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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–SC–21–0086; SC22–985–1 FR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2022–2023 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Far West Spearmint Oil Administrative Committee to establish salable quantities and allotment percentages for Class 1 (Scotch) and Class 3 (Native) spearmint oil produced in Washington, Idaho, Oregon, and designated parts of Nevada and Utah (the Far West) for the 2022–2023 marketing year.

DATES: Effective July 29, 2022.

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde, Marketing Specialist, or Gary Olson, Regional Director, Western Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule amends Marketing Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. Part 985 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Far West Spearmint Oil Administrative Committee (Committee) locally administers the Order and is comprised of spearmint oil producers operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of regulatory alternatives and, if regulation is necessary, to select a regulatory approach likely to maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions of Executive Order 12866. It emphasizes the importance of seeking the views of those who are likely to be affected by regulation, providing an opportunity for public comment, and basing regulatory actions on a consideration of objective scientific, technical, and economic data.

This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This rule has been reviewed in accordance with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have tribal implications. The Agricultural Marketing Service (AMS) has determined that this rule is unlikely to 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.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. Under the Order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule establishes salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2022–2023 marketing year, which begins on June 1, 2022.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements in § 985.50 of the Order, the Committee meets each year to consider supply and demand of spearmint oil and to adopt a marketing policy for the ensuing marketing year. In determining such marketing policy, the Committee considers several factors, including, but not limited to, the current and projected supply of oil, estimated future demand, production costs, and producer prices for both classes of spearmint oil. Input from spearmint oil handlers and producers are considered as well.

Pursuant to the provisions in § 985.51, when the Committee's marketing policy considerations indicate a need to establish or to maintain stable market conditions through volume regulation, the Committee subsequently recommends to AMS the establishment of a salable quantity and allotment percentage for such class or classes of oil in the forthcoming marketing year. Recommendations for volume control are intended to ensure that market requirements for Far West spearmint oil are satisfied and orderly marketing conditions are maintained.

Section 985.12 defines salable quantity as the total quantity of each class of oil (Scotch or Native) which

handlers may purchase from, or handle on behalf of, producers during a given marketing year. A producer's allotment base is their calculated share of the spearmint oil market based on a statistical representation of past spearmint oil production, with accommodation for reasonable, normal adjustments to such base as prescribed by the Committee and approved by AMS. Each producer's annual allotment of salable spearmint oil is calculated by multiplying their respective allotment base for each class of spearmint oil by the allotment percentage for that class of spearmint oil. The allotment percentage is the percentage used to calculate each producer's prorated share of the salable quantity and is derived by dividing the salable quantity for each class of spearmint oil by the total of all producers' allotment base for the same class of oil. The total allotment base is revised each year on June 1 to account for producer base being lost as a result of the ''bona fide effort'' production provision of § 985.53(e) and additional base made available pursuant to the provisions of § 985.153.

Salable quantities and allotment percentages are established at levels intended to fulfill market requirements and to maintain orderly marketing conditions. Committee recommendations for volume control are made well in advance of the upcoming marketing year in which the regulations are to be effective, thereby allowing producers ample time to adjust their production decisions accordingly.

The Committee met on October 13, 2021, to consider its marketing policy for the 2022–2023 marketing year. At that meeting, the Committee determined that, based on the current market and supply conditions, volume regulation for both classes of oil is necessary. The Committee unanimously recommended a salable quantity and allotment percentage for Scotch spearmint oil of 832,546 pounds and 37 percent and a salable quantity and allotment percentage for Native spearmint oil of 1,101,269 pounds and 43 percent.

This action establishes the amount of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2022–2023 marketing year, which begins on June 1, 2022. Salable quantities and allotment percentages have been placed into effect each season since the Order's inception in 1980.

Scotch Spearmint Oil

The Committee recommended a Scotch spearmint oil salable quantity of 832,546 pounds and an allotment percentage of 37 percent for the 2022–2023 marketing year. The 2022–2023 marketing year salable quantity of 832,546 pounds is 14,138 pounds less than the 2021–2022 marketing year salable quantity of 846,684 pounds. The allotment percentage, recommended at 37 percent for the 2022–2023 marketing year, is one percent less than the percentage in effect the previous year. The total allotment base for the coming marketing year is estimated to be 2,250,124 pounds. This figure represents a one-percent increase over the revised 2021–2022 marketing year total allotment base of 2,227,846 pounds. The salable quantity (832,546 pounds) is the product of total allotment base (2,250,124 pounds) times the allotment percentage (37 percent).

The Committee considered several factors in making its recommendation, including the current and projected future supply, estimated future demand, production costs, and producer prices. The Committee's recommendation also accounts for the established acreage of Scotch spearmint, consumer demand, existing carry-in, reserve pool volume, and increased production in competing markets.

According to the Committee, as costs of production have increased and spearmint oil prices have decreased, many producers have forgone new plantings of Scotch spearmint. This has resulted in a significant decline in production of Scotch spearmint oil in recent years. Production has decreased from 1,113,346 pounds produced in 2016 to an estimated 556,559 pounds of Scotch spearmint production in 2021.

Industry reports indicate that trade demand for Far West Scotch spearmint oil has diminished over the past five years as international markets for spearmint-flavored products have slowed. Sales of Far West Scotch spearmint oil have declined from 1,060,232 pounds during the 2014–2015 marketing year to 717,952 pounds in 2018–2019, and further to 488,484 pounds in 2020–2021, the last full year of available data. In addition to declining spearmint oil demand, increasing production of Scotch spearmint oil in competing markets, most notably by Canadian producers, has put additional downward pressure on the Far West Scotch spearmint oil market.

Given the anticipated market conditions for the coming year, the Committee estimates that Scotch spearmint oil trade demand for the 2022–2023 marketing year will be 650,000 pounds, which is 25,000 pounds higher than the prior year estimate and right in line with the 5-year moving sales average of 650,033 pounds. Should the established volume regulation levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases, as it has in previous marketing years.

The Committee calculated the minimum salable quantity of Scotch spearmint oil that will be required during the 2022–2023 marketing year (311,105 pounds) by subtracting the estimated salable carry-in on June 1, 2022, (338,895 pounds) from the estimated trade demand (650,000 pounds). This minimum salable quantity represents the estimated minimum amount of Scotch spearmint oil that will be needed to satisfy estimated trade demand for the coming year. To ensure that the market will be fully supplied, the Committee recommended a 2022–2023 marketing year salable quantity of 832,546 pounds. The recommended salable quantity, combined with an estimated 338,895 pounds of salable carry-in from the previous year, will yield a total available supply of 1,171,441 pounds of Scotch spearmint oil for the 2022–2023 marketing year. With the recommended salable quantity and current market environment, the Committee estimates that as much as 521,441 pounds of salable Scotch spearmint oil could be carried into the 2022–2023 marketing year.

Salable carry-in is the primary measure of excess spearmint oil supply under the Order, as it represents overproduction in prior years that is currently available to the market without restriction. Under volume regulation, spearmint oil that is designated as salable continues to be available to the market until it is sold and may be marketed at any time at the discretion of the owner. The Committee estimates that there will be 338,895 pounds of salable carry-in of Scotch spearmint oil on June 1, 2022. If current market conditions are maintained and the Committee's projections are correct, salable carry-in will increase to 521,441 pounds at the beginning of the 2022–2023 marketing year. This level will be above the quantity that the Committee generally considers favorable (150,000 pounds). However, the Committee believes that, given the current economic conditions in the Scotch spearmint oil industry, some Scotch spearmint oil producers may not produce enough oil in the 2022–2023 marketing year to fill all of their annual allotment. The Committee estimates that as much as 280,671 pounds of 2021–2022 marketing year annual allotment may not be filled by producers. While the Committee has not projected unused

base allotment for the upcoming 2022–2023 marketing year, it anticipates that the actual quantity of Scotch spearmint oil carried into the following marketing year will be less than the quantity calculated above (521,441 pounds).

Spearmint oil held in reserve is oil that has been produced in excess of a producer's annual allotment, either in the current marketing year or in prior years. After December 1 of each marketing year, reserve pool oil is not available to the market in the current marketing year without an increase in the salable quantity and allotment percentage. However, reserve oil may be released for limited market development projects with the approval of the Secretary. Oil held in the reserve pool is another indicator of excess supply. Scotch spearmint oil held in the reserve pool was 72,361 pounds as of May 31, 2021, up from 67,645 pounds as of May 31, 2020. This quantity of reserve pool oil should be an adequate buffer to supply the market, if necessary, should the industry experience an unexpected increase in demand.

The Committee recommended an allotment percentage of 37 percent for the 2022–2023 marketing year for Scotch spearmint oil. During its October 13, 2021, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (311,105 pounds) by the total estimated allotment base (2,250,124 pounds), resulting in 13.8 percent. However, producers and handlers at the meeting indicated that the computed percentage (13.8 percent) might not adequately supply potential 2022–2023 Scotch spearmint oil market demand and may also result in a less than desirable carry-in for the subsequent marketing year. After deliberation, the Committee recommended an allotment percentage of 37 percent. The total estimated allotment base (2,250,124 pounds) for the 2022–2023 marketing year, multiplied by the recommended salable allotment percentage (37 percent), yields 832,546 pounds, which is the recommended salable quantity for the 2022–2023 marketing year.

The 2022–2023 marketing year computational data for the Committee's recommendations is detailed below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2022: 338,895 pounds.* This figure is the difference between the 2021–2022 marketing year total available supply of 963,895 pounds and the revised 2021–2022 marketing year estimated trade demand of 625,000 pounds.

(B) *Estimated trade demand of Scotch spearmint oil for the 2022–2023 marketing year: 650,000 pounds.* This figure was established at the Committee meeting held on October 13, 2021.

(C) *Salable quantity of Scotch spearmint oil required from the 2022–2023 marketing year production: 311,105 pounds.* This figure is the difference between the estimated 2022–2023 marketing year trade demand (650,000 pounds) and the estimated carry-in on June 1, 2021 (338,895 pounds). This salable quantity represents the minimum amount of Scotch spearmint oil that may be needed to satisfy estimated demand for the coming year.

(D) *Total estimated Scotch spearmint oil allotment base of for the 2022–2023 marketing year: 2,250,124 pounds.* This figure represents a one-percent increase over the 2021–2022 total actual allotment base of 2,227,846 pounds, as prescribed by § 985.53(d). The one-percent increase equals 22,278 pounds. This total estimated allotment base is revised each year on June 1 in accordance with § 985.53(e).

(E) *Computed Scotch spearmint oil allotment percentage for the 2022–2023 marketing year: 13.8 percent.* This percentage is computed by dividing the minimum required salable quantity (311,105 pounds) by the total estimated allotment base (2,250,124 pounds).

(F) *Recommended Scotch spearmint oil allotment percentage for the 2022–2023 marketing year: 37 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (13.8 percent) and input from producers and handlers at the October 13, 2021, meeting. The recommended 37 percent allotment percentage reflects the Committee's belief that the computed percentage (13.8 percent) may not adequately supply the anticipated 2022–2023 marketing year Scotch spearmint oil market demand.

(G) *Recommended Scotch spearmint oil salable quantity for the 2022–2023 marketing year: 832,546 pounds.* This figure is the product of the recommended salable allotment percentage (37 percent) and the total estimated allotment base (2,250,124 pounds) for the 2022–2023 marketing year.

(H) *Estimated total available supply of Scotch spearmint oil for the 2022–2023 marketing year: 1,171,441 pounds.* This figure is the sum of the 2022–2023 marketing year recommended salable quantity (832,546 pounds) and the estimated carry-in on June 1, 2021 (338,895 pounds).

For the reasons stated above, the Committee believes that the recommended salable quantity and allotment percentage will adequately satisfy trade demand, will result in a reasonable carry-in for the following year, and will contribute to the orderly marketing of Scotch spearmint oil.

Native Spearmint Oil

The Committee recommended a Native spearmint oil salable quantity of 1,101,269 pounds and an allotment percentage of 43 percent for the 2022–2023 marketing year. These figures are, respectively, 162,872 pounds and 6 percentage points higher than the levels established for the 2021–2022 marketing year. The Committee utilized handlers' estimated trade demand of Native spearmint oil for the coming year, historical and current Native spearmint oil production, inventory statistics, and international market data obtained from consultants for the spearmint oil industry to arrive at these recommendations.

The Committee anticipates that 2021 Native spearmint oil production will total 985,797 pounds, down substantially from the previous year's production of 1,181,230 pounds. Committee records indicate that spearmint producing acres in the Far West have declined from a recent high of 9,013 acres in 2019 to an estimated 6,275 acres of Native spearmint production 2021.

However, sales of Native spearmint oil recovered from a 10-year low of 1,076,906 pounds in the 2019–2020 marketing year to 1,332,260 pounds in 2020–2021, the last full year of reported sales. The Committee estimates that trade demand for Native spearmint oil will be 1,200,000 pounds for the 2022–2023 marketing year, which is somewhat less than the 5-year sales average of 1,301,490 pounds.

The Committee expects that 284,357 pounds of salable Native spearmint oil from prior years will be carried into the 2022–2023 marketing year. This amount is down from the 412,095 pounds of salable oil carried into the 2021–2022 marketing year, but still above the level that the Committee generally considers favorable.

Further, the Committee estimates that there will be 1,272,854 pounds of Native spearmint oil in the reserve pool at the beginning of the 2022–2023 marketing year. This figure is 73,062 pounds higher than the quantity of reserve pool oil held by producers on June 1, 2021, and well above the level that the Committee believes is optimal. Generally, reserve pool oil has been steadily increasing over the past several marketing years, climbing from 996,050 pounds of reserve oil since the start of the 2016–2017 marketing year.

The Committee expects end users of Native spearmint oil to continue to rely on Far West production as their primary source of high-quality Native spearmint oil. Overseas production of Native spearmint has declined in recent years. As a result, U.S. exports of Native spearmint oil have been steadily increasing since 2018. However, increased domestic production of Native spearmint from regions outside of the Far West production area has created additional domestic competition for market share. For instance, there were fewer than 2,000 acres of Native spearmint production in the U.S. Midwest region in 2016, which compares to over 10,000 acres of Native spearmint oil production in the Far West. However, 2021 estimates show that Far West acreage has declined to approximately 6,275 acres, compared to acreage increasing to around 5,000 acres in the Midwest. This situation has contributed to declining trade demand for Far West Native spearmint oil and led to downward pressure on producer prices.

The Committee chose to be cautiously optimistic in the establishment of its trade demand estimate for the 2022–2023 marketing year to ensure that the market will be adequately supplied. At the October 13, 2021, meeting, the Committee estimated the 2022–2023 marketing year Native spearmint oil trade demand to be 1,200,000 pounds. This figure is based on input provided by producers at nine production area meetings held in early October 2021, as well as estimates provided by handlers and other meeting participants. This figure represents an increase of 134,000 pounds from the previous year's revised trade demand estimate. The average estimated trade demand for Native spearmint oil derived from the area producer meetings was 1,173,333 pounds, whereas the handlers' estimates ranged from 950,000 to 1,300,000 pounds. The average of Native spearmint oil sales over the last three years was 1,301,490 pounds. The quantity marketed over the most recent full marketing year, 2020–2021, was 1,332,260 pounds.

The estimated June 1, 2022, carry-in of 284,357 pounds of Native spearmint oil, plus the recommended 2022–2023 marketing year salable quantity of 1,101,269 pounds, will result in an estimated total available supply of 1,385,626 pounds of Native spearmint oil during the 2022–2023 marketing year. With the corresponding estimated trade demand of 1,200,000 pounds, the Committee projects that 185,626 pounds of oil will be carried into the 2023–2024 marketing year. This will result in a year-over-year decrease of 98,731 pounds. The Committee estimates that there will be 1,272,854 pounds of Native spearmint oil held in the reserve pool at the beginning of the 2022–2023 marketing year. Should the industry experience an unexpected increase in trade demand, oil in the Native spearmint oil reserve pool could be released through an intra-seasonal increase to satisfy that demand.

The Committee recommended an allotment percentage of 43 percent for the 2022–2023 marketing year. During its October 13, 2021, meeting, the Committee calculated an initial allotment percentage of 35.8 percent by dividing the minimum required salable quantity to satisfy estimated trade demand (915,643 pounds) by the total allotment base (2,561,090 pounds). However, producers and handlers at the meeting expressed that the computed percentage of 35.8 percent may not adequately supply the potential 2022–2023 marketing year Native spearmint oil market demand or result in adequate carry-in for the subsequent marketing year. After deliberation, the Committee increased the recommended allotment percentage to 43 percent. The total estimated allotment base (2,561,090 pounds) for the 2022–2023 marketing year multiplied by the recommended salable allotment percentage (43 percent) yields 1,101,269 pounds, the recommended salable quantity for the year.

The 2022–2023 marketing year computational data for the Committee's recommendations is further outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2022: 284,357 pounds.* This figure is the difference between the 2021–2022 marketing year total available supply of 1,350,357 pounds and the revised 2021–2022 marketing year estimated trade demand of 1,066,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2022–2023 marketing year: 1,200,000 pounds.* This estimate was established by the Committee at the October 13, 2021, meeting.

(C) *Salable quantity of Native spearmint oil required from the 2022–2023 marketing year production: 915,643 pounds.* This figure is the difference between the 2022–2023 marketing year estimated trade demand (1,200,000 pounds) and the estimated carry-in on June 1, 2022 (284,357 pounds). This is the minimum amount of Native spearmint oil that the Committee believes will be required to meet the anticipated 2022–2023 marketing year trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2022–2023 marketing year: 2,561,090 pounds.* This figure represents a one-percent increase over the 2021–2022 total actual allotment base of 2,535,733 pounds as prescribed in § 985.53(d). The one-percent increase equals 25,357 pounds of oil. This estimate is revised each year on June 1, to adjust for the bona fide effort production provisions of § 985.53(e).

(E) *Computed Native spearmint oil allotment percentage for the 2022–2023 marketing year: 35.8 percent.* This percentage is calculated by dividing the required salable quantity (915,643 pounds) by the total estimated allotment base (2,561,090 pounds) for the 2022–2023 marketing year.

(F) *Recommended Native spearmint oil allotment percentage for the 2022–2023 marketing year: 43 percent.* This is the Committee's recommendation based on the computed allotment percentage (35.8 percent) and input from producers and handlers at the October 13, 2021, meeting. The recommended 43 percent allotment percentage is also based on the Committee's belief that the computed percentage (35.8 percent) may not adequately supply the potential market for Native spearmint oil in the 2022–2023 marketing year or allow for salable Native spearmint oil to be carried into the beginning of the 2023–2024 marketing year.

(G) *Recommended Native spearmint oil 2022–2023 marketing year salable quantity: 1,101,269 pounds.* This figure is the product of the recommended allotment percentage (43 percent) and the total estimated allotment base (2,561,090 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2022–2023 marketing year: 1,385,626 pounds.* This figure is the sum of the 2022–2023 recommended salable quantity (1,101,269 pounds) and the estimated carry-in on June 1, 2022 (284,357 pounds). This amount could be increased, as needed, through an intra-seasonal increase in the salable quantity and allotment percentage.

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 832,546 pounds and 37 percent, and 1,101,269 pounds and 43 percent, respectively, is expected to match the available supply of each class of spearmint oil to the estimated demand of each, thus avoiding extreme fluctuations in inventories and prices. This rule is similar to regulations issued in prior seasons.

The salable quantities in this final rule are not expected to cause a shortage

of either class of spearmint oil. Any unanticipated or additional market demand for either class of spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity and corresponding allotment percentage. The Order contains a provision in § 985.51 for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions.

Under volume regulation, producers who produce more than their annual allotments during the marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment. In addition, on December 1 of each year, producers who have not transferred their excess spearmint oil to other producers must place their excess spearmint oil production into the reserve pool to be released in the future, in accordance with market needs and under the Committee's direction.

AMS has reviewed the Committee's marketing policy statement for the 2022–2023 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, meets the requirements of §§ 985.50 and 985.51.

The establishment of the salable quantities and allotment percentages in this rule are expected to allow for anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This rule also provides producers with information regarding the amount of spearmint oil that should be produced for the 2022–2023 season to meet anticipated market demand.

Final Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 39 producers of Scotch spearmint oil and 93 producers of Native spearmint oil operating within the regulated production area. In addition, there are approximately 9 spearmint oil handlers (both Scotch and Native spearmint) subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $30,000,000, and small agricultural producers are defined as those having annual receipts of less than $2,250,000 (NAICS code 111998, All Other Miscellaneous Crop Farming) (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil have ranged from $14.00 to $17.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2020 U.S. season average spearmint oil producer price per pound was $16.90. Spearmint oil utilization for the 2020–2021 marketing year, as reported by the Committee, was 488,484 pounds and 1,332,260 pounds for Scotch and Native spearmint oil, respectively, for a total of 1,820,744 pounds. Multiplying $16.90 per pound by 2020–2021 marketing year spearmint oil utilization of 1,820,744 pounds yields a crop value estimate of about $30.77 million.

Given the accounting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the $16.90 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 37 of the 39 Scotch spearmint oil producers and all of the 93 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Twenty percent of the 2020 producer price of ($16.90) is $3.38 which results in a handler free on board (f.o.b.) price per pound estimate of $20.28 ($16.90 + $3.38).

Multiplying this estimated handler f.o.b. price by the 2020–2021 marketing year total spearmint oil utilization of 1,820,744 pounds results in an estimated handler-level spearmint oil value of $36.92 million. Dividing this figure by the number of handlers (9) yields estimated average annual handler receipts of about $4.1 million, which is well below the SBA threshold for small agricultural service firms.

Furthermore, using confidential data on pounds handled by each handler, and the abovementioned estimated handler price per pound, the Committee reported that it is not likely that any of the nine handlers had 2020–2021 marketing year spearmint oil sales that exceeded the $30 million SBA threshold.

Therefore, in view of the foregoing, the majority of producers of spearmint oil may be classified as small entities, and all of the handlers of spearmint oil may be classified as small entities.

This final rule establishes the quantity of spearmint oil produced in the Far West, by class, which handlers may purchase from, or handle on behalf of, producers during the 2022–2023 marketing year. The Committee recommended this action to help maintain stability in the spearmint oil market by matching supply to estimated demand, thereby avoiding extreme fluctuations in supplies and prices. Establishing quantities that may be purchased or handled during the marketing year through volume regulation allows producers to coordinate their spearmint oil production with the expected market demand. Authority for this action is provided in §§ 985.50, 985.51, and 985.52 of the Order.

The Committee estimates the total trade demand for the 2022–2023 marketing year for both classes of oil at 1,850,000 pounds. In addition, the Committee expects that the combined salable carry-in for both classes of spearmint oil will be 623,252 pounds. As such, the combined required salable quantity for the 2022–2023 marketing year is estimated to be 1,226,748 pounds (1,850,000 pounds trade demand less 623,252 pounds carry-in). Under volume regulation, total sales of spearmint oil by producers for the 2022–2023 marketing year will be held to 2,557,067 pounds (the recommended salable quantity for both classes of spearmint oil of 1,933,815 pounds plus 623,252 of carry-in).

