with Census Division 9 split into two, California and the remaining states of Census Division 9 (Washington, Oregon, Hawaii, and Alaska). The resulting UECs represent the average small hotel guestroom cooling and heating energy use for each Census Division (with Census Division 9 split into two regions as explained previously).

DOE made further adjustments to each UEC for each climate zone to better account for the field energy use of PTACs and PTHPs. The Energy Information Administration's (''EIA'') National Energy Modeling System (''NEMS''), which is used to develop the Annual Energy Outlook (''AEO''),

[31] *www.energy.gov/eere/buildings/new-construction-commercial-reference-buildings.*

[32] In Commercial Buildings Energy Consumption Survey (''CBECS'') 2018, 80% of lodging buildings that use an individual room air conditioner were constructed prior to the year 2000.

[33] *www.energy.gov/eere/buildings/downloads/energyplus-0.*

[34] *www.energy.gov/eere/downloads/reference-buildings-building-type-small-hotel.*

[35] Available at: *www.regulations.doe.gov/certification-data/CCMS–4-Air_Conditioners_and_Heat_Pumps_-_Package_Terminal.html#q=Product_Group_s%3A%22Air%20Conditioners%20and%20Heat%20Pumps%20-%20Package%20Terminal%22* (last accessed, 3/25/2022).

[36] Available at: *www.census.gov/data/datasets/time-series/demo/popest/2010s-counties-total.html#par_textimage_70769902.*

[37] Available at: *www.energy.gov/sites/prod/files/2015/10/f27/ba_climate_region_guide_7.3.pdf.*

develops a time series of scaling factors that capture the improvements of building envelopes in new and existing buildings over time.[38] These building shell scalars are multiplied by the UEC to demonstrate the reduction in cooling and heating energy use by improved building envelopes by census division and building type between the year of construction of the small hotel commercial reference building (2004) and the compliance year (2026). DOE applied the scalars for the lodging building type to the UECs developed using the cooling and heating loads from the small hotel commercial reference building. DOE calculated the improvement between 2004, the year of the small hotel reference building, and 2026, the compliance year, using the new construction time series to create a new construction UEC and the existing building time series to create an existing building UEC in 2026. DOE weighted the results using shipments projections to new construction (12%) and existing buildings (88%) to create a weighted average UEC in 2026.

Chapter 7 of the NOPD TSD provides details on DOE's energy use analysis for PTACs and PTHPs.

E. Life-Cycle Cost and Payback Period Analysis

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards for PTACs and PTHPs. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

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

For any given efficiency level, DOE measures the change in LCC relative to the LCC in the no-new-standards case, which reflects the estimated efficiency distribution of PTACs and PTHPs in the absence of new or amended energy conservation standards. In contrast, the PBP for a given efficiency level is measured relative to the baseline product.

For each considered efficiency level in each product class, DOE calculated the LCC and PBP for PTACs and PTHPs used in small hotel guestrooms. As stated previously, DOE developed a sample of small hotel guestroom PTAC and PTHP UECs by census division based on the DOE small hotel reference building. For each census division, DOE determined the average energy consumption for a PTAC or PTHP in a small hotel guestroom and the appropriate electricity price. By developing a sample of UECs by census division, the analysis captured the variability in energy consumption and energy prices associated with the use of PTACs and PTHPs.

Inputs to the calculation of total installed cost include the cost of the product—which includes MPCs, manufacturer markups, retailer and distributor markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, and discount rates. DOE created distributions of values for equipment lifetime, discount rates, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE used to calculate the LCC and PBP relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and PTAC and PTHP user samples. The model calculated the LCC and PBP for products at each efficiency level for 10,000 scenarios per simulation run. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the no-new-standards case efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given PTAC or PTHP owner, product efficiency is chosen based on its probability. If the chosen product efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC and PBP calculation reveals that the PTAC or PTHP owner is not impacted by the standard level. By accounting for PTAC or PTHP owners who already purchase more-efficient products, DOE avoids overstating the potential benefits from increasing product efficiency.

DOE calculated the LCC and PBP for all consumers of PTACs and PTHPs as if each were to purchase a new product in the expected year of required compliance with new or amended standards. Any amended standards would apply to PTACs and PTHPs manufactured 3 years after the date on which any new or amended standard is published. (42 U.S.C. 6313(a)(6)(C)(iv)(I)) For purposes of its analysis, DOE used 2026 as the first year of compliance with any amended standards for PTACs and PTHPs.

Table IV–15 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations. The subsections that follow provide further discussion. Details of the spreadsheet model, and of all the inputs to the LCC and PBP analyses, are contained in chapter 8 of the NOPD TSD and its appendices.

TABLE IV–15—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *

Inputs	Source/method
Product Cost	Derived by multiplying MPCs by manufacturer, contractor, and distributor markups and sales tax, as appropriate. A constant price trend was used to project product costs.
Installation Costs	Baseline installation cost determined with data from RS Means for the 2015 final rule, updated to 2021 dollars. Assumed no change with efficiency level.