This total available supply of 2,557,067 pounds should be more than adequate to supply the 1,850,000 pounds of anticipated total trade demand for spearmint oil. In addition, as of May 31, 2021, the total reserve pool for both classes of spearmint oil stood at 1,272,153 pounds. That quantity is expected to remain relatively unchanged over the course of the 2021–2022 marketing year, with current Committee reserve pool estimates totaling 1,336,471 pounds. Should trade demand increase unexpectedly during

the 2022–2023 marketing year, reserve pool spearmint oil could be released into the market to supply that increase in demand.

The recommended allotment percentages, upon which 2022–2023 marketing year annual allotments are based, are 37 percent for Scotch spearmint oil and 43 percent for Native spearmint oil. Without volume regulation, producers would not be held to these allotment levels, and could sell unrestricted quantities of spearmint oil.

The AMS econometric model used to evaluate the Far West spearmint oil market estimated that the season average producer price per pound (from both classes of spearmint oil) would decline about $2.70 per pound without volume regulation. The surplus situation for the spearmint oil market that would exist without volume regulation in the 2022–2023 marketing year also would likely dampen prospects for improved producer prices in future years because of the excessive buildup in stocks.

In addition, spearmint oil prices would likely fluctuate with greater amplitude in the absence of volume regulation. The coefficient of variation, or CV (a standard measure of variability), of Far West spearmint oil producer prices for the period 1980–2020 (the years in which the Order has been in effect), is 24 percent, compared to 49 percent for the 20-year period (1960–1979) immediately prior to the establishment of the Order. Since higher CV values correspond to greater variability, this is an indicator of the price stabilizing impact of the Order.

The use of volume regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume regulation is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations contained in this rule for both classes of spearmint oil. The Committee rejected the idea of not regulating volume for either class of spearmint oil because of the severe, price-depressing effects that would likely occur without volume regulation. The Committee also discussed and considered salable quantities and allotment percentages that were above and below the levels that were eventually recommended for both classes of spearmint oil. Ultimately, the action recommended by the Committee was to slightly reduce the allotment percentage and salable quantity for Scotch spearmint oil and to increase the salable quantity and allotment percentage for Native spearmint oil from the levels established for the 2021–2022 marketing year.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil; (4) the total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity.

Based on its review, the Committee believes that the salable quantities and allotment percentages established in this rule will achieve the objectives sought. The Committee also believes that, should there be no volume regulation in effect for the upcoming marketing year, the Far West spearmint oil industry would return to the pronounced cyclical price patterns that occurred prior to the promulgation of the Order. As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the Order's inception. The salable quantities and allotment percentages established herein are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2022–2023 and future marketing years.

Costs to producers and handlers, large and small, resulting from this action are expected to be offset by the benefits derived from a more stable market and increased returns. The benefits of this rule are expected to be equally available to all producers and handlers regardless of their size.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes are necessary in those requirements as a result of this rule. Should any changes become necessary, they would be submitted to OMB for approval.

This rule establishes the salable quantities and allotment percentages for Scotch spearmint oil and Native spearmint oil produced in the Far West during the 2022–2023 marketing year. Accordingly, this rule does not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on February 14, 2022 (87 FR 8211). Copies of the proposed rule were also mailed or sent via email to all Far West spearmint oil handlers. The proposal was made available through the internet by AMS and the Office of the Federal Register. A 60-day comment period ending April 15, 2022, was provided for interested persons to respond to the proposal. No comments were received during the comment period. Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service is amending 7 CFR part 985 as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Add § 985.237 to read as follows:

§ 985.237 Salable quantities and allotment percentages—2022–2023 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2022, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 832,546 pounds and an allotment percentage of 37 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,101,269 pounds and an allotment percentage of 43 percent.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–13446 Filed 6–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Parts 1710, 1735, 1737, 1738, 1739, 1740, 1774, 1775, 1776, 1777, 1778, 1780, 1783, 1942, 1980, 3570, 4274, 4279, 4280, 4284, 4288, 4290, and 5001

[Docket No. RHS–22–Agency–0013]

Rural Development Policy on Exclusion of Populations

AGENCY: Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service, Rural Business-Cooperative Service, and Rural Utilities Service, agencies in the United States Department of Agriculture (USDA) Rural Development Mission area, are issuing a final rule to implement the exclusion of certain populations from the definition of ''Rural area.'' The rule updates the definition of ''Rural area'' for every Rural Development program using the Consolidated Farm and Rural Development Act (CONAct) definition to conform to the revision to the statutory definition in the 2018 Farm Bill.

DATES: This rule is effective June 29, 2022.

FOR FURTHER INFORMATION CONTACT: John Delaney, Senior Advisor, Rural Development Innovation Center, USDA, 202–720–9705 or *John.Delaney@usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Consolidated Farm and Rural Development Act (CON Act) and the Rural Electrification Act (RE Act) authorize USDA assistance programs for agriculture and rural development in America's rural areas. Section 6301 of the Agriculture Improvement Act of 2018 (2018 Farm Bill) allows for the exclusion of certain prison and military populations from the definition of rural area contained in the CON Act and used in the RE Act.

This rule updates the definition of ''Rural area'' to adopt the statutory definition provided in the 2018 Farm Bill for affected programs that have not already been updated. Section 6301 of the Farm Bill amends the rural definition in Section 343(a)(13) of the Con Act and excludes the following from rural area population counts: (1) individuals incarcerated on a long-term or regional basis, and (2) the first 1,500 individuals who reside in housing located on a military base

Rural Development has updated its eligibility mapping tools to include areas that are now eligible under the revised statutory definition. Notwithstanding those updates, any community or member of the community who believes that their community should be included may contact the individual identified in the **FOR FUTHER INFORMATION CONTACT** section of this rule.

The Administrative Procedures Act exempts from prior notice any actions ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' (5 U.S.C. 553(b)(A)): therefore, Rural Development is issuing this action as a final rule.

Authority

The authority for this final rule comes from the Agricultural Improvement Act of 2018, Public Law 115–334, sec. 6301 (2018) (2018 Farm Bill) and applies to all programs under the Con Act and RE Act.

Executive Order 12372—Intergovernmental Consultation

This final rule is not subject to the requirements of Executive Order 12372, ''Intergovernmental Review,'' as implemented under USDA's regulations at 2 CFR part 415, subpart C, because this final rule provides general guidance on population exclusions as a whole. Applications for Agency programs will be reviewed individually under Executive Order 12372 as required by program procedures.

Executive Order 12866—Classification

This final rule is not subject to the provisions of Executive Order 12866 because it adopts statutory language that instructs the agency on how to qualify eligible projects, therefore, it has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

This final rule has been reviewed under Executive Order 12988. In accordance with this final rule: (1) unless otherwise specifically provided, all State and local laws that conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this rule.

Executive Order 13132—Federalism

The policies contained in this final rule do not have any 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. This final rule does not impose substantial direct compliance costs on State and local governments; therefore, consultation with States is not required.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this final rule as not a major rule, as defined by 5 U.S.C. 804(2).

National Environmental Policy Act

This rule has been reviewed in accordance with 7 CFR part 1970, Subpart A, ''Environmental Policies.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the environment. In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature on this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program nor does it require any more action on the part of a small business than required of a large entity.

Unfunded Mandate Reform Act (UMRA)

Title II of the UMRA, Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal Governments and on the private sector. Under section 202 of the UMRA, Federal Agencies generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal Governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires a Federal Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This final rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal Governments or for the private sector. Therefore, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

This final rule contains no reporting or recordkeeping provisions requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act by promoting the use of the internet and other Information Technologies in order to provide increased opportunities for citizen access to Government information, services, and other purposes.

Programs Affected

The programs affected by this regulation are listed in the Assistance Listing Catalog (formerly Catalog of Federal Domestic Assistance) under numbers:

10.752—Rural eConnectivity Pilot Program.
10.759—Special Evaluation Assistance for Rural Communities and Households (SEARCH).
10.760—Water & Waste Disposal System Systems for Rural Communities.
10.761—Technical Assistance and Training Grants.
10.762—Solid Waste Management Grants.
10.763—Emergency Community Water Assistance Grants.
10.770—Water & Waste Disposal Loan and Grants (Section 306C).
10.771—Rural Cooperative Development Grants.
10.766—Community Facilities Loans and Grants.
10.768—Business and Industry Loans.
10.850—Rural Electrification Loans and Loan Guarantees.
10.851—Rural Telephone Loans and Loan Guarantees.
10.854—Rural Economic Development Loans and Grants.
10.860—Rural Business Investment Program
10.862—Rural Decentralized Water Systems Grant Program.
10.863—Community Connect Grants.
10.864—Grant Program to Establish a Fund for Financing Water and Wastewater Projects.
10.865—Biorefinery Assistance Program.
10.867—Bioenergy Program for Advanced Biofuels.
10.868—Rural Energy for America Program.
10.870—Rural Microentrepreneur Assistance Program.
10.886—Rural Broadband Access Loan and Loan Guarantee Program.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 imposes requirements on Rural Development in the development of regulatory policies that have tribal implications or preempt tribal laws. Rural Development has determined that this final rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian tribes. Thus, this final rule is not subject to the requirements of Executive Order 13175. If tribal leaders are interested in consulting with Rural Development on this final rule, they are encouraged to contact USDA's Office of Tribal Relations or Rural Development's Native American Coordinator at: *AIAN@usda.gov* to request such a consultation.

Civil Rights Impact Analysis

Rural Development has reviewed this final rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the rule and available data, it has been determined that issuance of this Final Rule will neither adversely nor disproportionately impact very low, low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their race, color, national origin, sex, age, disability, or marital or familial status.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering 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, familial/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.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720–2600 (voice and TTY); or the Federal Relay Service at (800) 877–8339.

(1) To file a program discrimination complaint, a complainant should complete Form AD–3027, USDA Program Discrimination Complaint Form, which can be obtained online at *https://www.ocio.usda.gov/document/ad-3027,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged

discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by: Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) Fax: (202) 690–7442; or

(3) EMail: *program.intake@usda.gov.*

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List of Subjects

7 CFR Part 1710

Electric power, Grant programs—energy, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1735

Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

7 CFR Part 1737

Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

7 CFR Part 1738

Fees, Loan programs—communications, Rural areas, Telecommunications, Telephone.

7 CFR Part 1739

Grant programs—communications, Rural areas, Telecommunications, Telephone.

7 CFR Part 1740

Broadband, Community development, Grant programs—communications, Loan programs—communications, Rural areas, Telecommunications.

7 CFR Part 1774

Community development, Grant programs, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply.

7 CFR Part 1775

Business and industry, Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1776

Agriculture, Community development, Community facilities, Credit, Grant programs-housing and community development, Nonprofit organizations, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds.

7 CFR Part 1777

Community development, Community facilities, Grant programs-housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1778

Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds

7 CFR Part 1780

Community development, Community facilities, Grant programs-housing and community development, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds

7 CFR Part 1783

Business and industry, Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds

7 CFR Part 1942

Business and industry, Community facilities, Fire prevention, Grant programs-business, Grant programs-housing and community development, Grant programs-Indians, Indians, Loan programs-agriculture, Loan programs-housing and community development, Loan programs-Indians, Loan programs-natural resources, Reporting and recordkeeping requirements, Rural areas, Soil conservation, Waste treatment and disposal, Water supply, Watersheds

7 CFR Part 1980

Agriculture, Business and industry, Community facilities, Credit, Disaster assistance, Livestock, Loan programs-agriculture, Loan programs-business, Loan programs-housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas

7 CFR Part 3570

Administrative practice and procedure, Fair housing, Grant programs-housing and community development, Housing, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas

7 CFR Part 4274

Community development, Loan programs-business, Reporting and recordkeeping requirements, Rural areas

7 CFR Part 4279

Community Development, Energy, Energy conservation, Fees, Grant programs, Loan programs-business, Loan programs-housing and community development, Renewable energy, Reporting and recordkeeping requirements, Rural areas

7 CFR Part 4280

Business and industry, Energy, Grant programs-business, Loan programs-business, Rural areas

7 CFR Part 4284

Business and industry, Community development, Community facilities, Grant programs-housing and community development, Loan programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply

7 CFR Part 4288

Administrative practice and procedure, Biobased products, Energy, Reporting and recordkeeping requirements

7 CFR Part 4290

Community development, Government securities, Grant programs-business, Reporting and recordkeeping requirements, Rural areas, Securities, Small businesses

7 CFR Part 5001

Business and industry, Community facility, Energy efficiency improvement, Loan programs, Renewable energy, Rural areas, Rural development, Water and waste disposal.

For the reasons set forth in the preamble, the Agency amends 7 CFR chapters XVII, XVIII, and XLII as follows:

PART 1710—GENERAL AND PRE–LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES

■ 1. The authority citation for part 1710 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* and 6941 *et seq.*

Subpart A—General

■ 2. Amend § 1710.2 in paragraph (a) by revising the definition of *Rural area* to read as follows:

§ 1710.2 Definitions and rules of construction.

(a) * * *

Rural area means—

(i) Any area of the United States, its territories and insular possessions (including any area within the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau) other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants;

(ii) Any area within a service area of a borrower for which a borrower has an outstanding loan as of June 18, 2008, made under titles I through V of the Rural Electrification Act of 1936 (7 U.S.C. 901–950bb). For initial loans to a borrower made after June 18, 2008, the ''rural'' character of an area is determined at the time of the initial loan to furnish or improve service in the area; and

(iii) Which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM

■ 3. The authority citation for part 1735 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* and 6941 *et seq.*

Subpart A—General

■ 4. Amend § 1735.2 by revising the first sentence in the definition of *Rural area* to read as follows:

§ 1735.2 Definitions.

* * * * *

Rural area means any area of the United States, its territories and insular possessions (including any area within the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) not included within the boundaries of any incorporated or unincorporated city, village or borough having a population exceeding 5,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1737—PRE–LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS

■ 5. The authority citation for part 1737 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq,.* and 6941 *et. seq.*

Subpart A—General

■ 6. Amend § 1737.2 by revising the first sentence in the definition of *Rural area* to read as follows:

§ 1737.2 Definitions

* * * * *

Rural area means any area of the United States, its territories and possessions (including any area within the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) not included within the boundaries of any incorporated or unincorporated city, village or borough having a population exceeding 5,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1738—RURAL BROADBAND LOANS/GRANT COMBINATIONS, AND LOAN GUARANTEES

■ 7. The authority citation for part 1738 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

Subpart A—General

■ 8. Amend § 1738.2 in paragraph (a) by revising paragraph (iii) of the definition for *Rural area(s)* to read as follows:

§ 1738.2 Definitions.

* * * * *

Rural area(s) * * *

(iii) Which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

PART 1739—BROADBAND GRANT PROGRAM

■ 9. The authority citation for part 1739 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

Subpart A—Community Connect Grant Program

■ 10. Amend § 1739.3 by revising the first sentence in paragraph (2) of the definition of *Rural area* to read as follows:

§ 1739.3 Definitions.

* * * * *

Rural area * * *

(2) An urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1740—RURAL ECONNECTIVITY PROGRAM

■ 11. The authority citation for part 1740 continues to read as follows:

Authority: 7 U.S.C. 1981(b)(4), 7 U.S.C. 901 *et seq.,* 7 U.S.C. 950aaa *et seq.,* and 7 U.S.C. 950cc.

Subpart A—General

■ 12. Amend § 1740.2 in paragraph (a) by revising the definition of *Rural area* to read as follows:

§ 1740.2 Definitions.

* * * * *

Rural area means any area that is not located within:

(i)(A) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or

(B) An urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants as defined in the Agency mapping tool.

(ii) In determining a rural area, all areas shall exclude certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

PART 1774—SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM (SEARCH)

■ 13. The authority citation for part 1774 continues to read as follows:

Authority: 7 U.S.C. 1926(a)(2)(C).

Subpart A—General Provisions

■ 14. Amend § 1774.2 by revising the definition of *Rural area* to read as follows:

§ 1774.2 Definitions.

* * * * *

Rural area. For the purposes of this SEARCH program, any communities in a city, town, or unincorporated area with populations of 2,500 or fewer inhabitants, according to the most recent decennial Census of the United States (decennial Census), and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

PART 1775—TECHNICAL ASSISTANCE GRANTS

■ 15. The authority citation for part 1775 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—General Provisions

■ 16. Amend § 1775.2 by revising the first sentence in the definition of *Rural area* to read as follows:

§ 1775.2 Definitions.

* * * * *

Rural area. Any area not in a city or town with a population in excess of 10,000, according to the most recent decennial Census of the United States, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1776—RURAL DECENTRALIZED WATER SYSTEMS

■ 17. The authority citation for part 1776 continues to read as follows:

Authority: 7 U.S.C. 1926e.

Subpart A—General

■ 18. Amend § 1776.3 by revising the definition of *Rural area* to read as follows:

§ 1776.3 Definitions.

* * * * *

Rural area means any area other than a city or town that has a population of greater than 50,000 inhabitants, the urbanized area contiguous and adjacent to such city or town, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

PART 1777—SECTION 306C WWD LOANS AND GRANTS

■ 19. The authority citation for part 1777 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

■ 20. Amend § 1777.4 by revising the first sentence in the definition of *Rural areas* to read as follows:

§ 1777.4 Definitions.

* * * * *

Rural areas. Includes unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants located in any of the 50 States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1778—EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANTS

■ 21. The authority citation for part 1778 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

■ 22. Amend § 1778.4 by revising the first sentence in the definition of *Rural areas* to read as follows:

§ 1778.4 Definitions.

* * * * *

Rural areas. Includes any area not in a city or town with a population in excess of 10,000 inhabitants located in any of the fifty States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1780—WATER AND WASTE LOANS AND GRANTS

■ 23. The authority citation for part 1780 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—General Policies and Requirements

■ 24. Amend § 1780.3 in paragraph (a) by revising the first sentence in the definition of *Rural and rural area* to read as follows:

§ 1780.3 Definitions and grammatical rules of construction.

(a) * * *

Rural and rural areas mean any area not in a city or town with a population in excess of 10,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 1783—REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS (REVOLVING FUND PROGRAM)

■ 25. The authority citation for part 1783 continues to read as follows:

Authority: 7 U.S.C. 1926(a)(2)(B).

Subpart A—General

■ 26. Amend § 1783.3 by revising the definition of *Rural and rural area* to read as follows:

§ 1783.3 What definitions are used in this regulation?

* * * * *

Rural and rural area means a city, town or unincorporated area that has a population of no more than 10,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). The population figure is obtained from the most recent decennial Census of the United States (decennial Census).

* * * * *

PART 1942—ASSOCIATIONS

■ 27. The authority citation for part 1942 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart A—Community Facility Loans

■ 28. Amend § 1942.17 by removing paragraph (b)(2)(iii) and redesignating paragraph (b)(2)(iv) as (b)(2)(iii) and revising it to read as follows:

§ 1942.17 Community facilities.

* * * * *

(b) * * *

(2) * * *

(iii) For essential community facilities, the terms *rural* and *rural area* will not include any area in any city or town with a population in excess of 20,000 inhabitants, but excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). The population figure is obtained from the most recent decennial Census. If the applicable population figure cannot be obtained from the most recent decennial Census, RD will determine the applicable population figure based on available population data.

* * * * *

PART 1980—GENERAL

■ 29. The authority citation for part 1980 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989. Subpart E also issued under 7 U.S.C. 1932(a).

Subpart E—Business and Industrial Loan Program

■ 30. Amend § 1980.405 by revising the introductory text to read as follows:

§ 1980.405 Rural areas.

The business financed with a B&I loan must be located in a rural area. Loans to borrowers with facilities located in both

rural and non-rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area. Cooperatives that are headquartered in a non-rural area may be eligible for a B&I loan if the loan is used for a project or venture that is located in a rural area. Rural areas are any areas other than a city or town that has a population of greater than 50,000 inhabitants, the urbanized area contiguous and adjacent to such a city or town, as defined by the U.S. Bureau of the Census, and which exclude certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). For the purpose of this section:

* * * * *

PART 3570—COMMUNITY PROGRAMS

■ 31. The authority citation for part 3570 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989.

Subpart B—Community Facilities Grant Program

■ 32. Amend § 3570.53 by revising the definition of *Rural and rural area* to read as follows:

§ 3570.53 Definitions.

* * * * *

Rural and rural area. The terms ''rural'' and ''rural area'' mean a city, town, or unincorporated area that has a population of 20,000 inhabitants or less and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). The population figures are obtained from the most recent decennial Census of the United States (decennial Census).

* * * * *

PART 4274—DIRECT AND INSURED LOANS

■ 33. The authority citation for part 4274 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1932 note; 7 U.S.C. 1989.

Subpart D—Intermediary Relending Program (IRP)

■ 34. Amend § 4274.302 by revising the first sentence in the introductory text of the definition of *Rural or rural area* to read as follows:

§ 4274.302 Definitions.

* * * * *

Rural or rural area. Any area of a State not in a city or town that has a population of more than 50,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I), according to the latest decennial census of the United States and not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants. * * *

* * * * *

PART 4279—GUARANTEED LOANMAKING

■ 35. The authority citation for part 4279 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 7 U.S.C. 310B(a)(2); 7 U.S.C 8103.

Subpart B—Business and Industry Loans

■ 36. Amend § 4279.108 by revising paragraph (c)(1) to read as follows:

§ 4279.108 Eligible borrowers.

* * * * *

(c) * * *

(1) Rural areas are any area of a State other than a city or town that has a population of greater than 50,000 inhabitants and any urbanized area contiguous and adjacent to such a city or town, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). In making this determination, the Agency will use the latest decennial census of the United States.

* * * * *

Subpart C—Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Loans

■ 37. Amend § 4279.202 by revising the definition of *Rural or rural area* to read as follows:

§ 4279.202 Definitions and abbreviations.

* * * * *

Rural or rural area. As described in 7 U.S.C. 1991(a)(13)(A), (D), (H) and (I).

* * * * *

PART 4280—LOANS AND GRANTS

■ 38. The authority citation for part 4280 continues to read as follows:

Authority: 7 U.S.C. 1989(a); 7 U.S.C. 2008s.

Subpart A—Rural Economic Development Loan and Grant Programs

■ 39. Amend § 4280.3 by revising the definition of *Rural area* to read as follows:

§ 4280.3 Definitions.

* * * * *

Rural area. This information will be taken from the most recent census data. Any area other than:

(1) A city or town that has a population of greater than 50,000 inhabitants;

(2) The urbanized area contiguous and adjacent to such a city or town; and

(3) Which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

Subpart B—Rural Energy for America Program

■ 40. Amend § 4280.103 by revising the first sentence of the introductory text in the definition of *Rural or rural area* to read as follows:

§ 4280.103 Definitions.

* * * * *

Rural or rural area. Any area of a State not in a city or town that has a population of more than 50,000 inhabitants, not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and excluding certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

Subpart D—Rural Microentrepreneur Assistance Program

■ 41. Amend § 4280.302 in paragraph (a) by revising the first sentence of the introductory text in the definition of *Rural or rural area* to read as follows:

§ 4280.302 Definitions and abbreviations.

(a) * * *

Rural or rural area. Any area of a State not in a city or town that has a population of more than 50,000 inhabitants, not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and excluding certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

PART 4284—GRANTS

■ 42. The authority citation for part 4284 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C.1989.

Subpart A—General Requirements for Cooperative Services Grant Programs

■ 43. Amend § 4284.3 by revising the definition for *Rural and rural area* to read as follows:

§ 4284.3 Definitions.

* * * * *

Rural and rural area—includes all the territory of a state that is not within the outer boundary of any city or town

having a population of 50,000 or more and the urbanized area contiguous and adjacent to such city or town, as defined by the U.S. Bureau of the Census using the most recent decennial Census of the United States, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I).

* * * * *

PART 4288—PAYMENT PROGRAM

■ 44. The authority citation for part 4288 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C.1989.

Subpart A—Repowering Assistance Payments to Eligible Biorefineries

■ 45. Amend § 4288.2 by revising the introductory text of the definition of *Rural or rural area* to read as follows:

§ 4288.2 Definitions.

* * * * *

Rural or rural area. Any area of a State not in a city or town that has a population of more than 50,000 inhabitants according to the most recent decennial Census of the United States, not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I), as well as any area that has been determined to be ''rural in character'' by the Under Secretary for Rural Development, or as otherwise identified in this definition.

* * * * *

PART 4290—RURAL BUSINESS INVESTMENT COMPANY (RBIC) PROGRAM

■ 46. The authority citation for part 4290 continues to read as follows:

Authority: 7 U.S.C.1989 and 2009cc *et seq.*

Subpart B—Definition of Terms Used in Part 4290

■ 47. Amend § 4290.50 by revising the introductory text of the definition of *Rural area* to read as follows:

§ 4290.50 Definition of terms.

* * * * *

Rural area means any area of a State not in a city or town that has a population of more than 50,000 inhabitants according to the most recent decennial Census of the United States (decennial Census), not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I), as well as any area that has been determined to be ''rural in character'' by the Under Secretary for Rural Development, or as otherwise identified in this definition.

* * * * *

PART 5001—GUARANTEED LOANS

■ 48. The authority citation for part 5001 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1926(a); 7 U.S.C. 1932(a); and 7 U.S.C. 8107.

Subpart A—General Provisions

■ 49. Amend § 5001.3 by revising the first sentence in the introductory text of the definition for *Rural* and *rural area* to read as follows:

§ 5001.3 Definitions.

* * * * *

Rural and *rural area* means any area of a State not in a city or town that has a population of more than 50,000 inhabitants, not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H) and (I). * * *

* * * * *

Justin Maxson,

Deputy Under Secretary, Rural Development.

[FR Doc. 2022–13857 Filed 6–28–22; 8:45 am]

BILLING CODE 3410–XV–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1773]

RIN 7100–AG32

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

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

DATES:

Effective date: The amendments to part 201 (Regulation A) are effective June 29, 2022.

Applicability date: The rate changes for primary and secondary credit were applicable on June 16, 2022.

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

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

On June 15, 2022, the Board voted to approve a 0.75 percentage point increase in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 1 percent to 1.75 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks increased by 0.50 percentage points as a result of the Board's primary credit rate action, thereby increasing from 1.50 percent to 2.25 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect these rate changes.

The 0.75 percentage point increase in the primary credit rate was associated with a 0.75 percentage point increase in the target range for the federal funds rate (from a target range of ¾ percent to 1 percent to a target range of 1½ percent to 1¾ percent) announced by the Federal Open Market Committee on June 15, 2022, as described in the Board's amendment of its Regulation D published elsewhere in today's **Federal Register**.

Administrative Procedure Act

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

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

Regulatory Flexibility Analysis

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

Paperwork Reduction Act

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

List of Subjects in 12 CFR Part 201

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

Authority and Issuance

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

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

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

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

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

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

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 1.75 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 2.25 percent.

* * * * *

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

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2022–13834 Filed 6–28–22; 8:45 am]

BILLING CODE 6210–02–P

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

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

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

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

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

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

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

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1774; RIN 7100–AG33]

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') has adopted final amendments to its Regulation D to revise the rate of interest paid on balances (''IORB'') maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 1.65 percent, a 0.75 percentage point increase from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (''FOMC'' or ''Committee'').

DATES: *Effective date:* The amendments to part 204 (Regulation D) are effective June 29, 2022.

Applicability date: The IORB rate change was applicable on June 16, 2022.

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

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (''Act'') imposes reserve requirements on certain types of deposits and other liabilities of depository institutions.[1] Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (''Reserve Bank'').[2] Section 19 also

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

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

provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[3] Institutions that are eligible to receive earnings on their balances held at Reserve Banks (''eligible institutions'') include depository institutions and certain other institutions.[4] Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[5] Prior to these amendments, Regulation D established IORB at 0.90 percent.[6]

II. Amendment to IORB

The Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 1.65 percent. The amendment represents a 0.75 percentage point increase in IORB. This decision was announced on June 15, 2022, with an effective date of June 16, 2022, in the Federal Reserve Implementation Note that accompanied the FOMC's statement on June 15, 2022. The FOMC statement stated that the Committee decided to raise the target range for the federal funds rate to 1½ to 1¾ percent].

A Federal Reserve Implementation note stated:

> The Board of Governors of the Federal Reserve System voted unanimously to raise the interest rate paid on reserve balances to 1.65 percent, effective June 16, 2022.

As a result, the Board is amending § 204.10(b)(1) of Regulation D to establish IORB at 1.65 percent.

III. Administrative Procedure Act

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

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

IV. Regulatory Flexibility Analysis

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

V. Paperwork Reduction Act

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

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

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

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

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

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

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

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate (''IORB rate'') on a day multiplied by the total balances maintained on that day. The IORB rate is 1.65 percent.

* * * * *

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

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2022–13835 Filed 6–28–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0691; Project Identifier AD–2022–00601–E; Amendment 39–22098; AD 2022–13–12]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) GE Passport 20–17BB1A, GE Passport 20–18BB1A, and GE Passport 20–19BB1A model turbofan engines. This AD was prompted by fuel leakage from the fuel nozzle to fuel manifold coupling nut connections. This AD requires a visual inspection of the core compartment, a re-torque of the core compartment coupling nuts, a ground power assurance check, and a borescope

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

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

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

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

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

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

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

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

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

inspection. Depending on the results of the inspections, this AD requires operators to perform applicable maintenance in accordance with their FAA-approved instructions for continued airworthiness. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 14, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 14, 2022.

The FAA must receive comments on this AD by August 15, 2022.

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

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

For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–5387; email: *aviation.fleetsupport@ge.com;* website: *www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0691.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0691; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; email: *Scott.M.Stevenson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2022, and April 4, 2022, two Bombardier Inc. BD–700–2A12 airplanes (marketed as Global 7500 airplanes), powered by GE Passport P20–19BB1A and GE Passport P20–18BB1A model turbofan engines, respectively, experienced an engine fire during flight. The engine fire on the GE Passport P20–19BB1A resulted in a commanded in-flight shutdown (IFSD) and air turnback (ATB). The engine fire on the GE Passport P20–18BB1A resulted in an ATB. A subsequent investigation by the manufacturer found evidence of fuel leakage on the lower outboard core panel, aft end of the bifi plate, ignition lead, and fuel manifold B-nut connections. The investigation also found that fuel nozzle to fuel manifold B-nut connections were under-torqued on both event engines and the fuel leak at the fuel nozzle B-nut connections likely caused the engine fires. As a result, the manufacturer published GE Service Bulletin (SB) PASSPORT20–A–72–00–0141–00A–930A–D, Issue No 000, dated April 12, 2022, and GE SB PASSPORT20–A–72–00–0142–00A–930A–D, Issue No 001, dated May 11, 2022. The service information specifies procedures for the performance of a visual inspection of the fuel nozzle zone in the core compartment for indications of fuel leakage, undetected fire, or heat distress, re-torque of the coupling nuts in the core compartment, a ground power assurance check, and a borescope inspection. This condition, if not addressed, could result in engine fire, failure of the engine, in-flight shutdown, and loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE SB PASSPORT20–A–72–00–0142–00A–930A–D, Issue No 001, dated May 11, 2022 (GE SB PASSPORT20–A–72–00–0142). GE SB PASSPORT20–A–72–00–0142 specifies procedures for the performance of a visual inspection, a re-torque of the coupling nuts in the core compartment, a ground power assurance check, and a borescope inspection. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA reviewed GE SB PASSPORT20–A–72–00–0141–00A–930A–D, Issue No 000, dated April 12, 2022 (GE SB PASSPORT20–A–72–00–0141). GE SB PASSPORT20–A–72–00–0141 specifies procedures for the performance of a borescope inspection of the core compartment for indications of fuel leak or fire.

AD Requirements

This AD requires a visual inspection of the core compartment, re-torque of the core compartment coupling nuts, a ground power assurance check, and a borescope inspection. Depending on the results of the inspections, this AD requires operators to perform applicable maintenance in accordance with their FAA-approved instructions for continued airworthiness.

Differences Between the AD and the Service Information

GE SB PASSPORT20–A–72–00–0142–00A–930A–D specifies procedures for reporting information to the manufacturer. This AD does not require operators to report information to the manufacturer.

GE SB PASSPORT20–A–72–00–0142–00A–930A–D specifies procedures for contacting a GE field service engineer or 24/7 Business Aviation Support. This AD does not require operators to contact a GE field service engineer or 24/7 Business Aviation Support. Instead, this AD requires following an FAA-approved method to return the engine to service.

Interim Action

The FAA considers this AD to be an interim action. This unsafe condition is still under investigation by the manufacturer and, depending on the results of that investigation, the FAA may consider further rulemaking action.

Justification for Immediate Adoption and Determination of the Effective Date

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

effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule. The FAA considers fuel leakage and engine fire to be an urgent safety issue. The visual inspection of the core compartment is necessary to prevent engine fire, IFSD, damage to the airplane, failure of the engine, and loss of control of the airplane. All GE Passport 20–17BB1A, Passport 20–18BB1A, and Passport 20–19BB1A model turbofan engines are equipped with fuel nozzle to fuel manifold coupling nut connections which were determined by the manufacturer to have the potential for under-torqueing, following two incidents of engine fire on airplanes wherein a fuel leak at the fuel nozzle coupling nut connection was likely the cause of the fire. Affected engines must undergo a visual inspection before exceeding 30, 50, or 75 flight cycles (FCs) after the effective date of this AD, depending on the engine's cycles since new (CSN). Re-torque of the core compartment coupling nuts is required within 30 or 100 FCs after the effective date of the AD, depending on the engine serial number. Current fleet utilization data estimates the flight cycles will be accumulated between 30 and 90 days after the effective date of this AD. For affected engines with indications of fuel leakage, undetected fire, or heat distress following a visual inspection of the core compartment, this AD requires operators to perform applicable maintenance in accordance with their FAA-approved instructions for continued airworthiness. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

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

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0691 and Project Identifier AD–2022–00601–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 42 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visual inspection of core compartment	2 work-hours × $85 per hour = $170	$0	$170	$7,140
Re-torque core compartment coupling nuts	31 work-hours × $85 per hour = $2,635	0	2,635	110,670
Ground power assurance check and borescope inspection.	4 work-hours × $85 per hour = $340	0	340	14,280

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–13–12 General Electric Company: Amendment 39–22098; Docket No. FAA–2022–0691; Project Identifier AD–2022–00601–E.

(a) Effective Date

This airworthiness directive (AD) is effective July 14, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GE Passport 20–17BB1A, GE Passport 20–18BB1A, and GE Passport 20–19BB1A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7240, Turbine Engine Combustion Section.

(e) Unsafe Condition

This AD was prompted by multiple engine fires that have occurred as a result of fuel leakage from the fuel nozzle to fuel manifold coupling nut connections. The FAA is issuing this AD to prevent fuel leakage from the fuel nozzle to fuel manifold coupling nut connections. The unsafe condition, if not addressed, could result in engine fire, failure of the engine, in-flight shutdown, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For all affected engines, within the compliance times specified in paragraphs (g)(1)(i) through (iii) of this AD, perform a visual inspection of the core compartment for indications of fuel leakage, undetected fire, and heat distress:

(i) For engines with less than or equal to 150 cycles since new (CSN) as of the effective date of this AD, inspect before exceeding 30 flight cycles (FCs) after the effective date of this AD.

(ii) For engines with 151 to 200 CSN as of the effective date of this AD, inspect before exceeding 50 FCs after the effective date of this AD.

(iii) For engines with greater than 200 CSN as of the effective date of this AD, inspect before exceeding 75 FCs after the effective date of this AD.

Note 1 to paragraph (g)(1): Guidance for accomplishing the actions required by paragraph (g)(1) of this AD can be found in GE Service Bulletin (SB) PASSPORT20–A–72–00–0141–00A–930A–D, Issue No. 000, dated April 12, 2022, or GE SB PASSPORT20–A–72–00–0142–00A–930A–D, Issue No. 001, dated May 11, 2022 (GE SB PASSPORT20–A–72–00–0142–00A–930A–D).

(2) If, during the visual inspection required by paragraph (g)(1) of this AD, there are indications of fuel leakage, undetected fire, or heat distress, before further flight, perform applicable maintenance in accordance with the FAA-approved instructions for continued airworthiness.

(3) For engines with engine serial number (ESN) 904257 or higher, before exceeding 30 FCs after the effective date of the AD, re-torque the core compartment coupling nuts in accordance with Accomplishment Instructions, 6.B., Procedure, paragraphs (8) through (24) of GE SB PASSPORT20–A–72–00–0142–00A–930A–D.

(4) For engines with ESN 904256 or lower, before exceeding 100 FCs after the effective date of the AD, re-torque the core compartment coupling nuts in accordance with Accomplishment Instructions, 6.B., Procedure, paragraphs (8) through (24) of GE SB PASSPORT20–A–72–00–0142–00A–930A–D.

(5) For all affected engines, before further flight after performing the required actions in paragraph (g)(3) or (4), as applicable, perform a ground power assurance check and a borescope inspection of the core compartment in accordance with Accomplishment Instructions, 6.B., Procedure, paragraphs (32) through (38) of GE SB PASSPORT20–A–72–00–0142–00A–930A–D.

(h) Exception to the Service Information

Where GE SB PASSPORT20–A–72–00–0142–00A–930A–D specifies contacting ''your GE field service engineer or 24/7 Business Aviation Support,'' this AD requires the engine to be serviced using FAA-approved maintenance procedures.

(i) No Reporting Requirements

The reporting requirements in the Accomplishment Instructions, 6.B., Procedure, paragraphs (11), (14), (18), (20), (23) and (36) of GE SB PASSPORT20–A–72–00–0142–00A–930A–D are not required by this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; email: *Scott.M.Stevenson@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) GE Service Bulletin PASSPORT20–A–72–00–0142–00A–930A–D, Issue No 001, dated May 11, 2022.

(ii) [Reserved]

(3) For service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *www.ge.com.*

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

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

Issued on June 14, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13710 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0788; Project Identifier AD–2021–00489–T; Amendment 39–22063; AD 2022–11–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–700, –800, and –900ER series airplanes. This AD was prompted by reports of incorrectly installed fuselage skin fasteners. This AD requires a detailed inspection of a certain body station bulkhead, between certain stringers, for any incorrectly installed fastener common to fuselage skin, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 3, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 3, 2022.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0788.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0788; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–700, –800, and –900ER series airplanes. The NPRM published in the **Federal Register** on October 13, 2021 (86 FR 56840). The NPRM was prompted by reports of incorrectly installed fuselage skin fasteners found at the station (STA) 727 bulkhead. This condition was the result of incorrect procedures used to install affected fasteners during airplane production that occurred within a certain time period. In the NPRM, the FAA proposed to require a detailed inspection of STA 727 body station bulkhead, between stringers S–22 and S–27, for any incorrectly installed fastener common to fuselage skin, and applicable on-condition actions. The FAA is issuing this AD to prevent continuous operation of the airplane with undetected incorrectly installed fasteners, which may generate fatigue cracking that could adversely affect the structural integrity of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Boeing, United Airlines, Air Line Pilots Association, International, and an individual commenter, who supported the NPRM without change.

The FAA received additional comments from two commenters, including Aviation Partners Boeing and Delta Air Lines (DAL). The following presents the comments received on the NPRM and the FAA's response.

Effects of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing and DAL commented regarding the installation of blended or split scimitar winglets per Supplemental Type Certificate (STC) ST00830SE and the effect of that installation on compliance with the proposed actions. DAL further requested a change to paragraph (c) of the proposed AD to clarify that the installation of STC ST00830SE does not affect the accomplishment of the manufacturer's service instructions.

The FAA agrees to clarify that the installation of winglets per STC ST00830SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. Operators of airplanes with these winglets do not need to request a ''change in product'' alternative method of compliance (AMOC) approval as specified in 14 CFR 39.17. The FAA has redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD, and added paragraph (c)(2) to this AD accordingly.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020. This service information specifies procedures for a detailed inspection for incorrectly installed fasteners at the STA 727 bulkhead outer chord common to the fuselage skin between stringers S–22 and S–27 on the left and right sides, and applicable on-condition actions. In addition to repair and replacement, on-condition actions include repetitive inspections for cracking of the fuselage skin between stringers S–22 and S–27; an open hole high frequency eddy current (HFEC) inspection for cracking at all incorrectly installed fastener locations; and external and internal general visual inspections for repairs of the STA 727 bulkhead. On-condition actions also include repetitive HFEC and low frequency eddy current (LFEC) inspections in unrepaired areas for cracking of the inner skin from the wheel well; of the outer, upper, and lower chords from the wheel well; and of the fail-safe chord from the cargo compartment.

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

Costs of Compliance

The FAA estimates that this AD affects 78 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	13 work-hours × $85 per hour = $1,105	$0	$1,105	$86,190

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Open hole HFEC inspections	21 work-hours × $85 per hour = $85 per inspection cycle.	$0	$1,785 per inspection cycle.
HFEC and LFEC inspections	36 work-hours × $85 per hour = $3,060 per inspection cycle.	0	3,060 per inspection cycle.

The FAA has received no definitive data on which to base the work-hour estimates for the repair and replacement specified in this AD. The cost of any required fasteners, which are operator supplied, would be minimal.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–11–13 The Boeing Company: Amendment 39–22063; Docket No. FAA–2021–0788; Project Identifier AD–2021–00489–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 3, 2022.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–700, –800, and –900ER series airplanes, certificated in any category, and identified in Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of incorrectly installed fuselage skin fasteners. The FAA is issuing this AD to address incorrectly installed fasteners. This condition, if not addressed, could result in incorrectly installed fasteners going undetected. Continuous operation of the airplane with undetected incorrectly installed fasteners may generate fatigue cracking that could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1384, dated September 10, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time column and the notes of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020, use the phrase ''the Original Issue date of Requirements Bulletin 737–53A1384 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions, using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3520; email: *bill.ashforth@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–53A1384 RB, dated September 10, 2020.

(ii) [Reserved]

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

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

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

Issued on May 25, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13750 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0864; Airspace Docket No. 21–AAL–13]

RIN 2120–AA66

Establishment of United States Area Navigation (RNAV) Route T–415; Gulkana, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes United States Area Navigation (RNAV) route T–415 in the vicinity of Gulkana, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jesse Acevedo, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System by lessening the dependency on ground based navigation.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0864 in the **Federal Register** (86 FR 59068; October 26, 2021), establishing United States Area Navigation (RNAV) route T–415 in the vicinity of Gulkana, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. There were no comments received.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document would be published subsequently in FAA Order JO 7400.11F.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by establishing RNAV route T–415 in the vicinity of Gulkana, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

The route is described below.

T–415: This action establishes T–415 extending between the WRNGL, AK, waypoint (WP), located over the McCarthy Airport (PAMX), AK and the Gulkana, AK, (GKN) VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) navigational aide (NAVAID).

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA 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 Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA determined that this airspace action of establishing RNAV route T–415 in the vicinity of Gulkana, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5i, which categorically excludes from further environmental review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–415 WRNGL, AK to Gulkana, AK (GKN) [New]

WRNGL, AK	WP	(Lat. 61°28′54.40″ N, long. 143°59′24.23″ W)
GRYNE, AK	WP	(Lat. 61°33′21.59″ N, long. 144°15′00.78″ W)
DUYZI, AK	WP	(Lat. 61°45′00.59″ N, long. 144°46′01.75″ W)
Gulkana, AK (GKN)	VOR/DME	(Lat. 62°09′13.51″ N, long. 145°26′50.51″ W)

* * * * *

Issued in Washington, DC, on June 22, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–13690 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0863; Airspace Docket No. 21–AAL–21]

RIN 2120–AA66

Establishment of United States Area Navigation (RNAV) Route T–396; Nome, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes United States Area Navigation (RNAV) route T–396 in the vicinity of Nome, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

DATES: Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jesse Acevedo, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV in Alaska and improve the efficient flow of air traffic within the National Airspace System by lessening the dependency on ground based navigation.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0863 in the **Federal Register** (86 FR 58823; October 25, 2021), establishing United States Area Navigation (RNAV) route T–396 in the vicinity of Nome, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. There were no comments received.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document would be published subsequently in FAA Order JO 7400.11F.

Differences From the NPRM

Subsequent to the publication of the NPRM for Docket No. FAA–2021–0863 in the **Federal Register** (86 FR 58823; October 25, 2021), establishing United States Area Navigation (RNAV) route T–396 in the vicinity of Nome, AK, the FAA determined it was necessary to relocate the HALUS waypoint (WP), to address instrument flight procedure concerns related to two points (*i.e.,* fix, navigational aid, waypoints) being located too close to one another. As a result, the latitude/long geographic coordinates for the HALUS WP are changed from what was proposed in the NPRM. This change moves the WP by approximately 600-feet from the location as proposed in the NPRM. The regulatory text in this action incorporates these changes.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by establishing RNAV route T–396 in the vicinity of Nome, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

The route is described below.