[38] Available at: *www.eia.gov/analysis/studies/buildings/buildingshell/.*

TABLE IV–15—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *—Continued

Inputs	Source/method
Annual Energy Use	The total full-load cooling and heating hours multiplied by the full load cooling and heating power at each efficiency level. Variability: Based on the 16 IECC climate zones and representative cities from the DOE commercial reference building then mapped to census divisions (with census division 9 split into California and the rest of the census division).
Energy Prices	Electricity: Based on Edison Electric Institute data of average and marginal prices. Variability: Regional energy prices by census division, with census division 9 separated into California and the rest of the census division.
Energy Price Trends	Based on AEO 2022 price projections.
Repair and Maintenance Costs.	Maintenance costs do not change by efficiency level. The materials portion of repair costs changes by efficiency level; the labor costs are constant and based on RS Means. Values from 2015 final rule were converted to 2021 dollars.
Product Lifetime	Average: 8 years.
Discount Rates	Commercial Discount rates for lodging, healthcare, and small office. The approach involves estimating the cost of capital of companies that purchase PTAC and PTHP equipment.
Compliance Date	2026.

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the NOPD TSD.

1. PTAC and PTHP Equipment Cost

To calculate consumer PTAC and PTHP costs, DOE multiplied the MPCs developed in the engineering analysis by the markups described previously (along with sales taxes). DOE used different markups for baseline products and higher-efficiency products because DOE applies an incremental markup to the increase in MSP associated with higher-efficiency products.

In the July 2015 final rule, DOE used a constant price trend to project the equipment prices in the compliance year. 80 FR 43162, 43179. DOE maintained this approach in this NOPD and used a constant trend for equipment prices between 2021 (the year for which MPCs were developed) and 2026. The constant trend is based on a historical time series of the deflated PPI for all other miscellaneous refrigeration and air conditioning equipment between 1990 and 2021.[39] The deflated PPI does not indicate a long term upward or downward trend, therefore DOE maintained a constant price trend for PTACs and PTHPs.

2. Installation Cost

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the product. DOE used the installation costs developed from the 2015 final rule[40] and converted them to 2021 dollars using the GDP implicit price deflator[41] to estimate the labor costs associated with baseline installation cost for PTACs and PTHPs. As representative efficiency levels for PTACs and PTHPs in this analysis are single-stage, packaged units that fit into a wall sleeve, DOE found no evidence that installation costs would be impacted with increased efficiency levels.

3. Annual Energy Consumption

For each census division, DOE determined the energy consumption for a PTAC or PTHP in a small hotel guestroom at different efficiency levels using the approach described previously in section IV.D of this document.

4. Energy Prices

Because marginal electricity price more accurately captures the incremental savings associated with a change in energy use from higher efficiency, it provides a better representation of incremental change in consumer costs than average electricity prices. Therefore, DOE applied average electricity prices for the energy use of the product purchased in the no-new-standards case, and marginal electricity prices for the incremental change in energy use associated with the other efficiency levels considered.

DOE derived electricity prices in 2021 using data from Edison Electric Institute (''EEI'') Typical Bills and Average Rates reports.[42] Based upon comprehensive, industry-wide surveys, this semi-annual report presents typical monthly electric bills and average kilowatt-hour costs to the customer as charged by investor-owned utilities. For the commercial sector, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2019).[43]

DOE's methodology allows electricity prices to vary by sector, region, and season. In the analysis, variability in electricity prices is chosen to be consistent with the way the consumer economic and energy use characteristics are defined in the LCC analysis. For PTACs and PTHPs, DOE developed UECs by census division for each equipment class and efficiency level for the summer (May to September) and winter (October to April) seasons. The average summer and winter electricity price for large commercial buildings was used to measure the baseline energy cost. The summer and winter marginal prices for large commercial buildings, using a marginal load factor of 0.5 were used to measure the operating cost savings from higher efficiency PTACs and PTHPs. See chapter 8 of the final rule TSD for details.

To estimate energy prices in future years, DOE multiplied the 2021 energy prices by the projection of annual average price changes for each of the nine census divisions from the Reference case in *AEO 2022,* which has an end year of 2050.[44] To estimate price trends after 2050, DOE kept the energy price constant at the 2050 value.

5. Maintenance and Repair Costs

Repair costs are associated with repairing or replacing PTAC and PTHP components that have failed in an appliance; maintenance costs are associated with maintaining the operation of the PTAC or PTHP. Typically, small incremental increases

[39] Available at: *www.bls.gov/ppi/.*

[40] *See* Chapter 8 of the 2015 Final Rule Technical Support Documents (Available at: *www.regulations.gov/document/EERE-2012-BT-STD-0029-0040*).