T–396: This action establishes T–396 from the Nome, AK, (OME) VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) to the Galena, AK, (GAL) VOR/DME.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA 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 Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA determined that this airspace action of establishing RNAV route T–396 in the vicinity of Nome, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5i, which categorically excludes from further environmental review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do

not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–396 Nome, AK (OME) to Galena, AK (GAL) [New]

Nome, AK (OME)	VOR/DME	(Lat. 64°29′06.39″ N, long. 165°15′11.43″ W)
HALUS, AK	WP	(Lat. 64°41′43.78″ N, long. 162°04′03.53″ W)
Galena, AK (GAL)	VOR/DME	(Lat. 64°44′17.26″ N, long. 156°46′37.69″ W)

* * * * *

Issued in Washington, DC, on June 22, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–13691 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0741; Airspace Docket No. 21–AWP–50]

RIN 2120–AA66

Revocation of United States Area Navigation Routes Q–162 and Q–166; Bishop, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes United States Area Navigation (RNAV) routes Q–162 and Q–166 in the vicinity of Bishop, CA due to the establishment of a new RNAV route, Q–174, that provides better connectivity for the Las Vegas Terminal area arrivals.

DATES: Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Jesse Acevedo, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0741 in the **Federal Register** (86 FR 50686; September 10, 2021), revoking RNAV route Q–162 and Q–166 in the vicinity of Bishop, CA due to the establishment of a new RNAV route, Q–174, that provides better connectivity for the Las Vegas Terminal area arrivals. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. There were no comments received.

United States Area Navigation routes are published in paragraph 2006 of FAA Order 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document will be removed from FAA Order JO 7400.11.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by revoking RNAV routes Q–162 and Q–166 due to the establishment of RNAV route Q–174 that provides better connectivity to the new Las Vegas Terminal Arrival routes. The revocation actions are outlined below.

Q–162: Q–162 extends between the NTELL, CA, waypoint (WP) and the MYCAL, NV, WP. The route is revoked in its entirety.

Q–166: Q–166 currently navigates between the VIKSN, CA, WP and the BIKKR, CA, WP. The route is revoked in its entirety.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA 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 Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this airspace action of revoking RNAV routes Q–162 and Q–166 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–162 NTELL, CA TO MYCAL, NV [Removed]

* * * * *

Q–166 VIKSN, CA TO BIKKR, CA [Removed]

* * * * *

Issued in Washington, DC, on June 22, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–13692 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 68

Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens, Unfair Immigration-Related Employment Practices, and Document Fraud

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 28 of the Code of Federal Regulations, parts 43 to end, revised as of July 1, 2021, in § 68.30, in paragraph (e), remove and replace the two commas following the first sentence with a new second sentence to read as follows:

§ 68.30 Disqualification.

* * * * *

(e) * * * In the event of disqualification or recusal of the Chief Administrative Hearing Officer as provided in this section, the review shall be referred to the Director for further proceedings. * * *

[FR Doc. 2022–13994 Filed 6–28–22; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

Safety and Health Regulations for Construction

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 29 of the Code of Federal Regulations, Part 1926, revised as of July 1, 2021, in § 1926.62, paragraph (d)(4)(ii) is revised to read as follows:

§ 1926.62 Lead.

* * * * *

(d) * * *

(4) * * *

(ii) Where the employer has previously monitored for lead exposure, and the data were obtained within the past 12 months during work operations conducted under workplace conditions closely resembling the processes, type of material, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of paragraph (d)(4)(i) of this section if the sampling and analytical methods meet the accuracy and confidence levels of paragraph (d)(9) of this section.

* * * * *

[FR Doc. 2022–13995 Filed 6–28–22; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0532]

RIN 1625–AA00

Safety Zone; Redwood City Fourth of July Fireworks; Redwood Creek, Redwood City, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Redwood Creek in Redwood City, CA in support of a fireworks display on July 4, 2022. The safety zone is necessary to protect personnel, vessels, and the marine environment from potential hazards created by pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without the permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from 9 a.m. July 3, 2022 until 10:20 p.m. July 4, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0532 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Shannon Curtaz-Milian, U.S. Coast Guard, Sector San Francisco, at 415–399–7440, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until June 16, 2022. It is impracticable to go through the full notice and comment rule making process because the Coast Guard must establish this safety zone by July 3, 2022 and lacks sufficient time to provide a reasonable comment period and to consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because action is necessary to protect personnel, vessels, and the marine environment from the potential safety hazards associated with the fireworks display on Redwood Creek in Redwood City, CA on July 4, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the Redwood City Fourth of July Fireworks on July 4, 2022, will be a safety concern for anyone within a 100-foot radius of the fireworks vessel during loading and staging, and anyone within a 850-foot radius of the fireworks vessel starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks vessel and during the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 9 a.m. on July 3, 2022 until 10:20 p.m. on July 4, 2022, during the loading, staging, and transit of the fireworks vessel in San Francisco Bay from Pier 50 to Redwood Creek, Redwood City, CA, and until 30 minutes after completion of the fireworks display. During the loading, staging, and transit of the fireworks vessel, scheduled to take place between 9 a.m. on July 3, 2022 until 9 p.m. on July 4, 2022, until 30 minutes prior to the start of the fireworks display, the safety zone will encompass the navigable waters around and under the fireworks vessel, from surface to bottom, within a circle formed by connection of all points 100 feet out from the fireworks vessel. The fireworks display is scheduled to start from 9:30 p.m. and end at approximately 9:50 p.m. on July 4, 2022, on Redwood Creek in Redwood City, CA.

The fireworks vessel will remain at Pier 50 until the start of its transit to the display location. Movement of the vessel from Pier 50 to the display location is scheduled to take place from 3 p.m. to 7 p.m. on July 4, 2022, where it will remain until the conclusion of the fireworks display.

At 9 p.m. on July 4, 2022, 30 minutes prior to the commencement of the 20-minute fireworks display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks vessel, from surface to bottom, within a circle formed by all connecting points 850 feet from the circle center at approximate position 37°30′28.48″ N–122°12′51.53″ W (NAD 83). The safety zone will terminate at 10:20 p.m. on July 4, 2022 or as announced via Broadcast Notice to Mariners.

This regulation is necessary to keep persons and vessels away from the immediate vicinity of the fireworks loading, staging, transit, and display site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted area. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone. This regulation is necessary to ensure the safety of participants, spectators, and transiting vessels.

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 limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterways users will be notified to ensure the safety zone will result in minimum impact. The vessels desiring to transit through or around the temporary safety zone may do so upon express permission from the COTP or the COTP's designated representative.

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 temporary safety zone in the navigable waters around the loading, staging, transit, and display of fireworks near Pier 50 in San Francisco Bay and on Redwood Creek in Redwood City. 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.T11–103 to read as follows:

§ 165.T11–103 Safety Zone; Redwood City Fourth of July Fireworks; Redwood Creek, Redwood City, CA.

(a) *Location.* The following area is a safety zone: all navigable waters of San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks vessel during loading and staging at Pier 50 in San Francisco, CA as well as transit and arrival to Redwood Creek, Redwood City, CA. Between 9 p.m. and 10:20 p.m. on July 4, 2022, the safety zone will expand to all navigable waters, from surface to bottom, within a circle formed by connection all points 850 feet out from the fireworks vessel in approximate position 37°30′28.48″ N–122°12′51.53″ W (NAD 83) or as announced via Broadcast Notice to Mariners.

(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, or a Federal, State, or Local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

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

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement period.* This section will be enforced from 9 a.m. on July 3, 2022 until 10:20 p.m. on July 4, 2022.

(e) *Information broadcasts.* The COTP or the COTP's designated representative will notify the maritime community of periods during which this zone will be enforced, in accordance with 33 CFR 165.7.

Dated: June 22, 2022.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2022–13839 Filed 6–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0428]

Safety Zone; Marine Events Within the Eighth Coast Guard District; Lower Mississippi River; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone for a fireworks display located on the navigable waters of the Lower Mississippi River between mile marker (MM) 94.3 and MM 95.3. This action is needed to provide for the safety of life on these navigable waterways during this event. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Captain of the Port New Orleans or designated representative.

DATES: The regulations in 33 CFR 165.801, Table 5, line 3 will be enforced from 8:30 p.m. though 9:30 p.m. on July 4, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander William Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a temporary safety zone in 33 CFR 165.801, Table 5, line 3, for the Riverfront Marketing Group Independence Day Celebration fireworks display event. This regulation will be enforced from 8:30 p.m. through 9:30 p.m. on July 4, 2022. This action is being taken to provide for the safety of life on these navigable waterways during this event. Our regulation for marine events within the Eighth Coast Guard District, 33 CFR 165.801, specifies the location of the regulated area on the Lower Mississippi River, between mile marker (MM) 94.3 and MM 95.3. During the enforcement period, if you are the operator of a vessel in the regulated area, you must comply with directions from the Captain of the Port or a 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 a Marine Safety Information Bulletin and/or Broadcast Notice to Mariners.

Dated: June 23, 2022.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2022–13872 Filed 6–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0426]

Safety Zone; Marine Events Within the Eighth Coast Guard District; Tchefuncte River, Madisonville, LA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone for a fireworks display located on the navigable waters of the Tchefuncte River at approximate position 30°24′11.63″ N, 090°09′17.39″ W. This action is needed to provide for the safety of life on these navigable waterways during the event. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Captain of the Port or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 5, line 15 will be enforced from 8:30 p.m. through 9:30 p.m. on July 4, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander William Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a temporary safety zone in 33 CFR 165.801, Table 5, line 15, for the Madisonville Old Fashioned 4th of July fireworks display event. This regulation will be enforced from 8:30 p.m. through 9:30 p.m. on July 4, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulations for marine events within the Eighth Coast Guard District, 33 CFR 165.801, specifies the approximate location of the regulated area on the Tchefuncte River as 30°24′11.63″ N, 090°09′17.39″ W. During the enforcement period, if you are the operator of a vessel in the regulated area, you must comply with directions from the Captain of the Port or a designated representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via Marine Safety Information Bulletin and Broadcast Notice to Mariners.

Dated: June 23, 2022.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2022–13870 Filed 6–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0427]

Safety Zone; Marine Events Within the Eighth Coast Guard District; Lower Mississippi River; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone for the St. John the Baptist Independence Day Fireworks located on the navigable waters of the Lower Mississippi River between mile marker (MM) 137.5 and MM 138.5 in vicinity of Reserve, Louisiana. This action is needed to provide for the safety of life on these navigable waterways during the event. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Captain of the Port or designated representative.

DATES: The regulations in 33 Code of Federal Regulations, Part 165.801, Table 5, line 2 will be enforced from 8:30 p.m. though 9:30 p.m. on July 1, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander William Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a temporary safety zone in 33 CFR 165.801, Table 5, line 2 for the St. John the Baptist Independence Day Celebration event. This regulation will be enforced from 8:30 p.m. through 9:30 p.m. on July 1, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulations for marine events within the Eighth Coast Guard District, 33 CFR 165.801, specifies the location of the regulated area on the Mississippi River between mile marker (MM) 137.5 and MM 138.5 on the Lower Mississippi River near Reserve, Louisiana. During the enforcement period, if you are the operator of a vessel in the regulated area, you must comply with directions from the Captain of the Port or a 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 a Marine Safety Information Bulletin and/or Broadcast Notice to Mariners.

Dated: June 23, 2022.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2022–13871 Filed 6–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0489]

Safety Zone; Northern California and Lake Tahoe Area Annual Fireworks Events

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce numerous safety zones within the San Francisco Captain of the Port area of responsibility during the dates and times specified below. This action is necessary to protect personnel, vessels, and the marine environment from the hazards associated with the fireworks displays. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the regulated areas, unless authorized by the Patrol Commander (PATCOM) or an Official Patrol including any Federal, State, or local law enforcement agencies on scene to assist the Coast Guard in enforcing the regulated area.

DATES: The regulations in 33 CFR 165.1191 will be enforced for the locations identified in Items 3, 4, 7, 9, 10, 11, 12, 14, 16, 18, 31 and 32 of Table 1 to § 165.1191 during the dates and times identified in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Petty Officer First Class Shannon Curtaz-Milian, Waterways Management, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7440, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones established in 33 CFR 165.1191, Table 1, Item numbers 3, 4, 7, 9, 10, 11, 12, 14, 16, 18, 31 and 32 during the dates, times, and locations indicated in the table below. The dates, times, and locations will also be published in the Local Notice to Mariners at least 10 days prior to the date of each event.

3. Fourth of July Fireworks, City of Eureka

Sponsor	City of Eureka, CA.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 8 a.m. on July 3, 2022 to 9:45 p.m. on July 4, 2022, the barge will load, transit, and stage at the display location. From 9:45 p.m. until approximately 10:55 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	Humboldt Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

4. Fourth of July Fireworks, Crescent City

Sponsor	Crescent City, CA.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 9:30 p.m. until approximately 10:20 p.m. on July 4, 2022.
Location	Crescent City Harbor, Crescent City, CA.

Regulated Area	Crescent City Harbor in the navigable waters within a 700-foot radius of the launch platform located on the West Jetty.

7. San Francisco Independence Day Fireworks

Sponsor	The City of San Francisco.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 10 a.m. on July 2, 2022, to 9:15 p.m. on July 4, 2022 the barges will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:30 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000 foot radius of the fireworks barges.
Location 1	A barge located approximately 1,000 feet off San Francisco Pier 39.
Location 2	A barge located approximately 700 feet off of the San Francisco Municipal Pier at Aquatic Park.
Regulated Area	100-foot radius around each fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.

9. Fourth of July Fireworks, City of Richmond

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	A barge located in the Richmond Harbor in Richmond, CA.
Time	From 9 a.m. on July 3, 2022 to 9:15 p.m. on July 3, 2022, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:20 p.m. on July 3, 2022, the safety zone will encompass all navigable waters within a 560-foot radius of the fireworks barge.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 560-foot radius upon commencement of the fireworks display.

10. Fourth of July Fireworks, City of Sausalito

Sponsor	City of Sausalito.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 9 a.m. to 9:15 p.m. on July 4, 2022, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:20 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	1,000 feet off-shore from Sausalito, CA waterfront, north of Spinnaker Restaurant.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

11. Fourth of July Fireworks, City of Martinez

Sponsor	City of Martinez.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 9:30 p.m. until approximately 9:55 p.m. on July 4, 2022.
Location	Carquinez Strait, CA
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located near Waterfront Park.

12. Fourth of July Fireworks, City of Antioch

Sponsor	City of Antioch.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 9 a.m. to 9:15 p.m. on July 4, 2022, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:30 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	San Joaquin River, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the moving fireworks display.

14. Delta Independence Day Celebration Fireworks

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Time	From 8 a.m. on July 3, 2022 until 4 p.m. on July 3, 2022, the barge will load, transit, and stage at the display location. From 8:45 p.m. until approximately 9:50 p.m. on July 3, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	San Joaquin River, near Mandeville Island, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

16. Fourth of July Fireworks, Glenbrook, NV	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 7 a.m. to 8:45 p.m. on July 4, 2022, the barge will load, transit, and stage at the display location. From 8:45 p.m. until approximately 9:50 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	Off-shore Glenbrook Beach, NV.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

18. Lights on the Lake Fourth of July Fireworks, South Lake Tahoe, CA	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Time	From 7 a.m. on July 1, 2022 until 9:30 p.m. on July 4, 2022, the barges will load, transit, and stage at the display location. From 9:30 p.m. until approximately 10:45 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barges.
Location	Off South Lake Tahoe, CA near the NV Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

31. Benicia Fourth of July Fireworks	
Sponsor	City of Benicia, CA.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 9:30 p.m. until approximately 9:50 p.m. on July 4, 2022.
Location	Carquinez Strait, Benicia, CA.
Regulated Area	1,000-foot radius around the fireworks launch site located on the Benicia First Street Pier.

32. Vallejo Fourth of July Fireworks	
Sponsor	City of Vallejo, CA.
Event Description	Fireworks Display.
Date	July 4th.
Time	From 8 a.m. to 9:15 p.m. on July 4, 2022, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:20 p.m. on July 4, 2022, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	Mare Island Strait, Vallejo, CA.
Regulated Area	100-foot radius around the fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from anchoring, blocking, loitering, or impeding the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol, defined as a Federal, State, or local law enforcement agency on scene to assist the Coast Guard in enforcing the safety zone. During the enforcement periods, if you are the operator of a vessel in one of the safety zones, you must comply with directions from the Patrol Commander or other Official Patrol. The PATCOM or Official Patrol may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

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.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 22, 2022.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2022–13838 Filed 6–28–22; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Supplemental final rule.

SUMMARY: The Postal Service published in the **Federal Register** of June 13, 2022, a document revising *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to reflect changes to prices and mailing standards for certain Mailing Services products. This document clarifies and amends the mailing standards.

DATES: *Effective date:* July 10, 2022.

FOR FURTHER INFORMATION CONTACT: Doriane Harley at (202) 268–2537 or Dale Kennedy at (202) 268–6592.

SUPPLEMENTARY INFORMATION: The Postal Service published a document in the **Federal Register** on June 13, 2022, (87 FR 35658–35660), adopting the standards for the July 10, 2022, Mailing Services price change. Under this supplemental final rule, the Postal Service further revises the standards for the Direct Container Discount.

Direct Container Discount for Marketing Mail High Density Plus and Saturation Flats

The Postal Service is offering discounts for USPS Marketing Mail Saturation Flats (including EDDM, not EDDM Retail) and High Density Plus Flats in 5-digit (direct) containers (all pallets regardless of entry, and sacks, and tubs entered at the DDU). Under the standards adopted for the July 10, 2022 Mailing Services price change, the Postal Service offers discounts for Carrier Route Flats and High Density Flats on 5-digit (direct) pallets; these discounts will now extend to Carrier Route Flats and High Density Flats in 5-digit (direct) sacks and tubs entered at the DDU.

The Postal Service adopts the following changes to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), to supplement those adopted at 87 FR 35658 (June 13, 2022), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111, as amended at 87 FR 35658 (June 13, 2022), is further amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

240 Commercial Mail USPS Marketing Mail

243 Prices and Eligibility

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6.0 Additional Eligibility Standards for Enhanced Carrier Route USPS Marketing Mail Letters and Flats

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6.3 Basic Price Enhanced Carrier Route Standards

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[Revise the title and text of 6.3.4; to read as follows:]

6.3.4 Basic Carrier Route Bundles on a 5-Digit/Direct Container (Basic-CR Bundles/Container) Price Eligibility—Flats

The Basic-CR Bundles/Container discount applies to each piece in a carrier route bundle of 10 or more pieces that are palletized under 705.8.0, 705.10.0, 705.12.0, or 705.13.0 on a 5-digit carrier route or 5-digit scheme carrier route pallet entered at an Origin (None), DNDC, DSCF, or DDU entry or palletized under 705.14.0 on a FSS scheme pallet (in a FSS Scheme bundle), or in a Carrier Route sack or tub under 245.9.7.a or 203.5.8 and entered at the DDU.

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6.5 High Density and High Density Plus (Enhanced Carrier Route) Standards—Flats

* * * * *

[Revise the title and text of 6.5.3; to read as follows:]

6.5.3 High Density Carrier Route Bundles on a 5-Digit/Direct Container (High Density-CR Bundles/Container Discount Eligibility)—Flats

High Density-CR Bundles/Container discount applies to 125 or more High Density—eligible pieces that are palletized under 705.8.0, 705.10.0, 705.12.0, or 705.13.0 on a 5-digit carrier route, 5-digit carrier routes, or 5-digit scheme carrier route pallet entered at an Origin (None), DNDC, DSCF, or DDU entry, or palletized under 705.14.0 on a FSS scheme pallet (in a FSS scheme bundle), or in a Carrier Route sack or tub under 245.9.7.a or 203.5.8 and entered at the DDU.

[Add new section 6.5.4; to read as follows:]

6.5.4 High Density Plus Carrier Route Bundles on a 5-Digit/Direct Container (High Density Plus-CR Bundles/Container Discount Eligibility)—Flats

High Density Plus-CR Bundles/Container discount applies to 300 or more High Density Plus eligible pieces that are palletized under 705.8.0, 705.10.0, 705.12.0, or 705.13.0 on a 5-digit carrier route, 5-digit carrier routes, or 5-digit scheme carrier route pallet entered at an Origin (None), DNDC, DSCF, or DDU entry, or palletized under 705.14.0 on a FSS scheme pallet (in a FSS scheme bundle) or in a Carrier Route sack or tub under 245.9.7.a or 203.5.8 and entered at the DDU.

* * * * *

6.7 Saturation Enhanced Carrier Route Standards—Flats

* * * * *

[Add new section 6.7.3; to read as follows:]

6.7.3 Saturation—(Including EDDM) Carrier Route Bundles on a 5-Digit/Direct Container (Saturation-CR Bundles/Container Discount Eligibility)—Flats

Saturation-CR Bundles/Container discount applies to at least 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route that are palletized under 705.8.0, 705.10.0, 705.12.0, or 705.13.0 on a 5-digit carrier route, 5-digit carrier routes, or 5-digit scheme carrier route pallet entered at the origin (None), DNDC, DSCF, or DDU entry, or palletized under 705.14.0 on a FSS scheme pallet (in a FSS scheme bundle), or in a Carrier Route sack or tub under 245.9.7.a or 203.5.8 and entered at the DDU.

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700 Special Standards

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705 Advanced Preparation and Special Postage Payment Systems

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8.0 Preparing Pallets

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8.6 Pallet Labels

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8.6.5 Line 2 (Content Line)

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CONTENT TYPE CODE

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[Revise Content Type and Code for ''High Density'' to read as follows:]

High Density/High Density Plus HD/HD+

* * * * *

[Add new line item, alphabetically:]

Saturation SAT

* * * * *

8.10 Pallet Presort and Labeling

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8.10.3 USPS Marketing Mail or Parcel Select Lightweight—Bundles, Sacks, or Trays

[Revise the second sentence to read as follows:]

* * * For USPS Marketing Mail High Density and High Density Plus flats price eligibility, only 5-digit pallets under 8.10.3a–c are allowed, and the pallets must be entered under None,

DNDC, DSCF or DDU standards. (Use ''HD/HD+ DIRECT'' for one route and ''HD/HD+ CR–RTS'' for multiple routes on the line 2 contents description).

* * *

[Revise item a2 to read as follows:]

2. Line 2: ''STD'' followed by ''FLTS''; followed by ''HD/HD+ DIRECT'' for High Density and High Density Plus flats.

* * * * *

[Revise item b2 to read as follows:]

2. Line 2: ''STD followed by ''FLTS''; followed by ''HD/HD+'' for High Density and High Density Plus flats; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''SCHEME'' (or ''SCH'').