[41] *https://fred.stlouisfed.org/series/GDPDEF.*

[42] Available at: *https://netforum.eei.org/eweb/DynamicPage.aspx?WebCode=COEPubSearch&pager=12.*

[43] Coughlin, K. and B. Beraki. 2019. Non-residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL–2001203. *ees.lbl.gov/publications/non-residential-electricity-prices.*

[44] EIA. *Annual Energy Outlook 2022 with Projections to 2050.* Washington, DC. Available at *www.eia.gov/forecasts/aeo/* (last accessed May 5, 2022).

in product efficiency produce no changes in maintenance costs compared to baseline efficiency products. Repair costs consist of the cost of labor to perform the repair as well as the cost of materials to replace the component that has failed. DOE assumes that the labor costs stay constant and the material costs will increase proportionally with the incremental increase of the MPC. In the July 2015 final rule, DOE used the material and labor costs associated with repair of equipment components covered and not covered by a standard manufacturer warranty. 80 FR 43162, 43180. Based on a report of component failure probability and warranty terms, and on component material and labor costs from RS Means data,[45] DOE determined the expected value of the total cost of a repair and annualized it to determine the annual repair cost. DOE scaled by cooling capacity and MSP to determine repair costs for the equipment classes and considered efficiency levels. *Id.* For this NOPD, DOE updated the labor portion of the annualized repair cost using the GDP implicit price deflator[46] and updated the material portion of baseline products by the PPI for Air-conditioning, refrigeration, and forced air heating equipment manufacturing.[47] The material portion of the repair cost for higher efficiency components was scaled with the MSPs.

DOE requested comment on its approach to modeling repair costs in the December 2020 RFI. 85 FR 82952, 82963. AHRI commented that DOE should ensure that out-of-warranty costs are used to measure repairs that occur after the warranty has expired and that costs are much higher after the warranty period. (AHRI, No. 8 at p. 15).

In response, DOE notes that the methodology used in the July 2015 final rule considered the cost of repairs after the warranty period. 80 FR 43162, 43180. The current annualized repair costs reflect the cost of a repair after the warranty, therefore DOE did not make any further updates to the repair costs.

6. Product Lifetime

For PTACs and PTHPs, DOE used the same lifetime estimates from July 2015 final rule. *See* 80 FR 43162, 43180. DOE requested comment on this approach to equipment lifetime in the December 2020 ECS RFI. 85 FR 82952, 82963

AHRI commented that DOE has no justification to increase equipment lifetimes for any PTAC or PTHP application. AHRI suggested that DOE should focus on time to replacement, rather than time to failure and that a distribution with a mean lifetime of 5 years should be used in the analysis. (AHRI, No. 8 at pp. 16–17) The CA IOUs encouraged DOE to revisit its lifetime assumptions from the July 2015 final rule and requested that DOE determine if PTACs or PTHPs that are removed from lodging applications before they fail are sold in secondary markets. (CA IOUs, No. 7 at pp. 3–4) ASAP expressed concern that the assumption that PTAC or PTHP's lifetime in lodging applications is aligned with hotel renovation cycles may underestimate the average lifetime of a PTAC or PTHP. (ASAP, No. 6 at p. 2)

In response, DOE maintained the same lifetime assumptions as in the July 2015 final rule. DOE has not been provided, nor has it identified, any data to suggest that the average PTAC time to replacement is shorter than that of the typical hotel renovation cycle. In response to comments from AHRI, CA IOUs and ASAP, DOE notes that while the average lifetime is assumed to be eight years, the distribution allows for a range of lifetimes up to 16 years. Given that DOE used a lifetime distribution, the analysis captures segments of the market which replace prior to the 7-year renovation cycle and after the 7-year renovation cycle. Finally, DOE's lifetime assumption with a mean of 8 years falls between the various stakeholder comments and considering no additional data were identified to support a shorter or longer life, DOE is maintaining the same lifetime assumptions as in the July 2015 final rule.

Regarding the comment from the CA IOUs on the secondary market for PTACs and PTHPs, DOE was unable to find any data sources that provide the total size of the secondary market. Furthermore, DOE understands that secondary market sales are often composed of units that fail early on in their lifetimes and go through a refurbishment and certification process, as opposed to older units that are directly resold to users after a renovation. Therefore, DOE did not include secondary market sales in this NOPD.

7. Discount Rates

DOE's method views the purchase of a higher efficiency appliance as an investment that yields a stream of energy cost savings. DOE derived the discount rates for the LCC analysis by estimating the cost of capital for companies or public entities that purchase PTACs and PTHPs. For private firms, the weighted average cost of capital (''WACC'') is commonly used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so their cost of capital is the weighted average of the cost to the firm of equity and debt financing, as estimated from financial data for publicly traded firms in the sectors that purchase PTACs and PTHPs.[48] As discount rates can differ across industries, DOE estimates separate discount rate distributions for a number of aggregate sectors with which elements of the LCC building sample can be associated.

In this analysis, DOE estimated the cost of capital of companies that purchase PTAC and PTHP equipment. DOE used the same types of companies that were used in the July 2015 final rule, large hotel/motel chains, independent hotel/motel, assisted living/health care, and small office. 80 FR 43162, 43181. More details regarding the DOE's estimates of discount rates can be found in Chapter 8 of the NOPD TSD.

8. Energy Efficiency Distribution in the No-New-Standards Case

To accurately estimate the share of consumers that would be affected by a potential energy conservation standard at a particular efficiency level, DOE's LCC analysis considered the projected distribution (market shares) of equipment efficiencies under the no-new-standards case (*i.e.,* the case without amended or new energy conservation standards).