* * * * *

[Revise item c2 to read as follows:]

2. Line 2: For flats and Marketing parcels (Product Samples only), ''STD FLTS'' or ''STD MKTG,'' as applicable; followed by ''HD/HD+'' for High Density and High Density Plus flats pricing eligibility; followed by ''CARRIER ROUTES'' (or ''CR–RTS''). For letters, ''STD LTRS''; followed by ''CARRIER ROUTES'' (or ''CR–RTS''); followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

* * * * *

10.0 Merging Bundles of Flats Using the City State Product

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10.2 USPS Marketing Mail

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10.2.5 Pallet Preparation and Labeling

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[Revise the text in 10.2.5a2; to read as follows:]

2. Line 2: ''STD FLTS CR–RTS SCHEME'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 10.2.5b2; to read as follows:]

2. Line 2: ''STD FLTS CR/5D SCHEME'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 10.2.5c2; to read as follows:]

2. Line 2: ''STD FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 10.2.5d2; to read as follows:]

2. Line 2: ''STD FLTS CR/5D'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats. * * *

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12.0 Merging Bundles of Flats on Pallets Using a 5% Threshold

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12.2 USPS Marketing Mail

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12.2.3 Pallet Preparation and Labeling

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[Revise the text in 12.2.3a2; to read as follows:]

2. Line 2: ''STD FLTS CR–RTS SCHEME'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 12.2.3b2; to read as follows:]

2. Line 2: ''STD FLTS CR/5D SCHEME'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 12.2.3c2; to read as follows:]

2. Line 2: ''STD FLTS''; followed by ''CARRIER ROUTES'' or ''CR–RTS'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 12.2.3d2; to read as follows:]

2. Line 2: ''STD FLTS CR/5D'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats.

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13.0 Merging Bundles of Flats on Pallets Using the City State Product and a 5% Threshold

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13.2 USPS Marketing Mail

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13.2.4 Pallet Preparation and Labeling

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[Revise the text in 13.2.4a2; to read as follows:]

2. Line 2: ''STD FLTS CR–RTS SCHEME'' followed by ''HD/HD+'' if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 13.2.4b2; to read as follows:]

2. Line 2: ''STD FLTS CR/5D SCHEME'' followed by ''HD/HD+'' if the pallet contains High Density/High Density plus flats.

* * * * *

[Revise the text in 13.2.4c2; to read as follows:]

2. Line 2: ''STD FLTS,'' followed by HD/HD+ if the pallet contains High Density/High Density plus flats and ''CARRIER ROUTES'' or ''CR–RTS''

* * * * *

[Revise the text in 13.2.4d2; to read as follows:]

2. Line 2: ''STD FLTS CR/5D'' followed by ''HD/HD+'' if the pallet contains High Density/High Density plus flats.

* * * * *

Sarah E. Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2022–13766 Filed 6–27–22; 11:15 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0253; FRL–9611–02–R9]

Air Plan Approval; California; San Diego County; Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the San Diego Air Pollution Control District (SDAPCD or ''District'') portion of the California State Implementation Plan (SIP). These revisions concern SDAPCD's negative declarations for certain Control Techniques Guidelines (CTGs) as they apply to the 2008 and 2015 ozone national ambient air quality standards (NAAQS or ''standards'') reasonably available control technology (RACT) SIP. We are approving revisions that regulate these emission sources under the Clean Air Act (CAA or the Act). This approval stops all sanction and federal implementation plan clocks started by our December 3, 2020 partial approval and partial disapproval.

DATES: This rule is effective June 29, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2022–0253. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4100 or by email at *SchwenkMueller.Sina@epa.gov.*

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

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II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On April 13, 2022 (87 FR 21822), the EPA proposed to approve the following rule into the California SIP.

TABLE 1—SUBMITTED DOCUMENT [1]

Local agency	Document	Adopted	Submitted
SDAPCD	''2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards For Ozone in San Diego County, October 2020 (2020 RACT SIP)—Negative Declarations for the 2008 and 2015 NAAQS:. *Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products* (EPA–450/2–78–029). *Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials* (EPA–453/R–08–004). *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings* (EPA–453/R–08–003); Table 3—Plastic Parts and Products, Table 4—Automotive/Transportation and Business Machine Plastic Parts, Table 5—Pleasure Craft Surface Coating, Table 6—Motor Vehicle Materials.	10/14/2020	12/29/2020

We proposed to approve these revisions because we determined that they comply with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one non-germane comment. Therefore, we are finalizing our action as proposed.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving the negative declarations into the California SIP. This approval stops all sanction and federal implementation plan clocks started by our December 3, 2020 partial approval and partial disapproval actions on the SDAPCD RACT SIP.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), the EPA finds there is good cause for this action to become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1).

Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (DC Cir. 1996); *see also United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. The EPA has determined that this rule relieves a restriction because this rule terminates the sanctions and federal implementation plan clocks started by our December 3, 2020 partial approval and partial disapproval. Upon the effective date of this action, the sanctions and federal implementation plan clocks will stop. For this reason, the EPA finds good cause under 5 U.S.C. 553(d)(1) for this action to become effective on the date of publication of this action.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive

[1] The EPA is only acting on the negative declarations for the Control Techniques Guidelines (CTGs) for Synthesized Pharmaceutical Products, Fiberglass Boat Manufacturing Materials, and Miscellaneous Metal and Plastic Products, Tables 3–6. The EPA will propose separate action on the remainder of the 2020 SDAPCD RACT SIP submittal at a future date.

Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

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.

Dated: June 14, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(573) through (584) and to read as follows:

§ 52.220 Identification of plan—in part.

(c) * * *

(573) through (583) [Reserved]

(584) The following plan was submitted on December 29, 2020, by the Governor's designee as an attachment to a letter dated December 28, 2020.

(i) [Reserved]

(ii) *Additional materials.*

(A) San Diego County Air Pollution Control District.

(*1*) Negative Declaration for ''Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products,'' EPA–450/2–78–029, December 1978, as submitted in the 2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County, adopted on October 14, 2020.

(*2*) Negative Declaration for ''Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings,'' EPA–453/R–08–003, September 2008 (Tables 3–6), as submitted in the 2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County, adopted on October 14, 2020.

(*3*) Negative Declaration for ''Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials,'' EPA–453/R–08–004, September 2008, as submitted in the 2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards for Ozone in San Diego County, adopted on October 14, 2020.

(B) [Reserved]

■ 3. Section 52.222 is amended by revising paragraph (a)(5)(ii) and adding paragraph (a)(5)(iii) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(5) * * *

(i) * * *

(ii) The following negative declarations for the 2008 ozone NAAQS were adopted by the San Diego Air Pollution Control District.

TABLE 4 TO PARAGRAPH (a)(5)(ii)—NEGATIVE DECLARATIONS FOR THE 2008 OZONE NAAQS

CTG document No.	Title	Adopted: 12/14/2016 Submitted: 04/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022
EPA–450/2–77–008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks (Automobiles, and light-duty truck coatings only).	X	.....
EPA–450/2–77–025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.		
EPA–450/2–77–032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.	X	.....
EPA–450/2–77–033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.	X	.....
EPA–450/2–77–034	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.	X	.....
EPA–450/2–78–029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.	.....	X

TABLE 4 TO PARAGRAPH (a)(5)(II)—NEGATIVE DECLARATIONS FOR THE 2008 OZONE NAAQS—Continued

CTG document No.	Title	Adopted: 12/14/2016 Submitted: 04/12/2017 SIP Approved: 12/03/2020	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022
EPA–450/2–78–030 ..	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.	X	.....
EPA–450/2–78–032 ..	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.	X	.....
EPA–450/2–78–036 ..	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.	X	.....
EPA–450/3–82–009 ..	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.	X	.....
EPA–450/3–83–006 ..	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.	X	.....
EPA–450/3–83–007 ..	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.	X	.....
EPA–450/3–83–008 ..	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.	X	.....
EPA–450/3–84–015 ..	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.	X	.....
EPA–450/4–91–031 ..	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.	X	.....
EPA–453/R–97–004	Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.	X	.....
	Aerospace MACT, *see the* ***Federal Register*** *of 06/06/94* ...		
EPA–453/R–06–004	Control Techniques Guidelines for Flat Wood Paneling Coatings.	X	.....
EPA 453/R–07–004 ..	Control Techniques Guidelines for Large Appliance Coatings	X	.....
EPA 453/R–07–005 ..	Control Techniques Guidelines for Metal Furniture Coatings	X	.....
EPA–453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings Tables 3–6.	.....	X
EPA–453/R–08–004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.	.....	X
EPA–453/R–08–006	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.	X	.....

(iii) The following negative declarations for the 2015 ozone NAAQS were adopted by the San Diego County Air Pollution Control District.

TABLE 5 TO PARAGRAPH (a)(5)(III)—NEGATIVE DECLARATIONS FOR THE 2015 OZONE NAAQS

CTG document No.	Title	Adopted: 10/14/2020 Submitted: 12/29/2020 SIP Approved: 6/29/2022
EPA–450/2–78–029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.	X
EPA–453/R–08–003	Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings Tables 3–6.	X
EPA–453/R–08–004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.	X

■ 4. Section 52.237 is amended by removing and reserving paragraphs (b)(2)(i)(C), (b)(2)(i)(E), and (b)(2)(i)(G).

[FR Doc. 2022–13378 Filed 6–28–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

42 CFR Part 488

Survey, Certification, and Enforcement Procedures

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 42 of the Code of Federal Regulations, parts 482 to end, revised as of October 1, 2021, in § 488.5, remove paragraph (a)(21).

[FR Doc. 2022–13993 Filed 6–28–22; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2021–0172; FXMB12610700000–201–FF07M01000]

RIN 1018–BF65

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2022 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (FWS, Service, or we) is revising the migratory bird subsistence harvest regulations in Alaska. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The changes update the regulations to incorporate revisions requested by these partners.

DATES: This rule is effective June 29, 2022.

ADDRESSES: You may find the comments submitted on the proposed rule as well as supplementary materials for this rulemaking action at the Federal eRulemaking Portal: *https://www.regulations.gov* in Docket No. FWS–R7–MB–2021–0172.

FOR FURTHER INFORMATION CONTACT: Eric J. Taylor, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 903–7210. 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

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 *et seq.*) was enacted to conserve certain species of migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of these birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary so as to provide for the preservation and maintenance of stocks of migratory birds (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs during the spring and summer, during which timeframe when the annual fall/winter harvest of migratory birds is not allowed. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and prescribe regional information on when and where the harvesting of birds in Alaska may occur.

The migratory bird subsistence harvest regulations are developed cooperatively. The Alaska Migratory Bird Co-Management Council (Council or AMBCC) consists of the U.S. Fish and Wildlife Service, the Alaska Department of Fish and Game (ADFG), and representatives of Alaska's Native population. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

The Council generally holds an annual spring meeting to develop recommendations for migratory bird subsistence-harvest regulations in Alaska that would take effect in the spring of the next year. In 2021, the in-person spring meeting did not occur due to the coronavirus pandemic. Instead, the Council met virtually via teleconference on April 5, 2021, to approve subsistence harvest regulations that would take effect during the 2022 harvest season. The Council's recommendations were presented to the Pacific Flyway Council for review and subsequent submission to the Service Regulations Committee (SRC) for approval at the SRC meeting on September 28 and 29, 2021.

Comments Received on the Proposed Rule

Per the collaborative process described above, we published a proposed rule to update the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer (87 FR 14232, March 14, 2022). By the end of the comment period on the proposed rule, we received two comments. We hereby respond to the relevant issues that were raised in the public input. We made no changes to the proposed rule as a result of the input we received via the public comments (see Final Regulations, below, for more information).

Issue: One commenter expressed the following sentiments: (i) migratory birds are endangered; (ii) the proposed rule would allow the killing of endangered species; (iii) subsistence harvest of migratory birds is not necessary because subsistence harvesters can survive on food that does not come from animals; (iv) by killing healthy animals, other species take over resources and disrupt the ecosystem; and (v) migratory birds should be protected.

Response: Migratory birds open for harvest during the spring/summer subsistence season in Alaska do not include threatened or endangered species. Annual harvest surveys show that species protected by the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), are not harvested by subsistence hunters. The Service conducted an intra-agency consultation and determined that this rule complies with the ESA (see *Endangered Species Act Consideration,* below, for more information). The Service agrees that subsistence hunters harvest healthy migratory birds; however, there is no evidence that this harvest results in other wildlife species taking food, habitat, or other resources to the detriment of the ecosystem. The comment that people can survive on food that is not animal-based is true; however, the spring/summer migratory bird subsistence harvest in Alaska is of

cultural, traditional, and nutritional importance to Alaska Native peoples and other rural Alaskans. The Service conducts annual population and harvest surveys of migratory birds and establishes hunting regulations to ensure the sustainability of migratory bird populations and that harvest does not result in species becoming vulnerable or any disruptions to the ecosystem.

Issue: A commenter inquired about (i) the boundaries of the Kachemak Bay State Wilderness Park; (ii) use of quota sampling as a survey method to estimate subsistence harvest; and (iii) how these regulations may modernize existing rules and commitments.

Response: The Service revised the previously vague boundaries of the harvest area for the Villages of Nanwalek and Port Graham by referencing specific waypoints, lines of longitude, and boundaries of Game Management Units to define an exact map location. The harvest area includes parts of the Kachemak Bay State Park and Kachemak Bay State Wilderness Park; further, some of the waypoints and boundaries occur at the head of Kachemak Bay at the Fox River Flats in tidal/mud flats and marshland. The boundary occurs in this tidal flat area because the previous definition included the boundary as the ''mouth of Fox River.'' Given the vagueness of the phrase ''mouth of Fox River'' in a tidal mud flat, the Service selected a specific latitude/longitude to better define the boundary. The Service now defines the boundary as ''the north bank of the Fox River [59°48′57″ N; 150°58′44″ W].''

The commenter also recommended the Service consider quota sampling to provide timely and accurate harvest information. Quota sampling is a method for selecting survey participants on a non-random basis, *i.e.,* all members of the population do not have an equal chance of being selected to be a part of the sample group. Because quota sampling does not select sample units with a known inclusion probability and all units of the population do not have a known sample probability, the method can be unreliable. Because the non-random element of quota sampling is a source of uncertainty about the nature of the actual sample, the Service believes alternative sampling methods are preferred over quota sampling. Finally, the proposed changes to the regulations will allow publication of maps that are accurate and reproducible into the future and interpretable by subsistence hunters and law enforcement officials.

Final Regulations

We are making no changes to the regulatory revisions in our March 14, 2022, proposed rule (87 FR 14232) as a result of the input we received via the public comments.

The rule sets forth the same subsistence harvest regulations in subpart D, Annual Regulations Governing Subsistence Harvest, as those from the 2021 subsistence harvest seasons (see 86 FR 11707, February 26, 2021; 86 FR 20311, April 19, 2021) with five clarifications:

Revisions to Subpart A

In part 92, subpart A (general provisions), we clarify the regulations defining excluded areas, which are those areas that are closed to subsistence harvest.

First, we clarify that subsistence hunters whose communities petitioned successfully to be added to the list of included areas appearing at 50 CFR 92.5(a)(2) may harvest migratory birds within the entirety of the subsistence harvest areas designated for their community, including portions of harvest areas that occur within designated excluded areas.

For example, portions of the subsistence harvest areas selected by communities in the Upper Copper River Region listed as eligible under 50 CFR 92.5(a)(2)(i) occur within the Matanuska-Susitna Borough, an excluded area that is otherwise closed to harvest (50 CFR 92.5(b)(2)). The regulations do not specify that these portions of designated harvest areas that occur in excluded areas are, in fact, open to subsistence hunting. To address this issue, we amended 50 CFR 92.5(b) to make an exception to harvest closures in those portions of excluded areas that fall within subsistence harvest areas designated for specific communities that petitioned to be listed as eligible for participation in the spring/summer subsistence hunt (50 CFR 92.5(a)(2)).

This exception would not apply to subsistence harvest areas that have been generally designated for regions (*e.g.,* Bering Strait Norton Sound Region) or subregions (*e.g.,* Bering Strait Norton Sound Stebbins/St. Michael Area) listed as included areas at 50 CFR 92.5(a).

Second, to clarify the boundaries of areas that are closed to subsistence harvest, we address an apparent inconsistency in some terms used in part 92. The regulations governing subsistence harvest of migratory birds were set forth August 16, 2002 (67 FR 53511). That rule defined the term ''village'' at 50 CFR 92.4 and also set forth provisions regarding areas that are excluded from eligibility to participate in the subsistence harvest of migratory birds. Under 50 CFR 92.5(b)(2), excluded areas include ''[v]illage areas'' located in Anchorage, the Matanuska-Susitna Borough, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, Southeast Alaska, and the Central Interior Excluded Area. The definition of ''village'' at 50 CFR 92.4 and use of the term ''village areas'' at 50 CFR 92.5(b)(2) to describe excluded areas has created confusion in determining the boundaries of closed areas. We never intended for the excluded areas set forth at 50 CFR 92.5(b)(2) to be only those portions of those areas that meet the definition of ''village'' at 50 CFR 92.4. Therefore, we remove the term ''village areas'' from 50 CFR 92.5(b)(2) to clarify that excluded areas are closed to harvest in their entirety, except those portions that occur within a harvest area that has been designated for a specific community.

Third, we clarify the language defining boundaries of the excluded areas of the Kenai Peninsula roaded area and the Gulf of Alaska roaded area. The geographic boundaries of the Kenai Peninsula roaded area and the Gulf of Alaska roaded area are undefined in the regulations, making the development of usable hunt maps imprecise and ambiguous. The changes to the regulations would allow publication of maps that are accurate and reproducible into the future and interpretable by subsistence hunters and law enforcement officials.

Finally, we are including a needed administrative correction. The Chugach Community of Cordova should have been included in the list of included areas for the Gulf of Alaska region in subpart A following Council action in 2014. The omission of this community from the regulations was the result of an inadvertent oversight. The Chugach Community of Cordova does appropriately appear in the regulations for eligible subsistence-harvest areas in 50 CFR 92.31(j)(2). Therefore, we are adding the Chugach Community of Cordova to the current list of included areas in 50 CFR 92.5(a)(2)(ii). Similarly, we are clarifying that the Central Interior Excluded Area includes the Fairbanks North Star Borough.

These revisions to the regulations in subpart A are not anticipated to result in a significant increase in harvest of birds and eggs because spring and summer subsistence practices likely occur in these areas at the present time.

Revisions to Subpart D

In 50 CFR 92.31, we clarify the designated harvest area boundaries for

the communities of Port Graham and Nanwalek in the Gulf of Alaska Region and for the community of Tyonek in the Cook Inlet Region. Current harvest area definitions in the regulations for these communities are incomplete (that is, they do not describe a complete polygon), and only partially define the boundaries of the harvest areas. The revisions would allow publication of maps that are accurate and reproducible into the future and provide a clear definition of the harvest areas designated for the communities that subsistence hunters and law enforcement officials can interpret and follow in the field.

Compliance With the MBTA and the Endangered Species Act

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) regulations continue to protect threatened species, (2) measures to address documented threats are implemented, and (3) the subsistence community and other conservation partners commit to working together.

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species, including threatened spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*). While lead shot has been banned nationally for waterfowl hunting since 1991, Service staff have documented the availability of lead shot in waterfowl rounds for sale in communities on the Yukon–Kuskokwim Delta and North Slope. The Service will work with partners to increase our education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

Conservation Under the MBTA

We have monitored subsistence harvest for the past 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. Communication and coordination between the Service, the AMBCC, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks.

Endangered Species Act Consideration

Spectacled eiders and the Alaska-breeding population of Steller's eiders are listed as threatened species under the ESA. Their migration and breeding distributions overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Neither species is included in the list of subsistence migratory bird species at 50 CFR 92.22; therefore, both species are closed to subsistence harvest. Under 50 CFR 92.21 and 92.32, the Service may implement emergency closures, if necessary, to protect Steller's eiders or any other endangered or threatened species or migratory bird population.

Section 7 of the ESA requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to insure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

The Service's Alaska Region Migratory Bird Management Program conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office. The consultation was completed with a biological opinion issued on March 15, 2022, that concluded these rulemaking actions are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Therefore, we have determined that this rule complies with the ESA.

Immediate Effective Date

This rule takes effect on the date set forth above in **DATES**. Delaying the effective date for 30 days would have detrimental effects on Alaskans seeking to conduct subsistence harvest of migratory birds. To respect the subsistence hunt of many rural Alaskans, either for their cultural or religious exercise, sustenance, and/or materials for cultural use (*e.g.,* handicrafts), the Department of the Interior finds that it is in the public interest to make this rule effective as soon as possible. For these reasons, we find that ''good cause'' exists within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and under the authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703 *et seq.*), to make this rule take effect immediately upon publication in the **Federal Register**.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required. This rule would legalize a preexisting subsistence activity, and the resources harvested will be consumed.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Would not have an annual effect on the economy of $100 million or more. It would legalize and regulate a traditional subsistence activity. It would not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that would be regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds

and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule would derive from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this rule would lead to a disproportionate distribution of benefits.

(b) Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, would not have an impact on prices for consumers.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It would not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule would not impose a cost of $100 million or more in any given year on local, State, or Tribal governments or private entities. The rule would not have a significant or unique effect on local, State, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The ADFG also incurs expenses for travel to Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Council. Expenses for the State's involvement may exceed $100,000 per year but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the ADFG to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule would not have significant takings implications. This rule is not specific to particular land ownership, but instead applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this rule, has determined that it would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations With Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 9, 2000), ''Consultation and Coordination with Indian Tribal Governments,'' and Department of the Interior policy on Consultation with Indian Tribes (December 1, 2011), we sent letters via electronic mail to all 229 Alaska federally recognized Indian Tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also sent letters to approximately 200 Alaska Native corporations and other Tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the 2022 migratory bird subsistence harvest regulations.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, educational programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the statewide body.

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with subsistence harvest reporting and assigned the following OMB control numbers:

- Alaska Migratory Bird Subsistence Harvest Household Survey, OMB Control Number 1018–0124 (expires 04/30/2024), and
- Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR part 92, OMB Control Number 1018–0178 (expires 04/30/2024).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The annual regulations and options are considered in the January 2022 Environmental Assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2022 Spring/Summer Harvest.'' Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *https://www.regulations.gov.*

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare statements of energy effects when undertaking certain

actions. This is not a significant regulatory action under this Executive order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a statement of energy effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, we amend 50 CFR part 92 as set forth below:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Amend § 92.5 by:

■ a. Revising paragraph (a)(2)(ii), the first sentence of paragraph (b) introductory text, and paragraphs (b)(2) and (3); and

■ b. Adding paragraphs (b)(4) and (5).

The revisions and additions read as follows:

§ 92.5 Who is eligible to participate?

* * * * *

(a) * * *

(2) * * *

(ii) Gulf of Alaska Region—Chugach Community of Chenega, Chugach Community of Cordova, Chugach Community of Nanwalek, Chugach Community of Port Graham, and Chugach Community of Tatitlek.