To estimate the energy efficiency distribution of PTACs and PTHPs for 2026, DOE used model counts from CCD[49] and applied a growth rate of 1 EER every 35 years, which was used in the July 2015 final rule and is based on a growth trend in the absence of standards developed in the 2004 commercial unitary air conditioner advanced notice of proposed rulemaking (''2004 ANOPR'').[50]

[45] RS Means Company, Inc. ''RSMeans Facilities Maintenance & Repair Cost Data,'' 2013.

[46] *https://fred.stlouisfed.org/series/GDPDEF.*

[47] *www.bls.gov/ppi/.*

[48] Modigliani, F. and M.H. Miller. The Cost of Capital, Corporations Finance and the Theory of Investment. American Economic Review. 1958. 48(3): pp. 261–297.

[49] *www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A** (last accessed: March 9, 2022).

[50] *See* Chapter 10 of DOE's technical support document underlying DOE's July 29, 2004 ANOPR. (Available at: *www.regulations.gov/document/EERE-2006-STD-0103-0078*).

80 FR 43162, 43183. The estimated market shares for the no-new-standards case for PTACs and PTHPs are shown in Table IV–16 of this document. DOE notes that there are currently units in CCD that are at the baseline efficiency level, but given the small difference between the baseline and EL 1, the growth rate of 1 EER every 35 years leads to no products at the baseline in 2026. See chapter 8 of the NOPD TSD for further information on the derivation of the efficiency distributions.

TABLE IV–16—MARKET SHARES FOR THE NO-NEW-STANDARDS CASE

Equipment type	Cooling capacity	Market share by EL					
		Baseline *	EL1	EL2	EL3	EL4	EL5
PTAC	9,000 Btu/h	0%	44%	29%	11%	6%	10%
	15,000 Btu/h	0	0	52	34	14	0
PTHP	9,000 Btu/h	0	44	21	16	10	9
	15,000 Btu/h	0	0	41	40	20	0

9. Payback Period Analysis

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more-efficient PTACs and PTHPs, compared to baseline PTACs and PTHPs, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the PTACs and PTHPs mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficiency level are the change in total installed cost of the PTACs and PTHPs and the change in the first-year annual operating expenditures relative to the baseline. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed.

F. Shipments Analysis

DOE uses projections of annual shipments to calculate the national impacts of potential amended or new energy conservation standards on energy use, NPV, and future manufacturer cash flows.[51] The shipments model takes an accounting approach in tracking market shares of each equipment class and the vintage of units in the stock. Stock accounting uses product shipments as inputs to estimate the age distribution of in-service equipment stocks for all years. The age distribution of in-service equipment stocks is a key input to calculations of both the NES and NPV, because operating costs for any year depend on the age distribution of the stock.

In the July 2015 final rule, DOE developed shipment projections based on historical data and an analysis of key market drivers for this equipment. 80 FR 43162, 43182. Historical shipments were used to build up an equipment stock and also to calibrate the shipments model. DOE separately calculated shipments intended for new construction and replacement applications. The sum of new construction and replacement shipments was the total shipments. *Id.*

New construction shipments were calculated using projected floor space of healthcare, lodging, and small office buildings from *AEO 2014* and historical PTAC and PTHP saturation in new buildings, which was estimated by dividing historical new shipments by new construction floor space. 80 FR 43162, 43182. Replacement shipments were equal to the number of units that fail in a given year. The failures were based on a retirement function in the form of a Weibull distribution with inputs based on lifetime values from the LCC analysis to estimate the number of units of a given age that fail in each year. *Id.*

In the December 2020 RFI, DOE requested the most recent annual sales data but did not receive any comments or data on recent sales in response to the RFI. 85 FR 82952, 82963.

In this NOPD, DOE updated the previous shipments model using the new construction floor space projections from *AEO 2022* for healthcare, lodging, and small offices. DOE maintained the same saturation for new buildings to estimate the new shipments and the same distribution of shipments by equipment class that were used in the previous analysis.

For further information on the shipments analysis, see chapter 9 of the NOPD TSD.

G. National Impact Analysis

The NIA assesses the NES and the NPV from a national perspective of total consumer costs and savings that would be expected to result from new or amended standards at specific efficiency levels.[52] (''Consumer'' in this context refers to consumers of the PTACs and PTHPs being regulated.) DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of PTACs and PTHPs sold from 2026 through 2055.

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

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each EL. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs.

Table IV–17 summarizes the inputs and methods DOE used for the NIA

[51] DOE uses data on manufacturer shipments as a proxy for national sales, as aggregate data on sales are lacking. In general, one would expect a close correspondence between shipments and sales.

[52] The NIA accounts for impacts in the 50 states and Washington, DC.

analysis for the NOPD. Discussion of these inputs and methods follows the table. See chapter 10 of the NOPD TSD for details.