* * * * *

(b) *Excluded areas.* Excluded areas are not subsistence harvest areas and are closed to harvest, with the exception of any portion of an excluded area that falls within a harvest area that has been designated for a specific community under paragraph (a)(2) of this section. * * *

* * * * *

(2) The Municipality of Anchorage, the Matanuska-Susitna Borough, the Kenai Peninsula roaded area (as described in paragraph (b)(3) of this section), the Gulf of Alaska roaded area (as described in paragraph (b)(4) of this section), Southeast Alaska, and the Central Interior Excluded Area (as described in paragraph (b)(5) of this section) do not qualify for a spring and summer harvest.

(3) The Kenai Peninsula roaded area comprises the following: Game Management Unit (Unit) 7, Unit 15(A), Unit 15(B), and that portion of Unit 15(C) east and north of a line beginning at the northern boundary of Unit 15(C) and mouth of the Kasilof River at 60°23′19″ N; 151°18′37″ W, extending south along the coastline of Cook Inlet to Bluff Point (59°40′00″ N), then south along longitude line 151°41′48″ W to latitude 59°35′56″ N, then east to the tip of Homer Spit (excluding any land of the Homer Spit), then northeast to the north bank of Fox River (59°48′57″ N; 150°58′44″ W), and then east to the eastern boundary of Unit 15(C) at 150°19′59″ W.

(4) The Gulf of Alaska roaded area comprises the incorporated city boundaries of Valdez and Whittier, Alaska.

(5) The Central Interior Excluded Area comprises the following: The Fairbanks North Star Borough and that portion of Unit 20(A) east of the Wood River drainage and south of Rex Trail, including the upper Wood River drainage south of its confluence with Chicken Creek; that portion of Unit 20(C) east of Denali National Park north to Rock Creek and east to Unit 20(A); and that portion of Unit 20(D) west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volkmar drainage, including the Goodpaster River drainage. The following communities are within the Excluded Area: Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy, Ferry, and all residents of the formerly named Fairbanks North Star Borough Excluded Area.

* * * * *

■ 3. Amend § 92.31 by revising paragraphs (j)(3) introductory text and (k)(1) to read as follows:

§ 92.31 Region-specific regulations.

* * * * *

(j) * * *

(3) Kachemak Bay Area (Harvest area: That portion of Game Management Unit [Unit] 15[C] west and south of a line beginning at the northern boundary of Unit 15[C] and mouth of the Kasilof River at 60°23′19″ N; 151°18′37″ W, extending south along the coastline of Cook Inlet to Bluff Point [59°40′00″ N], then south along longitude line 151°41′48″ W to latitude 59°35′56″ N, then east to the tip of Homer Spit [excluding any land of the Homer Spit], then northeast to the north bank of the Fox River [59°48′57″ N; 150°58′44″ W], and then east to the eastern boundary of Unit 15[C] at 150°19′59″ W) (Eligible Chugach Communities: Port Graham, Nanwalek):

* * * * *

(k) * * *

(1) Season: April 2–May 31—That portion of Game Management Unit 16(B) west of the east bank of the Yentna River, south of the north bank of the Skwentna River, and south of the north bank of Portage Creek to the boundary of Game Management Unit 16(B) at Portage Pass; and August 1–31—That portion of Game Management Unit 16(B) west of longitude line 150°56′ W, south of the north banks of the Beluga River and Beluga Lake, then south of latitude line 61°26′08″ N.

* * * * *

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2022–13403 Filed 6–28–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02]

RTID 0648–XC097

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the General category daily retention limit from three large medium or giant Atlantic bluefin tuna (BFT) to one large medium or giant BFT. This daily retention limit applies to Atlantic Tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. This adjustment will be effective for the remainder of the June through August subquota time period.

DATES: Effective July 3, 2022, through August 31, 2022.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., *larry.redd@noaa.gov,* 301–427–8503, Nicholas Velseboer, *nicholas.velseboer@noaa.gov,* 978–281–

9260, or Thomas Warren, *thomas.warren@noaa.gov,* 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the MSA to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,247.86 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The General category baseline quota is currently 555.7 mt. This baseline quota is further subdivided into subquotas by time period. The June through August subquota time period is 277.9 mt. As a result of the 2021 ICCAT recommendation regarding western Atlantic bluefin tuna management and the implementing final rule (87 FR 33049, June 1, 2022), on July 1, 2022, the baseline quotas noted above will increase to 1,316.14 mt, 587.9 mt, and 293.9 mt, respectively. The default General category daily retention limit is one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip and applies to General category permitted vessels and to HMS Charter/Headboat permitted vessels (when fishing commercially for BFT) (§ 635.23(a)(2)). NMFS adjusted the daily retention limit adjustment for the beginning of the June through August 2022 subquota time period from the default daily retention limit of one to three large medium or giant BFT (87 FR 32094, May 27, 2022). This action would adjust the daily retention limit for the remainder of the second time period in 2022, June through August.

Adjustment of General Category Daily Retention Limit

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to five BFT per vessel after considering the regulatory determination criteria under § 635.27(a)(8). As described below, NMFS considered all of the relevant determination criteria and their applicability to the General category BFT retention limit for June through August 2022. After considering these criteria, NMFS has decided to decrease the daily retention limit from three to one large medium or giant BFT per vessel per day/trip for General category permitted vessels and for HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example (and specific to the June through August 2022 limit), whether a vessel fishing under the General category retention limit takes a two-day trip or makes two trips in one day, the daily limit of three fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

Consideration of the Determination Criteria

As described above, under § 635.23(a)(4), NMFS may adjust the daily retention limit of large medium and giant BFT after considering the regulatory determination criteria under § 635.27(a)(8). Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the continued collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date and the likelihood of closure of the General category if no adjustment is made (§ 635.27(a)(8)(ii)). Commercial-size BFT are currently readily available to vessels fishing under the General category quota. As of June 23, 2022, the General category has landed approximately 20.5 mt, representing 7 percent of the General category subquota for the June 1 through August 31 subquota time period. If current catch rates continue with the three-fish daily limit, the available subquota for the June through August time period will be reached or exceeded, and NMFS would need to close the fishery earlier than otherwise would be necessary under a lower limit. NMFS intends to provide General category participants in all areas and time periods opportunities to harvest the General category quota without exceeding it, through active inseason management such as retention limit adjustments and/or the timing and amount of quota transfers (based on consideration of the determination criteria regarding inseason adjustments), while extending the season as long as practicable. NMFS is setting the limit for the remainder of the June through August 2022 subquota time period in such a way that NMFS believes, informed by past experience, increases the likelihood that the fishery will remain open throughout the subquota time period and year.

NMFS also took into consideration a recently published final rule that would set restricted-fishing days (RFDs) for the General category during the months of July through November 2022, with the first RFD scheduled for July 1 (87 FR 33056, June 1, 2022). On an RFD, General category permitted vessels and HMS Charter/Headboat permitted vessels (when fishing commercially for BFT) are prohibited from fishing for bluefin tuna. However, HMS Charter/Headboat permitted vessels are authorized to fish recreationally under the Angling category restrictions and must follow the Angling category retention and size limits. NMFS believes the final RFD action, in combination with reducing the daily retention limit that applies on open days (through this inseason action) would further increase the likelihood that the fishery would remain open throughout the subquota time period and year.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(a)(8)(v) and (vi)). This retention limit adjustment would be consistent with established quotas and subquotas, which are implemented

consistent with ICCAT recommendations, (established in Recommendation 17–06 and maintained in Recommendation 20–06), ATCA, and the objectives of the 2006 Consolidated HMS FMP and amendments. This retention limit adjustment would also be consistent with ICCAT Recommendation 21–07, which increases the U.S. baseline quota and subquotas slightly. The implementing final rule is effective July 1, 2022 (87 FR 33049, June 1, 2022). In establishing these quotas and subquotas and associated management measures, ICCAT and NMFS considered the best scientific information available, objectives for stock management and status, and effects on the stock. This retention limit adjustment is in line with the established management measures and stock status determinations. It is also important that NMFS limit landings to the subquotas both to adhere to the subquota time period allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the latest stock assessment, and this retention limit adjustment is consistent with those objectives.

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the available General category quota without exceeding the annual quota. This consideration is based on the objectives of the 2006 Consolidated HMS FMP and its amendments, and includes achieving optimum yield on a continuing basis and optimizing the ability of all permit categories to harvest available BFT quota allocations (related to § 635.27(a)(8)(x)).

Given these considerations, NMFS has determined that a one-fish General category retention limit is warranted for the remainder of the June–August 2022 subquota time period. This retention limit would provide a reasonable opportunity to harvest the available U.S. BFT quota (including the expected increase in available 2022 quota based on 2021 underharvest), without exceeding it, while maintaining an equitable distribution of fishing opportunities; help optimize the ability of the General category to harvest its available quota; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP and amendments.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat vessel owners are required to report their own catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons.

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording additional prior notice and an opportunity for public comment on the change in the daily retention limit from three BFT to the default level for the June through August 2022 subquota time period would be impracticable. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, responsive adjustment to the General category BFT daily retention limit from three BFT to one fish is warranted to allow fishermen to take advantage of availability of fish and of quota.

Delays in decreasing the retention limit may result in the available June through August subquota time period being reached or exceeded and NMFS needing to close the fishery earlier than otherwise would be necessary under the lower limit being set for the remainder of this period. Such delays could adversely affect those General category and HMS Charter/Headboat vessels that would otherwise have an opportunity to harvest BFT if the fishery were to remain open for as feasible throughout the remaining subquota time periods. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP and amendments. Adjustment of the retention limit needs to be effective as soon as possible to extend fishing opportunities for fishermen in all geographic areas, and to provide equitable opportunities. NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.* With quota available and fish available on the grounds, and with no additional expected impacts to the stock, it would be contrary to the public interest to require vessels to wait to harvest the additional fish allowed through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: June 23, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–13831 Filed 6–28–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 211108–0227; RTID 0648–XC106]

Atlantic Highly Migratory Species; Commercial Shark Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 11.3 metric tons (mt) dressed weight (dw) of aggregated large coastal shark (LCS) quota from the eastern Gulf of Mexico sub-region to the western Gulf of Mexico sub-region, and 6.8 mt dw of western Gulf of Mexico hammerhead shark sub-region quota to the Atlantic hammerhead shark region quota for the remainder of the 2022 fishing year. This action is based on consideration of the regulatory determination criteria regarding inseason quota transfers and affects commercial Atlantic shark permitted vessels and dealers.

DATES: Effective June 28, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck, Ann Williamson, or Karyl Brewster-Geisz, at 301–427–8503.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Section 635.27(b) describes the baseline quotas for different shark management groups and regions, describes the process for annual adjustments to those baseline quotas, and includes the criteria to consider for inseason quota transfers between regions and sub-regions. Section 635.28(b) describes quotas that are linked for management purposes.

On November 12, 2021 (86 FR 62737), NMFS announced the 2022 commercial western Gulf of Mexico aggregated LCS (72.0 mt dw; 158,724 lb dw) and hammerhead shark (11.9 mt dw; 26,301 lb dw) sub-regional quotas, eastern Gulf of Mexico aggregated LCS (85.5 mt dw; 188,593 lb dw) sub-regional quota, and Atlantic hammerhead shark (27.1 mt dw; 59,736 lb dw) regional quota. Based on dealer reports received as of May 20, 2022, NMFS estimates that in the western Gulf of Mexico sub-region, 65.7 mt (144,732 lb) or 91 percent of the aggregated LCS sub-regional quota and less than 2.0 mt dw (less than 4,400 lb dw) or less than 17 percent of the hammerhead sub-regional quota has been landed. In the eastern Gulf of Mexico sub-region, 31.1 mt dw (68,582 lb dw) or 36 percent of the aggregated LCS sub-regional quota has been landed. In the Atlantic region, 18.5 mt dw (40,874 lb dw) or 68 percent of the hammerhead shark regional quota has been landed.

Regulations provide that quotas for certain shark species and/or management groups are linked, including Atlantic hammerhead sharks and Atlantic aggregated LCS; eastern Gulf of Mexico hammerhead sharks and eastern Gulf of Mexico aggregated LCS; and western Gulf of Mexico hammerhead sharks and western Gulf of Mexico aggregated LCS (see § 635.28(b)(4)). Regulations further provide that for each pair of linked species and/or management groups, if landings reach, or are projected to reach, a threshold of 80 percent of the available quota and are also projected to reach 100 percent of the available quota before the end of the 2022 fishing year, NMFS will close the relevant shark management groups (see § 635.28(b)(3)). At this time, without further action, NMFS projects that both the western Gulf of Mexico aggregated LCS and Atlantic hammerhead shark management group quotas could be reached by August 15, 2022, and September 15, 2022, respectively. If that happens, NMFS would need to close the western Gulf of Mexico aggregated LCS group and the linked western Gulf of Mexico hammerhead group, as well as the Atlantic aggregated LCS and the linked Atlantic hammerhead management groups.

Under § 635.27(b)(2), NMFS may transfer quota inseason between regions or sub-regions. Such transfers may occur for species or management groups that are the same in both regions or sub-regions and the quota is split for management purposes and not as a result of a stock assessment. As described at § 635.27(b)(1)(ii), the sub-regional splits for the quotas in the Gulf of Mexico region were done for management purposes. Therefore, NMFS may transfer aggregated LCS quota between Gulf of Mexico sub-regions. As described at § 635.27(b)(1)(iii)(C), the regional and sub-regional splits for the overall hammerhead quota were done for management purposes. Therefore, NMFS may transfer hammerhead quota between the Atlantic and Gulf of Mexico regions. Before making any such transfer, NMFS must consider the following determination criteria in § 635.27(b)(2)(iii), and other relevant factors: (1) The usefulness of information obtained from catches in the particular management group for biological sampling and monitoring of the status of the respective shark species and/or management group; (2) the catches of the particular species and/or management group quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; (3) the projected ability of the vessels fishing under the particular species and/or management group quota to harvest the additional amount of corresponding quota before the end of the fishing year; (4) effects of the adjustment on the status of all shark species; (5) effects of the adjustment on accomplishing the objectives of the fishery management plan; (6) variations in seasonal distribution, abundance, or migration patterns of the appropriate shark species and/or management group; (7) effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the quota; and/or (8) review of dealer reports, daily landing trends, and the availability of the respective shark species and/or management group on the fishing grounds.

NMFS has determined that, for the Gulf of Mexico aggregated LCS sub-regional landings, the eastern Gulf of Mexico aggregated LCS sub-regional landings are not projected to reach their quota by the end of the year and that the western Gulf of Mexico aggregated LCS sub-regional quota has exceeded 80 percent (93 percent) of their quota and are projected to reach their quota by the end of the year. Therefore, NMFS has considered the inseason quota transfer criteria, documented in the Quota Transfer section below, and determined that a transfer from the sub-regional eastern Gulf of Mexico aggregated LCS quota to the western Gulf of Mexico aggregated LCS quota is warranted to avoid potential closure of the western Gulf of Mexico aggregated LCS quota and the western Gulf of Mexico hammerhead shark quota, which are linked under 50 CFR 635.28(b)(4)(iii), while fishing opportunities still exist.

For the hammerhead shark landings, the western Gulf of Mexico hammerhead sub-regional landings are relatively low when compared to past fishing seasons, hammerhead sharks are not targeted nor landed in the western

Gulf of Mexico sub-region, and that the Atlantic hammerhead regional quota is nearing 80 percent (63 percent) of their quota and are projected to reach their quota by the end of the year. Therefore, NMFS has considered the inseason quota transfer criteria, documented in the Quota Transfer section below, and determined that a transfer from the western Gulf of Mexico hammerhead shark quota to the Atlantic hammerhead shark quota is warranted to avoid potential closure of the Atlantic hammerhead shark quota and the Atlantic aggregated LCS quota, which are linked under 50 CFR 635.28(b)(4)(i), while fishing opportunities still exist.

Quota Transfer

After fully considering all the criteria listed above, NMFS is taking action to transfer aggregated LCS quota from the eastern Gulf of Mexico sub-regional quota to the western Gulf of Mexico sub-regional quota, and hammerhead shark management group quota from the western Gulf of Mexico sub-regional quota to the Atlantic hammerhead shark quota. NMFS' consideration of the relevant criteria found at § 635.27(b)(2)(iii) includes, but is not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(b)(2)(iii)(A)), biological samples collected by NMFS scientific observers on commercial vessels targeting aggregated LCS and hammerhead sharks continue to provide NMFS with valuable data for ongoing scientific studies of shark age and growth, migration, and reproductive status. This is especially important for the upcoming bull, spinner, and tiger shark assessments in 2024.

Regarding the catches of the quotas to date and the likelihood of a fishery closure if no adjustment is made, commercial shark dealer data show that landings of the western Gulf of Mexico aggregated LCS have exceeded 80 percent of the quota (93 percent), while landings of the Atlantic hammerhead shark are approaching 80 percent of the quota (63 percent). Once the landings exceed the threshold of 80 percent of the quotas and are also projected to reach 100 percent before the end of the 2022 fishing year, the western Gulf of Mexico aggregated LCS and hammerhead shark management groups, and the Atlantic aggregated LCS and hammerhead shark management groups will close absent a transfer of additional quota.

NMFS also analyzed landings data, catch trends, and potential migration of the species involved (§ 635.27(b)(2)(iii)(C)–(D) and (F)–(H)) and determined that under current fishing rates, 11.3 mt dw of eastern Gulf of Mexico sub-regional aggregated LCS and 6.8 mt dw of western Gulf of Mexico hammerhead shark management groups are reasonable amounts of quota to transfer, allowing fishermen the opportunity to fully utilize the available shark quotas while avoiding negative economic impacts that would occur by closing the shark management groups. This action will not have impacts beyond those already analyzed in the 2006 Consolidated HMS FMP and its amendments and thus is not expected to negatively impact the stock.

Regarding the effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP (§ 635.27(b)(2)(iii)(E)), this action is consistent with the quotas previously implemented and analyzed in the 2022 shark quota final rule (86 FR 62737; November 12, 2021) and in the final rules implementing Amendment 5a (78 FR 40317; July 3, 2013) and Amendment 6 to the 2006 Consolidated HMS FMP (80 FR 50073; August 18, 2015). Specifically, this action is consistent with the objective of providing opportunities to fully harvest shark quotas without exceeding them.

Based on the considerations above, NMFS is transferring 11.3 mt dw of eastern Gulf of Mexico aggregated LCS sub-regional quota to the western Gulf of Mexico aggregated LCS sub-regional quota, and 6.8 mt dw of western Gulf of Mexico hammerhead shark sub-regional quota to the Atlantic hammerhead shark management group quota as of June 28, 2022. This quota transfer results in adjusted quotas of 74.2 mt dw for aggregated LCS in the eastern Gulf of Mexico sub-region, 83.3 mt dw for aggregated LCS and 5.1 mt dw for the hammerhead shark management group in the western Gulf of Mexico sub-region, and 33.9 mt dw for the hammerhead shark management group in the Atlantic region. If landings and fishing rates do not increase substantially, transferring Gulf of Mexico aggregated LCS sub-regional and Atlantic hammerhead shark regional quotas could allow the fisheries in each sub-region and region to remain open through the end of the 2022 fishing year.

Therefore, NMFS adjusts the eastern and western Gulf of Mexico aggregated LCS and hammerhead management group sub-regional quotas and the Atlantic hammerhead shark management group quota for the remainder of the 2022 shark fishing year, unless NMFS announces another quota transfer in the **Federal Register** or close the fishery. NMFS may also announce future retention limit adjustments as needed throughout the remainder of the 2022 shark fishing year.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N lat., proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of monitoring and setting quotas, to be within the Gulf of Mexico region. The boundary between the western and eastern Gulf of Mexico sub-regions is drawn along 88°00′ W long. (§ 635.27(b)(1)(ii)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason adjustments to respond to the unpredictable nature of shark species availability on the fishing grounds, the migratory nature of these species, and the regional variations in the shark fisheries. Affording prior notice and an opportunity for public comment regarding this quota transfer is impracticable. NMFS could not have proposed this action earlier, as it needed to consider and respond to updated landings data, including the recently available data as of May 20, 2022, in deciding whether to transfer a portion of the eastern Gulf of Mexico sub-regional aggregated LCS quota to the western Gulf of Mexico sub-regional aggregated LCS quota and western Gulf of Mexico sub-regional hammerhead shark quota to the Atlantic regional hammerhead shark quota. If NMFS was to offer a public comment period, after having appropriately considered that data, it could preclude fishermen from harvesting aggregated LCS and hammerhead sharks in the western Gulf of Mexico sub-region and Atlantic region that are legally available consistent with all of the regulatory criteria.

With quota available, and with no additional expected impacts to the stock, it would be contrary to the public interest to preclude fishing

opportunities for fishermen in sub-regions or regions when quota is still available for harvest. Analysis of available data shows that transfer of the quota from the eastern Gulf of Mexico sub-region to the western Gulf of Mexico sub-region would result in minimal risks of exceeding the aggregated LCS quotas in the Gulf of Mexico region, and transfer of the quota from the western Gulf of Mexico sub-region to the Atlantic region would result in minimal risks of exceeding the hammerhead shark quotas in either sub-region or region. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the commercial shark quotas and the inseason adjustment criteria. Additionally, NMFS provides notification of inseason adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on *hmspermits.noaa.gov.* Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment.

This quota transfer needs to be effective upon filing for public inspection with the Office of the Federal Register, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the quota transfer, and to not preclude fishing opportunities for fishermen in sub-regions or regions when quota is still available for harvest. Foregoing opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota designated in the 2006 Consolidated HMS FMP and amendments.

Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: June 24, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–13922 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 124
Wednesday, June 29, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2022–0039]

Credit Card Late Fees and Late Payments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In order to support its rulemaking and other functions, the Consumer Financial Protection Bureau (Bureau or CFPB) is charged with monitoring for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services. As part of this mandate, the Bureau is seeking information from credit card issuers, consumer groups, and the public regarding credit card late fees and late payments, and card issuers' revenue and expenses. For example, the Bureau is seeking information relevant to certain provisions related to credit card late fees in the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act or the Act) and Regulation Z. Areas of inquiry include: factors used by card issuers to set late fee amounts; card issuers' costs and losses associated with late payments; the deterrent effects of late fees; cardholders' late payment behavior; methods that card issuers use to facilitate or encourage timely payments, including autopay and notifications; card issuers' use of the late fee safe harbor provisions in Regulation Z; and card issuers' revenue and expenses related to their domestic consumer credit card operations.

DATES: Comments must be received by July 22, 2022.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2022–0039 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: 2022-CreditCardLateFeeANPR@cfpb.gov.* Include Docket No. CFPB–2022–0039 in the subject line of the message.
3. *Mail/Hand Delivery/Courier:* Comment Intake—Credit Card Late Fees, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by hand delivery, mail, or courier.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *https://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern time. At that time, you can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions in response to this notice, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

If you wish to submit trade secret or confidential commercial information, please contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section below. Information that the submitter customarily and actually keeps private will be treated as confidential in accordance with the Bureau's Rule on the Disclosure of Records and Information, 12 CFR part 1070.