TABLE IV–17—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS

Inputs	Method
Shipments	Annual shipments from shipments model.
Modeled Compliance Date of Standard	2026.
Efficiency Trends	No-new-standards case—1 EER every 35 years. Standards cases—1 EER every 35 years.
Annual Energy Consumption per Unit	Annual weighted-average values are a function of energy use at each EL.
Total Installed Cost per Unit	Annual weighted-average values are a function of cost at each EL. Future product prices are constant.
Annual Energy Cost per Unit	Annual weighted-average values as a function of the annual energy consumption per unit and energy prices.
Repair and Maintenance Cost per Unit	The materials portion of annual repair costs scale with MPCs, maintenance costs do not change by EL.
Energy Prices	*AEO 2022* projections (to 2050) and constant 2050 value through 2075.
Energy Site-to-Primary and FFC Conversion	A time-series conversion factor based on *AEO 2022.*
Discount Rate	3 percent and 7 percent.
Present Year	2021.

1. Equipment Efficiency Trends

A key component of the NIA is the trend in energy efficiency projected for the no-new-standards case and each of the standards cases. Section IV.E.8 of this document describes how DOE developed an energy efficiency distribution for the no-new-standards case (which yields a shipment-weighted average efficiency) for each of the considered product classes for the year of anticipated compliance with an amended or new standard.

For the standards cases, DOE used a ''roll-up'' scenario to establish the shipment-weighted efficiency for the year that standards are assumed to become effective (2026). In this scenario, the market shares of products in the no-new-standards case that do not meet the standard under consideration would ''roll up'' to meet the new standard level, and the market share of products above the standard would remain unchanged.

To develop no-new-standards case and standards case efficiency trends after 2026, DOE used the same approach as in the July 2015 final rule, which grows the efficiency trend at a rate of 1 EER every 35 years for all product classes. 80 FR 43162, 43183.

2. National Energy Savings

The NES analysis involves a comparison of national energy consumption of the considered products between each potential standards case (EL) and the case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each product (by vintage or age) by the unit energy consumption (also by vintage). DOE calculated annual NES based on the difference in national energy consumption for the no-new-standards case and for each higher efficiency standard case. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (*i.e.,* the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO 2022.* Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

Use of higher-efficiency products is occasionally associated with a direct rebound effect, which refers to an increase in utilization of the product due to the increase in efficiency. For PTAC/PTHP, DOE did not consider any rebound as the entities using the equipment are typically not the ones paying the energy costs.

In 2011, in response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Sciences, DOE announced its intention to use FFC measures of energy use and greenhouse gas and other emissions in the NIA and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (Aug. 18, 2011). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in which DOE explained its determination that EIA's National Energy Modeling System (''NEMS'') is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (Aug. 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector [53] that EIA uses to prepare its AEO. The FFC factors incorporate losses in production, and delivery in the case of natural gas, (including fugitive emissions) and additional energy used to produce and deliver the various fuels used by power plants. The approach used for deriving FFC measures of energy use and emissions is described in appendix 10B of the NOPD TSD.

3. Net Present Value Analysis

The inputs for determining the NPV of the total costs and benefits experienced by consumers are: (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. DOE calculates net savings each year as the difference between the no-new-standards case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculates operating cost savings over the lifetime of each product shipped during the projection period.

As discussed in section IV.E.1 of this document, DOE assumed a constant price trend for PTACs and PTHPs. DOE applied the same constant price trend to project prices for each PTAC and PTHP class at each considered efficiency level.

The operating cost savings are energy cost savings, which are calculated using the estimated energy savings in each year and the projected price of the appropriate form of energy, and repair costs, which remain constant through

[53] For more information on NEMS, refer to *The National Energy Modeling System: An Overview 2009,* DOE/EIA–0581(2009), October 2009. Available at *www.eia.gov/analysis/pdfpages/0581(2009)index.php* (last accessed 4/15/2022).

the analysis period. To estimate energy prices in future years, DOE multiplied the average regional energy prices by the projection of annual national-average commercial electricity price changes in the Reference case from *AEO 2022,* which has an end year of 2050. To estimate price trends after 2050, DOE kept the 2050 value constant through 2075.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this NOPD, DOE estimated the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (''OMB'') to Federal agencies on the development of regulatory analysis.[54] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

V. Analytical Results and Conclusions

The following section addresses the results from DOE's analyses with respect to the considered energy conservation standards for PTACs and PTHPs. It addresses the ELs examined by DOE and the projected impacts of each of these levels. Additional details regarding DOE's analyses are contained in the NOPD TSD supporting this document.

A. Economic Impacts on PTAC and PTHP Consumers

DOE analyzed the cost effectiveness (*i.e.,* the savings in operating costs throughout the estimated average life of PTACs and PTHPs) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the PTACs and PTHPs, which are likely to result from the imposition of a standard at an EL by considering the LCC and PBP at each EL. These analyses are discussed in the following sections.

In general, higher-efficiency products affect consumers in two ways: (1) purchase price increases and (2) annual operating costs decrease. Inputs used for calculating the LCC and PBP include total installed costs (*i.e.,* product price plus installation costs), and operating costs (*i.e.,* annual energy use, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and a discount rate. Chapter 8 of the NOPR TSD provides detailed information on the LCC and PBP analyses.

Table V–1 through Table V–4 show the LCC and PBP results for the ELs considered in this analysis. The simple payback is measured relative to the efficiency distribution in the no-new-standards case in the compliance year (see section IV.E.8 of this document). Because some consumers purchase products with higher efficiency in the no-new-standards case, the average savings are less than the difference between the average LCC of the baseline product and the average LCC at each EL. The savings refer only to consumers who are affected by a standard at a given EL. Those who already purchase a product with efficiency at or above a given EL are not affected. Consumers for whom the LCC increases at a given EL experience a net cost.

TABLE V–1—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR STANDARD SIZE PTACS WITH A COOLING CAPACITY OF 9,000 Btu/h

Efficiency level	LCC savings (2021$)	Simple payback period (years)
EL 1	$0.00	N/A
EL 2	1.92	5.6
EL 3	−0.47	6.0
EL 4	−5.60	6.5
EL 5	−8.70	6.8

TABLE V–2—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR STANDARD SIZE PTACS WITH A COOLING CAPACITY OF 15,000 Btu/h

Efficiency level	LCC savings (2021$)	Simple payback period (years)
EL 1	$0.00	N/A
EL 2	0.00	N/A
EL 3	6.39	4.1
EL 4	−1.77	4.9
EL 5	−8.68	5.3

[54] United States Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Section E. Available at *www.federalregister.gov/documents/2003/10/09/03-25606/circular-a-4-regulatory-analysis* (last accessed April 15, 2022).

TABLE V–3—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR STANDARD SIZE PTHPS WITH A COOLING CAPACITY OF 9,000 Btu/h

Efficiency level	LCC savings (2021$)	Simple payback period (years)
EL 1	$0.00	N/A
EL 2	2.42	5.3
EL 3	0.72	5.7
EL 4	−3.75	6.2
EL 5	−6.48	6.4

TABLE V–4—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR STANDARD SIZE PTHPS WITH A COOLING CAPACITY OF 15,000 Btu/h

Efficiency level	LCC savings (2021$)	Simple payback period (years)
EL 1	$0.00	N/A
EL 2	0.00	N/A
EL 3	7.27	4.0
EL 4	−0.66	4.7
EL 5	−7.07	5.1

B. National Impact Analysis

This section presents DOE's estimates of the NES and the NPV of consumer benefits that would result from each of the ELs considered as potential amended standards.

1. Significance of Energy Savings

To estimate the energy savings attributable to potential amended standards for PTACs and PTHPs, DOE compared their energy consumption under the no-new-standards case to their anticipated energy consumption under each EL. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2026–2055). Table V–5 presents DOE's projections of the NES for each EL considered for PTACs and PTHPs. The savings were calculated using the approach described in section IV.G of this document.

TABLE V–5—CUMULATIVE NATIONAL ENERGY SAVINGS FOR PTACS AND PTHPS; 30 YEARS OF SHIPMENTS

[2026–2055]

	Efficiency level (quads)				
	1	2	3	4	5
Primary energy	0.000	0.002	0.014	0.045	0.068
FFC energy	0.000	0.002	0.015	0.047	0.071

OMB Circular A–4 [55] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this proposed determination, DOE undertook a sensitivity analysis using 9 years, rather than 30 years, of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[56] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to PTACs and PTHPs. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a 9-year analytical period are presented in Table V–6. The impacts are counted over the lifetime of PTACs and PTHPs purchased in 2026 to 2034.

[55] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Available at *obamawhitehouse.archives.gov/omb/circulars_a004_a-4/* (last accessed April 15, 2022).

[56] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. If DOE makes a determination that amended standards are not needed, it must conduct a subsequent review within three years following such a determination. As DOE is evaluating the need to amend the standards, the sensitivity analysis is based on the review timeframe associated with amended standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some products, the compliance period is 5 years rather than 3 years.

TABLE V–6—CUMULATIVE NATIONAL ENERGY SAVINGS FOR PTACS AND PTHPS; 9 YEARS OF SHIPMENTS
[2026–2034]

	Efficiency level (quads)				
	1	2	3	4	5
Primary energy	0.000	0.002	0.011	0.023	0.029
FFC energy	0.000	0.002	0.011	0.023	0.030

a. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from an amended standard at each of the representative ELs considered for PTACs and PTHPs. In accordance with OMB's guidelines on regulatory analysis,[57] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. Table V–7 shows the consumer NPV results with impacts counted over the lifetime of products purchased in 2026–2055.