FOR FURTHER INFORMATION CONTACT: Adrien Fernandez, Counsel, Krista Ayoub and Steve Wrone, Senior Counsels, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In order to support its rulemaking and other functions, the Bureau is charged with monitoring for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services. As part of this mandate, the Bureau is seeking information from credit card issuers, consumer groups, and the public regarding credit card late fees and late payments and card issuers' revenue and expenses. For example, the Bureau is seeking information relevant to certain provisions related to late fees in the CARD Act [1] and Regulation Z.[2]

Specifically, section 149(a) of the CARD Act provides that the amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open-end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, must be reasonable and proportional to such omission or violation.[3] Section 149(b) of the Act directs the Bureau [4] to issue rules that establish standards for assessing whether the amount of any penalty fee or charge is reasonable and proportional to the omission or violation to which the fee or charge relates.[5] In issuing such rules, the Act requires the Bureau to consider: (1) the cost incurred by the creditor from an omission or violation; (2) the deterrence of omissions or violations by the cardholder; (3) the conduct of the cardholder; and (4) such other factors as the Bureau may deem necessary or appropriate. The Act

[1] Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), Public Law 111–24, 123 Stat. 1734 (2009).

[2] 12 CFR part 1026.

[3] 15 U.S.C. 1665d(a).

[4] The Dodd-Frank Act, which became law on July 21, 2010, established the Bureau and, one year later, transferred authority and responsibility for implementing and enforcing the CARD Act from the Board to the Bureau.

[5] 15 U.S.C. 1665d(b).

authorizes the Bureau to establish different standards for different types of fees and charges, as appropriate.[6] Finally, the Act authorizes the Bureau in consultation with other agencies to provide an amount for any penalty fee or charge that is presumed to be reasonable and proportional to the omission or violation to which the fee or charge relates.[7]

Section 149(a) and (b) of the CARD Act is implemented in part in Regulation Z, § 1026.52(b)(1). In particular, under § 1026.52(b)(1), a card issuer must not impose a fee for violating the terms or other requirements of a credit card account, including a late payment, unless the issuer has determined that the dollar amount of the fee represents a reasonable proportion of the total costs incurred by the issuer for that type of violation consistent with § 1026.52(b)(1)(i) or complies with the safe harbor amounts consistent with § 1026.52(b)(1)(ii).[8] Currently, § 1026.52(b)(1)(ii) sets forth a safe harbor of $30 generally for a late payment, except that it sets forth a safe harbor of $41 for each subsequent late payment within the next six billing cycles. The safe harbor dollar amounts in § 1026.52(b)(1)(ii) are subject to an annual inflation adjustment.[9] A card issuer is not required to use the cost analysis in § 1026.52(b)(1)(i) to determine the amount of late fees if it complies with the safe harbor amounts in § 1026.52(b)(1)(ii).[10]

The questions in this notice cover several areas relating to the forgoing statutory and regulatory provisions, as well as areas relating more generally to the domestic consumer credit card market. Areas of inquiry include: factors used by card issuers to set late fee amounts, including but not limited to the statutory factors described above; card issuers' costs and losses associated with late payments; the deterrent effects of late fees; cardholders' late payment behavior; methods that card issuers use to facilitate or encourage timely payments, including autopay and notifications; card issuers' use of the late fee safe harbor provisions in Regulation Z, § 1026.52(b)(1)(ii); and card issuers' revenue and expenses related to their domestic consumer credit card operations. In answering the questions below, card issuer commenters should base their answers on information relevant to their domestic consumer credit card portfolios. Other commenters should base their answers on information they have about the domestic consumer credit card market.

II. Questions

A. Factors Used by Card Issuers To Set Existing Levels of Late Fees

1. For late fees assessed to cardholders who were not previously assessed a late fee in at least one of the previous six billing cycles, what factors do card issuers use to determine the amount of the late fee to charge per incident? For card issuer commenters, please list and describe factors that you consider in determining the late fee amount to charge per incident including:

a. Whether, and if so how, you determine that the late fee amount is proportionate or otherwise related to the cost you incur from a late payment;

b. Whether, and if so how, you determine that the late fee amount is proportionate or otherwise related to the statement balance or amount of the required minimum payment (beyond the restrictions in § 1026.52(b)(2));

c. Whether, and if so how, you take into account the number of late fees you estimate you would be unable to collect;

d. Whether, and if so how, you determine the late fee amount based on annual revenue goals;

e. Whether, and if so how, you take into account information related to whether and to what degree the amount of a late fee deters future late payments or other violations; and

f. Whether, and if so how, you take into account any other factors.

2. For late fees assessed to cardholders who were previously assessed a late fee in at least one of the previous six billing cycles, what factors do card issuers use to determine the amount of the late fee to charge per incident? For card issuer commenters, please list and describe factors you consider in determining the late fee amount to charge per incident including:

a. Whether, and if so how, you determine that the late fee amount is proportionate or otherwise related to the cost you incur from a late payment;

b. Whether, and if so how, you determine that the late fee amount is proportionate or otherwise related to the statement balance or the amount of the required minimum payment (beyond the restrictions in § 1026.52(b)(2));

c. Whether, and if so how, you take into account the number of late fees you estimate you would be unable to collect;

d. Whether, and if so how, you determine the late fee amount based on annual revenue goals;

e. Whether, and if so how, you take into account information related to whether and to what degree the amount of a late fee deters future late payments or other violations; and

f. Whether, and if so how, you take into account any other factors.

B. Costs and Losses

3. What types of costs are associated with credit card late payments? For card issuer commenters, please provide an itemization of the annual amounts in 2019, 2020, and 2021 aggregated for your domestic consumer credit card portfolios for the following categories:

a. Costs associated with notifying (other than through periodic statements) cardholders of delinquencies and resolving delinquencies (including the establishment of workout and temporary hardship arrangements) prior to charge-off, including payments to third-party debt collectors;

b. Costs associated with notifying (other than through periodic statements) cardholders of delinquencies and resolving delinquencies (including the establishment of workout and temporary hardship arrangements) post-charge-off, including payments to third-party debt collectors;

c. Charges to the card issuer by other third parties as a result of late payment;

d. Losses due to non-payment;

e. Costs associated with holding reserves against potential losses; and

f. Costs of funding delinquent accounts.

4. What is the amount of costs associated with a single additional late payment? For card issuer commenters, please list, describe, and report the amount of marginal costs associated with a single additional late payment incurred by you. For card issuer commenters, please also list, describe, and report the amount of average costs associated with collecting late payments. Please distinguish between pre-charge-off and post-charge-off costs when appropriate, and exclude losses due to non-payment, costs associated with holding reserves, and costs of funding delinquent accounts.

5. Please list and describe actions and methods through which a card issuer typically contacts cardholders about late payments (other than through periodic statements). For card issuer

[6] 15 U.S.C. 1665d(d).

[7] 15 U.S.C. 1665d(e).

[8] The provisions in § 1026.52(b)(1) apply to penalty fees generally, including late fees. See comment 52(b)–1. Other restrictions on the amount of penalty fees, including late fees, are set forth in § 1026.52(b)(2). For example, § 1026.52(b)(2)(i)(A) prohibits a card issuer from imposing a late fee that exceeds the amount of the required minimum periodic payment due immediately prior to assessment of the late payment fee. Comment 52(b)(2)(i)–1.

[9] 12 CFR 1026.52(b)(1)(ii)(D).

[10] See comment 52(b)(1)–1.i.A.

commenters, please report the general number of calendar days after the due date after which you typically undertake the following actions if the minimum payment is not received:

a. Contact cardholder about late payment (other than through periodic statements) prior to charging a late fee;

b. Contact cardholder about late payment (other than through periodic statements) after charging a late fee;

c. Report late payment to credit bureaus;

d. Initiate collection actions via first-party debt collection;

e. Initiate collection actions via third-party debt collection; and

f. Any other actions taken specifically with respect to collecting late payments.

6. How many late payments does a card issuer typically experience in a year, as a total and relative to the number of accounts? For card issuer commenters, please report the annual number of late payments experienced by you in 2019, 2020, and 2021, as a total per year, and also as a fraction of the number of accounts per year.

7. How many late fees does a card issuer typically assess in a year, as a total and as relative to the number of accounts? For card issuer commenters, please report the annual number of late fees assessed by you in 2019, 2020, and 2021, as a total per year, and also as a fraction of the number of accounts per year.

8. For card issuer commenters, for each of the following categories separately, please report the annual number in 2019, 2020, and 2021, as a total per year and relative to the number of accounts per year, of:

a. Late fees that you were not able to collect and whether these uncollectible amounts are more common for the first versus subsequent late fee charges; [11]

b. Late fees that were discharged in bankruptcy; and

c. Late fees that you were required to waive in order to comply with a legal requirement (such as a requirement imposed by Regulation Z or 50 U.S.C. app. 527).

C. Deterrence

9. Do card issuers, consumer groups, or the general public have any research or information related to whether and to what degree the amount of a late fee, including the higher safe harbor amount set forth in § 1026.52(b)(1)(ii)(B), does or does not deter future late payments and whether the deterrent effect differs for the first versus subsequent late payments? If so, please provide that research or information.

10. Do card issuers typically impose consequences other than late fees on cardholders for paying late? If so, what other consequences are generally imposed on cardholders for paying late? Do card issuers, consumer groups, or the general public have any research or information on how effective these other consequences are at deterring late payments? If so, please provide that research or information. When are these other consequences generally imposed? For card issuer commenters, please report the general number of calendar days after the due date after which the following actions typically will occur if the minimum payment is not received:

a. Lose grace period [12] on new transactions;

b. Revise upward purchase APRs on new transactions because of late payments that were not more than 60 days late;

c. Revise upward purchase APRs on new transactions and existing balance because of late payments that were more than 60 days late;

d. Lose benefits such as rewards; and

e. Any other consequences.

11. Are there other methods that card issuers typically use to deter late payments that are less costly to cardholders than late fees or the consequences listed above? If so, what are those methods? (See also questions below related to auto pay and notifications of an upcoming payment.)

D. Cardholder Behavior

12. What categories do card issuers use to classify cardholders based on their late payment behavior (*e.g.,* cardholders who (1) inadvertently forgot to pay; versus (2) cardholders who did not have the funds to pay by the due date)? For card issuer commenters, please provide data on what share of cardholders that pay late fall within each of these categories, or other typical classifications.

13. For card issuer commenters, please provide data on how many calendar days after the due date cardholders make at least the minimum payment that is late. Please indicate to what percent of accounts is at least the minimum payment received and credited within:

a. Less than 24 hours;

b. 2–5 days;

c. 6–10 days;

d. 11–15 days;

e. 16–30 days; and

f. 31 days or more.

14. Is there other cardholder conduct the Bureau should consider in evaluating potential changes to the safe harbor provisions in § 1026.52(b)(1)(ii)? If so, what is the other conduct and how should the Bureau consider it?

E. Autopay

15. Do most card issuers currently offer autopay? For card issuers that currently offer autopay, please describe the process that a cardholder must go through in order to enroll in autopay and any restrictions that you may place on the autopay feature (*i.e.,* the feature is only available to certain cardholders).

16. For card issuers that currently offer autopay, what is the current rate of cardholder enrollment?

17. For card issuers that currently offer autopay, are any benefits offered to cardholders to incentivize autopay enrollment?

18. What, if any, are the consumer-related concerns associated with cardholders' use of autopay? Do card issuers consider these concerns when determining whether to provide autopay or incentivize its use, and if so, how?

19. What are the benefits to card issuers of making autopay available to cardholders?

F. Notifications of Upcoming Due Date

20. Please list and describe actions and methods through which card issuers contact cardholders about an upcoming due date (other than through periodic statements). For card issuers that provide notifications about upcoming due dates (other than through periodic statements), do you require cardholders to opt in to these notifications or are all notifications of this type automatic for every cardholder?

21. For card issuers that provide notifications about upcoming due dates (other than through periodic statements), in the months after a cardholder is charged a late fee, do you change the frequency or method by which you communicate with cardholders that a payment due date is upcoming? If so, how long are these changes in effect?

G. Courtesy Periods and Fee Waivers [13]

22. Do any card issuers currently offer courtesy periods before late fees are

[11] Please do not include fees that you chose not to impose or chose not to collect (such as fees you chose to waive at the request of the cardholder or under a workout or temporary hardship arrangement).

[12] The grace period is the date by which or the period within which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate.

[13] For the purposes of this section, a ''courtesy period'' refers to a policy or practice of a time period after the due date in which a late fee will not be assessed if at least the minimum payment is received and credited to the account during that

Continued

assessed? For card issuers that offer courtesy periods, how many days is the courtesy period? Are there any restrictions associated with the courtesy period (*i.e.,* courtesy periods are only available to certain cardholders)?

23. Do any card issuers waive late fees if a cardholder contacts the issuer? If so, for card issuers that waive late fees, under what circumstances are late fees waived?

H. Staggered Late Fee

24. Do any card issuers currently offer staggered late fees (*i.e.,* a small dollar amount fee, such as $2–3, that is imposed no more often than every certain number of days, such as every 5 or 10 days)? For card issuers that offer staggered late fees, describe the structure and how the fee amounts and number of days between fee escalations were decided.

I. Safe Harbor Provisions

25. Other than the statutory factors listed in the CARD Act, are there other factors the Bureau should consider in evaluating potential changes to the safe harbor provisions in § 1026.52(b)(1)(ii)? If so, what are these other factors and how should the Bureau consider them?

26. For card issuer commenters, if you assess a late fee that is lower or greater than the current safe harbor amounts set forth in § 1026.52(b)(1)(ii), please describe why the safe harbor amount is not being charged and how you arrived at the amount charged.

27. What late fee safe harbor amount would be sufficient for purposes of allowing card issuers to recover, through late fees, their costs in collecting late payments?

28. Do card issuers incur higher costs when collecting late payments where a prior late payment occurred in the past six billing cycles (repeat late payments) relative to the costs of collecting late payments where there has not been a late payment in the prior six billing cycles? Please include any research or information relating to whether and to what degree the costs associated with repeat late payments differ from the costs associated with late payments where there has not been a late payment in the prior six billing cycles.

29. What potential changes to the safe harbor provisions, if any, would cause card issuers to no longer use the safe harbor provisions in determining the amount of late fees? In lieu of using the safe harbor provisions, would card issuers use the cost analysis in § 1026.52(b)(1)(i) to determine the amount of late fees?

30. Should the Bureau consider any alternative approaches to the cost analysis in § 1026.52(b)(1)(i) to determine the amount of late fees if the card issuer decides not to use the safe harbor provisions for determining late fees amounts?

J. Cost Analysis Provisions

31. Are any card issuers currently using the cost analysis provisions in § 1026.52(b)(1)(i) to set the amount of the late fees they charge? For card issuers that are using the cost analysis provisions, what is the amount of the late fees you charged in 2019, 2020, and 2021 based on this analysis?

32. For card issuer commenters, if you were to undertake the cost analysis described in § 1026.52(b)(1)(i) in determining the amount of the late fees you could charge, what would the late fee amount be? Please provide detailed information about the information you used to determine this late fee amount.

33. Would card issuers need additional detail on how to comply with the cost analysis provisions in § 1026.52(b)(1)(i) beyond what is currently provided in the commentary? [14] If so, what additional details are needed?

34. If the Bureau were to require card issuers to comply with the cost analysis provisions in § 1026.52(b)(1)(i) in determining the amount of the late fees they could charge, what additional process and procedures should the Bureau adopt, if any, to ensure that card issuers comply with these provisions?

K. Revenue and Expenses

35. For card issuer commenters, please itemize the types of revenue associated with your domestic consumer credit card operations and report overall annual revenue in 2019, 2020, and 2021 associated with your domestic consumer credit card operations, including the itemized annual income from the following categories:

a. Interest;

b. Fees;

c. Interchange revenue; and

d. Other income.

36. For card issuer commenters, please report revenue from late fees collected on your domestic consumer credit card accounts in 2019, 2020, and 2021. Please do not include any fee waived or reversed as uncollectible or any amount added to a contra-asset account for uncollectible fees that the bank maintains and reports separately from the allowance for loan and lease losses.

37. For card issuer commenters, please itemize the types of expenses associated with your domestic consumer credit card operations and report the overall annual expenses accrued in 2019, 2020, and 2021 associated with domestic consumer credit card operations, including the itemized annual expenses for the following categories:

a. The total interest expenses accrued to fund credit card receivables;

b. The interchange expense fees paid to the card associations;

c. Expenses to collect problem credit (including the total collection cost for delinquent, recovery, and bankrupt accounts);

d. Marketing expenses (including payments to retail partners); and

e. All other operating and other expenses associated with card operations such as servicing, cardholder billing, processing, interchange, processing payments, card issuing, authorizations, card administration, and outside services/outsourcing expenses, etc.

38. For card issuer commenters, please report the dollar amount of losses in 2019, 2020, and 2021 for your domestic consumer credit card portfolios.

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2022–13864 Filed 6–28–22; 8:45 am]

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time period, even if the terms of the account agreement provide that the card issuer may assess a late payment fee by a certain date.

[14] See commentary to § 1026.52(b)(1)(i) for existing details on the cost-analysis provisions under § 1026.52(b)(1)(i).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0674; Project Identifier AD–2021–00373–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–24–04, which applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. AD 2020–24–04 requires revising the existing airplane flight manual (AFM) to incorporate

procedures for an approach with a localizer-based navigation aid, monitoring localizer raw data, calling out any significant deviations, and performing an immediate go around under certain conditions. Since the FAA issued AD 2020–24–04, the manufacturer has developed a modification to address the previously identified unsafe condition. The FAA has also identified a separate unsafe condition where misleading flight director (FD) guidance can be presented to the flightcrew under certain conditions. This proposed AD would continue to require the actions specified in AD 2020–24–04 and would require installing applicable software updates to the flight control module (FCM). Using updated software would terminate the retained AFM requirement in this AD. The FAA is proposing this AD to address the unsafe conditions on these products.

DATES: The FAA must receive comments on this proposed AD by August 15, 2022.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0674.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0674; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hassan Ibrahim, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3653; email: *Hassan.M.Ibrahim@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0674; Project Identifier AD–2021–00373–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hassan Ibrahim, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3653; email: *Hassan.M.Ibrahim@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–24–04, Amendment 39–21334 (85 FR 77991, December 3, 2020; corrected December 14, 2020 (85 FR 80589)) (AD 2020–24–04); for all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. AD 2020–24–04 was prompted by reports that the autopilot flight director system (AFDS) failed to transition to the instrument landing system localizer (LOC) beam after the consistent localizer capture (CLC) function in the FCMs initiated a transition to capture LOC during approach. AD 2020–24–04 requires revising the existing AFM to incorporate procedures for conducting an approach with a localizer-based navigation aid, monitoring localizer raw data, calling out any significant deviations, and performing an immediate go around if the airplane has not intercepted the final approach course as shown by the localizer deviation. The agency issued AD 2020–24–04 to address the AFDS failing to transition, which could result in localizer overshoot leading to glideslope descent on the wrong heading. Combined with a lack of flight deck effects for a consistent localizer capture mode failure, this condition could result in controlled flight into terrain.

Actions Since AD 2020–24–04 Was Issued

The preamble to AD 2020–24–04 explains that the FAA considers the requirements ''interim action'' and that the manufacturer is developing a modification to address the unsafe condition. That AD explains that the FAA might consider further rulemaking if a modification is developed, approved, and available. Since the FAA issued AD 2020–24–04, the manufacturer has developed software updates for the FCM, and the FAA has determined that further rulemaking is indeed necessary; this proposed AD follows from that determination.

Further, the FAA has since identified a separate unsafe condition where in certain scenarios, misleading FD guidance can be presented to the flightcrew during approach. Operators may experience misleading FD guidance after disengaging the autopilot due to a ''mode fail'' caused by glideslope beam anomaly during instrument landing system (ILS) approach and may lead to

controlled flight into terrain (CFIT) or a runway overrun.

New software developed by Boeing addresses the autopilot logic for the transition from CLC to LOC during approach. Also, during ILS signal fluctuations, changes in the new software reduce potential deviation from desired glidepath, and eliminates the potential for misleading FD guidance subsequent to autopilot disconnect.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe conditions described previously are likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021. This service information specifies procedures for updating flight control electronics (FCE) software to install common block point (CBP) 5.1 operational program software (OPS) having part number HNP5A–AL01–5041 in the FCM, and doing a software configuration check.

Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021, specifies prior or concurrent accomplishment of Boeing Alert Service Bulletin B787–81205–SB270044–00, Issue 003, dated July 7, 2020; or Boeing Service Bulletin B787–81205–SB270046–00, Issue 002, dated October 24, 2019; as applicable, which specify procedures for installing FCE software update CBP 5.0.

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

Proposed AD Requirements in This NPRM

This proposed AD would retain all requirements of AD 2020–24–04. This proposed AD would also require accomplishing the actions specified in the service information described previously. For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0674.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 214 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revising the AFM (retained actions from AD 2020–24–04).	1 work-hour × $85 per hour = $85	$0	$85	$18,190
Updating the software	Up to 4 work-hours × $85 per hour = $340	(*)	*340	*72,670

* The table does not include the parts cost for the software.

The FAA has determined that updating the software requires installing up to 8 software loads, at $300 per load, per operator. For the parts cost, the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost for software to be $2,400 per operator.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA has determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–24–04, Amendment 39–21334 (85 FR 77991, December 3, 2020; corrected December 14, 2020 (85 FR 80589)); and

■ b. Adding the following new AD:

The Boeing Company: Docket No. FAA–2022–0674; Project Identifier AD–2021–00373–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by August 15, 2022.

(b) Affected ADs

This AD replaces AD 2020–24–04, Amendment 39–21334 (85 FR 77991, December 3, 2020; corrected December 14, 2020 (85 FR 80589)) (AD 2020–24–04).

(c) Applicability

This AD applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto flight.

(e) Unsafe Condition

This AD was prompted by reports indicating that the autopilot flight director system (AFDS) failed to transition to the instrument landing system localizer (LOC) beam after the consistent localizer capture function in the flight control modules initiated a transition to capture LOC during approach. The FAA is issuing this AD to address the AFDS failing to transition, which could result in localizer overshoot leading to glideslope descent on the wrong heading. Combined with a lack of flight deck effects for a consistent localizer capture mode failure, this condition could result in a controlled flight into terrain (CFIT) or a runway overrun. This AD was further prompted by reports of misleading flight director guidance that in certain scenarios can be presented to the flightcrew during approach and could lead to CFIT or a runway overrun.