TABLE V–7—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PTACS AND PTHPS; 30 YEARS OF SHIPMENTS
[2026–2055]

Discount rate	Trial standard level (billion 2021$)				
	1	2	3	4	5
3 percent	0.000	−0.004	−0.043	−0.167	−0.268
7 percent	0.000	−0.004	−0.035	−0.116	−0.174

The NPV results based on the aforementioned 9-year analytical period are presented in Table V–8. The impacts are counted over the lifetime of PTACs and PTHPs purchased in 2026–2034. As mentioned previously, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V–8—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PTACS AND PTHPS; 9 YEARS OF SHIPMENTS
[2026–2034]

Discount rate	Trial standard level (billion 2021$)				
	1	2	3	4	5
3 percent	0.000	−0.004	−0.033	−0.088	−0.124
7 percent	0.000	−0.004	−0.029	−0.073	−0.102

C. Proposed Determination

EPCA specifies that for any commercial and industrial equipment addressed under 42 U.S.C. 6313(a)(6)(A)(i), including PTACs and PTHPS, DOE may prescribe an energy conservation standard more stringent than the level for such equipment in ASHRAE Standard 90.1 only if ''clear and convincing evidence'' shows that a more-stringent standard would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(C)(i); 42 U.S.C. 6313(a)(6)(A)(ii)(II)) The ''clear and convincing'' evidentiary threshold applies both when DOE is triggered by ASHRAE action and when DOE conducts a six-year-lookback rulemaking, with the latter being the basis for the current proceeding.

Because an analysis of potential cost-effectiveness and energy savings first require an evaluation of the relevant technology, DOE first discusses the technological feasibility of amended standards. DOE then evaluates the energy savings potential and whether potential amended standards are economically justified.

1. Technological Feasibility

EPCA mandates that DOE consider whether amended energy conservation standards for PTACs and PTHPs would be technologically feasible. (42 U.S.C. 6313(a)(6)(A)(ii)(II))

DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. Per the technology options discussed in section IV.A.3 of this document, DOE has tentatively determined, based on clear and convincing evidence, that amended energy conservation standards for PTACs and PTHPs would be technologically feasible.

2. Significant Conservation of Energy

EPCA also mandates that DOE consider whether amended energy conservation standards for PTACs and PTHPS would result in result in significant additional conservation of energy. (42 U.S.C. 6313(a)(6)(A)(ii)(II))

In the present case, DOE estimates that amended standards for PTACs and PTHPs would result in energy savings of

[57] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Available at *obamawhitehouse.archives.gov/omb/circulars_a004_a-4/* (last accessed April 15, 2022).

0.002 quads at EL 2, 0.013 quads at EL 3, 0.014 quads at EL 4, and 0.062 quads at EL 5 (the max-tech level) over a 30-year analysis period (2026–2055). However, as discussed in the following section DOE lacks the clear and convincing evidence necessary to determine that amended standards for PTACs and PTHPs would be economically justified.

3. Economic Justification

In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens, considering to the greatest extent practicable the seven statutory factors discussed previously (see section II.A of this document). (42 U.S.C. 6313(a)(6)(A)(ii)(II); 42 U.S.C. 6313(a)(6)(B)(ii)(I)–(VII))

One of those seven factors is the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses of the products that are likely to result from the standard. (42 U.S.C. 6313(a)(6)(B)(ii)(II)) This factor is typically assessed using the LCC and PBP analysis, as well as the NPV.

DOE conducted an LCC analysis to estimate the net costs/benefits to users from increased efficiency in the considered PTACs and PTHPs (See results in Table V–1 to Table V–4). DOE then aggregated the results from the LCC analysis to estimate the NPV of the total costs and benefits experienced by the Nation (See results in Table V–7 and Table V–8). As noted, the inputs for determining the NPV are: (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. A summary of the analytical results can be found in Table V–9.

TABLE V–9—SUMMARY OF ANALYTICAL RESULTS OF PTAC AND PTHP EQUIPMENT

Category	EL 1	EL 2	EL 3	EL 4	EL 5
Cumulative National FFC Energy Savings (quads)					
.....	0.000	0.002	0.015	0.047	0.071
NPV of Consumer Costs and Benefits * * * (2021$ billion)					
3% discount rate	0.000	−0.004	−0.043	−0.167	−0.268
7% discount rate	0.000	−0.004	−0.035	−0.116	−0.174
Consumer Mean LCC Savings 2021$					
Standard Size PTACs—9,000 Btu/h	0.00	1.92	−0.47	−5.60	−8.70
Standard Size PTACs—15,000 Btu/h	0.00	0.00	6.39	−1.77	−8.68
Standard Size PTHPs—9,000 Btu/h	0.00	2.42	0.72	−3.75	−6.48
Standard Size PTHPs—15,000 Btu/h	0.00	0.00	7.27	−0.66	−7.07
Consumer Mean Payback Period					
Standard Size PTACs—9,000 Btu/h	N/A	5.6	6.0	6.5	6.8
Standard Size PTACs—15,000 Btu/h	N/A	N/A	4.1	4.9	5.3
Standard Size PTHPs—9,000 Btu/h	N/A	5.3	5.7	6.2	6.4
Standard Size PTHPs—15,000 Btu/h	N/A	N/A	4.0	4.7	5.1

DOE estimates that amended standards for PTACs and PTHPs would result in NPV of $0.000 at EL 1, of −$0.004 billion at a 3 percent discount rate and −$0.004 billion at a 7 percent discount rate at EL 2, of −$0.043 billion at a 3 percent discount rate and −$0.035 billion at a 7 percent discount rate at EL 3, of −$0.167 billion at a 3 percent discount rate and −$0.116 billion at a 7 percent discount rate at EL 4, and of −$0.268 billion at a 3 percent discount rate and −$0.174 billion at a 7 percent discount rate at EL 5. Based on the NPV being zero at EL 1 and negative at each higher EL, DOE's analysis indicates that consumers are unlikely to experience a net economic benefit from any efficiency level above the current baseline. Consequently, DOE has tentatively determined that it lacks clear and convincing evidence that amended energy conservation standards would be economically justified.

4. Summary

Having considered the factors that would serve as the justification for an amended standard, including national energy savings, DOE has tentatively found based on its analysis that the benefits of amended standards would not outweigh the estimated net economic burden to consumers. Therefore, DOE is proposing to determine that the energy conservation standards for PTACs and PTHP do not need to be amended, having initially determined that it lacks ''clear and convincing'' evidence that amended standards would be economically justified. DOE will consider and respond to all comments received on this proposed determination in issuing any final determination.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that

maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

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

DOE reviewed this proposed determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. DOE has tentatively determined that current standards for PTACs and PTHPs do not need to be amended. Because DOE is proposing not to amend standards for PTACs and PTHPs, if adopted, this determination would not amend any energy conservation standards. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, would have no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared an IRFA for this proposed determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

This proposed determination, which proposes to determine that amended energy conservation standards for PTACs and PTHPs are unneeded under the applicable statutory criteria, would impose no new informational or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for actions which are interpretations or rulings with respect to existing regulations. 10 CFR part 1021, subpart D, appendix A4. DOE anticipates that this action qualifies for categorical exclusion A4 because it is an interpretation or ruling in regard to an existing regulation and otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final action.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The E.O. requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed determination and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the equipment that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6316 (b); 42 U.S.C. 6297) Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE examined this proposed determination according to UMRA and its statement of policy and determined that the proposed determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (Mar. 15, 1988), DOE has determined that this proposed determination would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this NOPD under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under E.O. 12866, or any successor E.O.; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed determination, which does not propose to amend energy conservation standards for PTACs and PTHPs, is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared Peer Review report pertaining to the energy conservation standards rulemaking analyses.[58] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses.

[58] ''Energy Conservation Standards Rulemaking Peer Review Report.'' 2007. Available at *www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (last accessed April 15, 2022).

DOE is in the process of evaluating the resulting report.[59]

VII. Public Participation

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=46&action=viewcurrent.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

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

C. Conduct of the Webinar

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

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

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

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

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed determination no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

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

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

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

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments. Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit

[59] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.*

printed copies. No faxes will be accepted.

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

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email to *PTACHP2019STD0035@ee.doe.gov* two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of proposed determination and request for comment.

Signing Authority

This document of the Department of Energy was signed on June 15, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 15, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–13224 Filed 6–23–22; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Memorandum of June 21, 2022—Prescription of Method of Designating a Member of the Military Sentencing Parameters and Criteria Board

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Presidential Documents

Title 3—

The President

Memorandum of June 21, 2022

Prescription of Method of Designating a Member of the Military Sentencing Parameters and Criteria Board

Memorandum for the Secretary of Defense

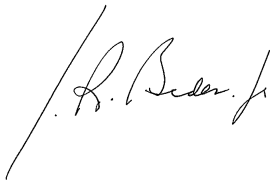
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 539E(e)(4)(B) of the National Defense Authorization Act for Fiscal Year 2022, Public Law 117–81, 135 Stat. 1541, 1700 (2021), I hereby order as follows:

(1) If the chief trial judges designated under article 26(g) of the Uniform Code of Military Justice, 10 U.S.C. 826(g), do not include a trial judge of the Navy, then the Judge Advocate General of the Navy shall designate as a voting member of the Military Sentencing Parameters and Criteria Board (Board) either the Chief Judge of the Department of the Navy or a Navy trial judge assigned to the Navy and Marine Corps Trial Judiciary.

(2) If the chief trial judges designated under article 26(g) of the Uniform Code of Military Justice, 10 U.S.C. 826(g), do not include a trial judge of the Marine Corps, then the Staff Judge Advocate to the Commandant of the Marine Corps, in consultation with the Judge Advocate General of the Navy, shall designate as a voting member of the Board a Marine Corps trial judge assigned to the Navy and Marine Corps Trial Judiciary.

This memorandum constitutes the regulations provided for in subsections (ii) and (iii) of section 539E(e)(4)(B) of the National Defense Authorization Act for Fiscal Year 2022.

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



THE WHITE HOUSE,
Washington, June 21, 2022

[FR Doc. 2022–13719
Filed 6–23–22; 11:15 am]
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Part IV

The President

Memorandum of June 15, 2022—Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Federal Register
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Presidential Documents

Title 3—

The President

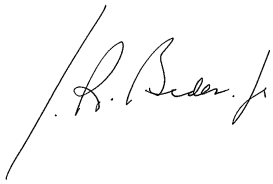
Memorandum of June 15, 2022

Delegation of Authority Under Section 506(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 authority under section 506(a)(1) of the FAA to direct the drawdown of up to an aggregate value of $350 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, June 15, 2022

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