(f) Compliance

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

(g) Retained Revision of the Existing Airplane Flight Manual (AFM), With New Terminating Action

This paragraph restates the requirements of paragraph (g) of AD 2020–24–04, with new terminating action. Within 14 days after December 18, 2020 (the effective date of AD 2020–24–04), revise the Operating Procedures chapter of the existing AFM and applicable corresponding operational procedures to incorporate the procedures specified in figure 1 to paragraph (g) of this AD. Revising the existing AFM to include the changes specified in paragraph (g) of this AD may be done by inserting a copy of figure 1 to paragraph (g) of this AD into the existing AFM. Installing the software required by paragraph (h) of this AD terminates the requirement for revising the existing AFM in this paragraph.

Figure 1 to paragraph (g) – *Operating Instructions*

(Required by AD 2020-24-04)

Autopilot Flight Director System – Operating Instructions:

When conducting an approach with a localizer-based navigation aid, monitor localizer raw data and call out any significant deviations. If AFDS performance is not satisfactory, the flight crew must intervene. Perform an immediate go-around if the airplane has not intercepted the final approach course as shown by the localizer deviation.

(h) New Required Actions

For airplanes identified in paragraph A, ''Effectivity,'' of Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021: Except as specified by paragraph (i) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021.

Note 1 to paragraph (h): Guidance for accomplishing the actions required by paragraph (h) of this AD can be found in Boeing Alert Service Bulletin B787–81205–SB270053–00, Issue 002, dated May 6, 2021, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021.

(i) Concurrent Actions

For airplanes identified as Group 1, Configuration 1, and as Group 2, Configuration 1, in paragraph A, ''Effectivity,'' of Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021: Prior to or concurrently with accomplishing the actions required by paragraph (h) of this AD, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the applicable service information identified in paragraphs (i)(1) and (2) of this AD.

(1) Boeing Alert Service Bulletin B787–81205–SB270044–00, Issue 003, dated July 7, 2020.

(2) Boeing Service Bulletin B787–81205–SB270046–00, Issue 002, dated October 24, 2019.

(j) Exception to Service Information Specifications

Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021, use the phrase ''the Issue 001 date of Requirements Bulletin B787–81205–SB270053–00 RB,'' this AD requires using ''the effective date of this AD.''

(k) Terminating Action for AFM Revision

Installation of the software update specified in the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 002, dated May 6, 2021, terminates the AFM revision required by paragraph (g) of this AD, and the AFM revision may be removed, provided that this software update has been installed on all affected airplanes in an operator's fleet.

(l) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Requirements Bulletin B787–81205–SB270053–00 RB, Issue 001, dated February 19, 2021.

(2) This paragraph provides credit for the actions specified in paragraph (i)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB270044–00, Issue 001, dated December 18, 2018; or Boeing Alert Service Bulletin B787–81205–SB270044–00, Issue 002, dated November 20, 2019.

(3) This paragraph provides credit for the actions specified in paragraph (i)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin B787–81205–SB270046–00, Issue 001, dated November 30, 2018.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the

certification office, send it to the attention of the person identified in paragraph (n) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(4) AMOCs approved for AD 2020–24–04 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(5) Except as specified by paragraph (j) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (m)(5)(i) and (ii) of this AD apply.

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

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

(n) Related Information

(1) For more information about this AD, contact Hassan Ibrahim, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3653; email: *Hassan.M.Ibrahim@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on June 6, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13743 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0802; Project Identifier AD–2021–01094–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Inc. Helicopters and Various Restricted Category Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bell Textron Inc. Model 204B, 205A, and 205A–1 helicopters and various restricted category helicopters. This proposed AD was prompted by a report of cracked main rotor blades (MRBs). This proposed AD would require repetitive inspections of each MRB and removing any cracked MRB from service. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 15, 2022.

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

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

For service information identified in this NPRM, contact Bell Textron, Inc., P.O. Box 482, Fort Worth, TX, 76101, United States; phone: (800) 363–8023; website: *https://www.bellflight.com/support/.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0802; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hye Yoon Jang, Aerospace Engineer, Delegation Oversight Section, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5190; email *hye.yoon.jang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0802; Project Identifier AD–2021–01094–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hye Yoon Jang, Aerospace Engineer, Delegation

Oversight Section, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5190; email *hye.yoon.jang@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA proposes to adopt a new AD for certain Bell Textron Inc., Model 204B, 205A, and 205A–1 helicopters and the following restricted category helicopters:

- Model HH–1K helicopters; current type certificate holders include, but are not limited to, Rotorcraft Development Corporation;
- Southwest Florida Aviation International, Inc., Model SW205A–1 helicopters;
- Model TH–1F helicopters; current type certificate holders include, but are not limited to, Robinson Air Crane Inc.; Rotorcraft Development Corporation; and Tamarack Helicopters, Inc.;
- Model TH–1L helicopters; current type certificate holders include, but are not limited to, Bell Textron Inc.; Overseas Aircraft Support, Inc.; and Rotorcraft Development Corporation;
- Model UH–1A helicopters; current type certificate holders include, but are not limited to, Richards Heavylift Helo, Inc.;
- Model UH–1B helicopters; current type certificate holders include, but are not limited to, International Helicopters, Inc.; Overseas Aircraft Support, Inc.; Red Tail Flying Services, LLC; Richards Heavylift Helo, Inc.; Rotorcraft Development Corporation; Southwest Florida Aviation International, Inc. (helicopters with an SW204 or SW204HP designation are Southwest Florida Aviation International, Inc., Model UH–1B helicopters); and WSH, LLC (type certificate previously held by San Joaquin Helicopters);
- Model UH–1E helicopters; current type certificate holders include, but are not limited to, Bell Textron Inc.; Overseas Aircraft Support, Inc.; Rotorcraft Development Corporation; Smith Helicopters; and West Coast Fabrications;
- Model UH–1F helicopters; current type certificate holders include, but are not limited to, AST, Inc.; California Department of Forestry; Robinson Air Crane, Inc.; Rotorcraft Development Corporation; and Tamarack Helicopters, Inc.;
- Model UH–1H helicopters; current type certificate holders include, but are not limited to, Arrow Falcon Exporters Inc.; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC; JJASPP Engineering Services, LLC; Northwest Rotorcraft, LLC; Overseas Aircraft Support, Inc.; Richards Heavylift Helo, Inc.; Rotorcraft Development Corporation; Southwest Florida Aviation International, Inc. (helicopters with an SW205 designation are Southwest Florida Aviation International, Inc., Model UH–1H helicopters); and Tamarack Helicopters, Inc.;
- Model UH–1L helicopters; current type certificate holders include, but are not limited to, Bell Textron Inc.; Overseas Aircraft Support, Inc.; and Rotorcraft Development Corporation; and
- Model UH–1P helicopters; current type certificate holders include, but are not limited to, Robinson Air Crane, Inc.; and Rotorcraft Development Corporation.

The FAA received reports of chordwise cracks in MRB part number (P/N) 204–011–250–113. The cracks originated from the extreme trailing edge between blade station 190 and 210; this area is currently not inspected during routine maintenance. This condition, if not addressed, could result in failure of an MRB and subsequent loss of control of the helicopter.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed the following Bell Alert Service Bulletins (ASBs), each Revision A and dated October 12, 2018, and for helicopters with MRB P/N 204–011–250–001, –005, –009, –113, or –117:

- Bell ASB 204–96–49 for Model 204B helicopters, serial numbers (S/N) 2001 through 2070 and 2196 through 2199 and
- Bell ASB 205–96–67 for Model 205A and 205A–1 helicopters, S/N 30001 through 30332.

The FAA also reviewed Bell ASB UH–1H–18–20, dated October 23, 2018, for all Model UH–IH helicopters with MRB P/N 204–011–250–113 installed.

These service bulletins specify procedures for daily wipe down inspections and 25-hour inspections of the MRBs for cracks.

Proposed AD Requirements in This NPRM

This proposed AD would require, before the first flight of each day, cleaning certain areas of the upper and lower skin surfaces of each MRB with a cheesecloth. If the cheesecloth is snagged or frayed while cleaning an MRB, removing paint from the area that caused the snagging and then either visually or eddy current inspecting the area for a crack would be required. This proposed AD would also require, at intervals not to exceed 25 hours time-in-service, wiping each MRB with isopropyl alcohol and immediately after the blade dries, inspecting the area for a dark line, which is an indication that excess alcohol is bleeding out of a crack or edge void. If there is a dark line, removing paint from the area where there is a dark line and inspecting for a crack in the skin would be required. Finally, this proposed AD would require removing from service any cracked MRB.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 682 helicopters of U.S. registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Each MRB inspection would take about .5 work-hour and parts would cost $50 for an estimated cost of $93 per helicopter and $63,426 for the U.S. fleet, per inspection cycle.

Replacing an MRB, if required, would take about 10 work-hours and parts would cost about $157,815 per blade for an estimated cost of $158,665 per MRB replacement.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Textron Inc., and Various Restricted Category Helicopters: Docket No. FAA–2022–0802; Project Identifier AD–2021–01094–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following helicopters with main rotor blade (MRB) part number 204–011–250–001, –005, –009, –113, or –117 installed:

(1) Bell Textron Inc. Model 204B helicopters, serial numbers (S/N) 2001 through 2070 and 2196 through 2199, inclusive, certificated in any category;

(2) Bell Textron Inc. Model 205A, and 205A–1 helicopters, S/N 30001 through 30332, inclusive, certificated in any category; and

(3) Various restricted category helicopters:

(i) Model HH–1K helicopters; current type certificate holders include, but are not limited to, Rotorcraft Development Corporation;

(ii) Southwest Florida Aviation International, Inc., Model SW205A–1 helicopters;

(iii) Model TH–1F helicopters; current type certificate holders include, but are not limited to, Robinson Air Crane Inc.; Rotorcraft Development Corporation; and Tamarack Helicopters, Inc.;

(iv) Model TH–1L helicopters; current type certificate holders include, but are not limited to, Bell Textron Inc.; Overseas Aircraft Support, Inc.; and Rotorcraft Development Corporation;

(v) Model UH–1A helicopters; current type certificate holders include, but are not limited to, Richards Heavylift Helo, Inc.;

(vi) Model UH–1B helicopters; current type certificate holders include, but are not limited to, International Helicopters, Inc.; Overseas Aircraft Support, Inc.; Red Tail Flying Services, LLC; Richards Heavylift Helo, Inc.; Rotorcraft Development Corporation; Southwest Florida Aviation International, Inc.; and WSH, LLC (type certificate previously held by San Joaquin Helicopters);

Note 1 to paragraph (c)(3)(vi): Helicopters with an SW204 or SW204HP designation are Southwest Florida Aviation International, Inc., Model UH–1B helicopters.

(vii) Model UH–1E helicopters; current type certificate holders include, but are not limited to, Bell Textron Inc.; Overseas Aircraft Support, Inc.; Rotorcraft Development Corporation; Smith Helicopters; and West Coast Fabrications;

(viii) Model UH–1F helicopters; current type certificate holders include, but are not limited to, AST, Inc.; California Department of Forestry; Robinson Air Crane, Inc.; Rotorcraft Development Corporation; and Tamarack Helicopters, Inc.;

(ix) Model UH–1H helicopters; current type certificate holders include, but are not limited to, Arrow Falcon Exporters, Inc.; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC; JJASPP Engineering Services LLC; Northwest Rotorcraft, LLC; Overseas Aircraft Support, Inc.; Richards Heavylift Helo, Inc.; Rotorcraft Development Corporation; Southwest Florida Aviation International, Inc.; and Tamarack Helicopters, Inc.;

Note 2 to paragraph (c)(3)(ix): Helicopters with an SW205 designation are Southwest Florida Aviation International, Inc., Model UH–1H helicopters.

(x) Model UH–1L helicopters; current type certificate holders include, but are not limited to, Bell Textron Inc.; Overseas Aircraft Support, Inc.; and Rotorcraft Development Corporation; and

(xi) Model UH–1P helicopters; current type certificate holders include, but are not limited to, Robinson Air Crane, Inc.; and Rotorcraft Development Corporation.

(d) Subject

Joint Aircraft System Component (JASC) Code: 6210, Main rotor blades.

(e) Unsafe Condition

This AD was prompted by a report of cracks on the MRBs outside of the current inspection area. The FAA is issuing this AD to prevent a failure of an MRB. The unsafe condition, if not addressed, could result in loss of an MRB and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) As of the effective date of this AD, before the first flight of each day:

(i) Using cheesecloth, clean the upper and lower skin surfaces of each MRB in the area between blade stations 100 through 215, noting any unsmooth areas and paying attention to the trailing edge and any MRB surface which snag the cheesecloth or cause it to fray, as this may by an indication of a crack or paint chip that could lead to corrosion.

(ii) If there is any unsmooth area or the cheesecloth used to clean the MRB is snagged or frayed, remove paint from the area that is unsmooth or caused the snagging or fraying (affected area) by hand sanding in a spanwise direction with an abrasive cloth or sandpaper 220 or smoother grit and either:

(A) Visually inspect the affected area for any crack using a 10X or higher power magnifying glass with a flashlight applied at an oblique angle and perpendicular to the crack orientation; or

(B) Eddy current inspect the affected area for any crack using a surface probe.

(iii) If there is any crack, before further flight, remove the MRB from service.

(2) As of the effective date of this AD, at intervals not to exceed 25 hours time-in-service, prepare the upper and lower skin surfaces of each MRB for inspection by wiping the last 4 inches of the trailing edge between blade station 100 and 215 with an isopropyl alcohol-soaked cloth and then drying the area with a clean cloth. Immediately after drying the area, using a flashlight at an oblique angle, inspect the surface for a dark line, as this is an indication that excess isopropyl alcohol is bleeding out of a crack or edge void. If there is a dark line, remove paint from the area where there is a dark line by hand sanding in a spanwise direction with an abrasive cloth or sandpaper 220 or smoother grit and inspect for a crack in the skin. If there is any crack, before further flight, remove the MRB from service.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, DSCO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i) of this AD. Information may be emailed to: *9-ASW-190-COS@faa.gov.*

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

(i) Related Information

For more information about this AD, contact Hye Yoon Jang, Aerospace Engineer, Delegation Oversight Section, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5190; email *hye.yoon.jang@faa.gov.*

Issued on June 23, 2022.

Ross Landes,

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

[FR Doc. 2022–13796 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0804; Project Identifier MCAI–2022–00081–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. This proposed AD was prompted by review of maintenance instructions that showed conflicting methods of recording torque cycles for certain parts. This proposed AD would require recalculating the torque cycles of certain parts, updating log cards, and replacing those parts before exceeding their recalculated service life limits (life limits); removing certain other parts from service; and applying an operational restriction on certain parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 15, 2022.

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

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

For EASA material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* For Airbus Helicopters service information identified in this NPRM, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. The EASA material is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0804.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0804; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0804; Project Identifier MCAI–2022–00081–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0012, dated January 24, 2022 (EASA AD 2022–0012), to correct an unsafe condition for Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Aerospatiale, Model AS 332 C, AS 332 C1, AS 332 L, and AS 332 L1 helicopters.

This proposed AD was prompted by review of maintenance instructions that showed conflicting methods of recording torque cycles for certain parts. The FAA is proposing this AD to address under-calculated torque cycle accumulations and prevent a part from remaining in service beyond its fatigue

life. The unsafe condition, if not addressed, could result in failure of a part and subsequent loss of control of the helicopter. See EASA AD 2022–0012 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0012 requires recalculating the torque cycles of certain affected parts, updating log cards, and replacing those parts before exceeding their recalculated service life limits. EASA AD 2022–0012 also requires removing certain other affected parts from service and prohibits installing those parts. Lastly, EASA AD 2022–0012 applies an operational restriction to certain affected parts.

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS332–01.00.76, Revision 1, dated March 8, 2022 (ASB AS332–01.00.76, Rev 1). This service information specifies procedures for determining the corrected accumulated torque cycles and updating the log cards for certain parts, new life limits expressed in torque cycles, and new procedures for counting torque cycles.

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

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2022–0012, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0012 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0012 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0012 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0012. Service information referenced in EASA AD 2022–0012 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0804 after the FAA final rule is published.

ADs Mandating Airworthiness Limitations

The FAA has previously mandated airworthiness limitations by mandating each airworthiness limitation task (*e.g.,* inspections and replacements (life limits)) as an AD requirement or issuing ADs that require revising the airworthiness limitations section (ALS) of the existing maintenance manual or instructions for continued airworthiness to incorporate new or revised inspections and life limits. This proposed AD, however, would require operators to incorporate into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your helicopter, the requirements (airworthiness limitations) specified in service information required by a CAA AD. The FAA does not intend this as a substantive change. For these ADs, the ALS requirements for operators are the same but are complied with differently. Requiring the incorporation of the new ALS requirements into the maintenance records, rather than requiring individual ALS tasks (*e.g.,* repetitive inspections and replacements), requires operators to record AD compliance once after updating the maintenance records, rather than after every time the ALS task is completed.

Differences Between This Proposed AD and the EASA AD

EASA AD 2022–0012 allows using Airbus Helicopters ASB No. AS332–01.00.76, Revision 0, dated December 16, 2021, for corrective actions; whereas this proposed AD would not and would instead require using ASB AS332–01.00.76, Rev 1. EASA AD 2022–0012 requires replacing each affected part before exceeding its re-calculated life limit; whereas this proposed AD would require, within 30 days after the effective date of the AD, incorporating the re-calculated life limits into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your helicopter.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 7 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Recalculating the torque cycles and updating maintenance records would take about 4 work-hours for an estimated cost of about $340 per helicopter and $2,380 for the U.S. fleet. Incorporating actions and associated thresholds and intervals, including life limits and maintenance tasks, into maintenance records, would require about 2 work-hours for a cost of $170 per helicopter and a cost of $1,190 for the U.S. fleet. Replacing a main rotor shaft would take about 40 work-hours and parts would cost about $175,684 for an estimated cost of $179,084. Replacing a main gearbox flexible mounting plate support would take about 80 work-hours and parts would cost about $57,457 for an estimated cost of $64,257.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2022–0804; Project Identifier MCAI–2022–00081–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 1400, Miscellaneous Hardware.

(e) Unsafe Condition

This AD was prompted by review of maintenance instructions that showed conflicting methods of recording torque cycles for certain parts. The FAA is issuing this AD to address under-calculated torque cycle accumulations and prevent a part from remaining in service beyond its fatigue life. The unsafe condition, if not addressed, could result in failure of a part and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0012, dated January 24, 2022 (EASA AD 2022–0012).

(h) Exceptions to EASA AD 2022–0012

(1) Where EASA AD 2022–0012 defines ''the ASB'' as ''AH Alert Service Bulletin (ASB) AS332–01.00.76,'' for this AD replace that definition with ''Airbus Helicopters Alert Service Bulletin No. AS332–01.00.76, Revision 1, dated March 8, 2022.''

(2) Where EASA AD 2022–0012 references flight hours (FH) and the service information referenced in EASA AD 2022–0012 specifies life limit thresholds in terms of FH, this AD requires using total hours time-in-service.

(3) Where EASA AD 2022–0012 refers to its effective date, this AD requires using the effective date of this AD.

(4) This AD does not mandate paragraph (3) of EASA AD 2022–0012; instead, for this AD, within 30 days after the effective date of this AD, incorporate into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your helicopter, the actions and associated thresholds and intervals, including life limits and maintenance tasks, specified in the Appendix, section 4., of Airbus Helicopters Alert Service Bulletin No. AS332–01.00.76, Revision 1, dated March 8, 2022. After the action required by this paragraph has been done, no alternative actions and associated thresholds and intervals, including life limits, may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD.

(5) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2022–0012.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0012 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits are prohibited.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(l) Related Information

(1) For EASA AD 2022–0012, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0804.

(2) For more information about this AD, contact Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on June 23, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–13825 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

[File No. R811005]

16 CFR Part 306

Proposed Partial Rule Exemption for Gilbarco, Inc.

AGENCY: Federal Trade Commission.

ACTION: Notification of proposed exemption; request for comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') has received a petition from Gilbarco, Inc. (''Gilbarco'') seeking a partial exemption from the coverage of a rule and published that petition online at *https://www.regulations.gov*. The petition requests permission to post fuel rating labels that deviate from label size, shape, font size, and letterspace specifications contained in the Fuel Rating Rule. The Commission proposes granting the partial exemption and invites comment on this proposal.

DATES: Comments must be filed by August 15, 2022.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Gilbarco Exemption; Matter No. R811005'' on your comment, and file your comment online at *https://www.regulations.gov/,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, Org 0825, Mail Stop H–144, 600 Pennsylvania Avenue NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Commission seeks comment on a ''Petition for Partial Exemption'' from Gilbarco, Inc. (''Gilbarco'').[1] As discussed below, the Petition requests that the Commission issue a partial exemption allowing Gilbarco to reduce the footprint and type size of fuel labels required under 16 CFR part 306.

I. Background

The Commission promulgated the Fuel Rating Rule (16 CFR part 306) (''the Rule'') in accordance with the Petroleum Marketing Practices Act (''PMPA''), 15 U.S.C. 2821 *et seq.,* which requires the Commission to establish uniform automotive fuel rating and labeling standards.[2] The ratings and labels provide consumers information they need to choose the correct type or grade of fuel for their vehicles. As originally published in 1979, the Rule only required an octane rating for automotive gasoline.[3] Subsequently, the Commission added labeling requirements for liquid alternative fuels, biodiesel, and ethanol flex fuel.[4] Section 306.12 of the Rule details the label color scheme, shape, size, textual content, and font type/point size. For example, the octane label must display the fuel's octane number in 96-point font. In addition, ethanol labels must state ''Use Only In Flex-Fuel Vehicles/May Harm Other Engines'' in capital letters and black font, with the phrase ''Flex-Fuel Vehicles'' in 16-point font.

In the past, the Commission granted partial exemptions to allow Gilbarco, one of the largest manufacturers of fuel dispensers in the U.S., to (1) post octane button labels with smaller label dimensions than allowed by the Rule (these dimension changes did not alter font size), and (2) add the word ''Press'' on the label. In addition, in the 1995 exemption, the Commission allowed Gilbarco to make the font size ''slightly smaller'' for the prominent octane (96-point font) number on the octane label.[5]

II. Gilbarco's Requested Partial Exemption

In its new petition, Gilbarco requests a partial exemption to permit retailers to post narrower label dimensions for button labels, as well as allow the use of smaller font size for certain text to accommodate such narrower labels.[6] These changes would allow Gilbarco to fit a larger number of fuel labels on a single dispenser. Gilbarco explains the exemption is needed ''so that retailers may adapt to the needs of consumers while continuing to ensure the clear and conspicuous disclosure of all information required by the Rule.'' Given increases in fuel choices at retail pumps, Gilbarco has developed and now proposes button label specifications that would allow its dispensers to accommodate one additional fuel grade button, for a total of six buttons for selecting fuel on dispensers.

To help achieve this goal, Gilbarco specifically requests the following changes to the fuel rating labels:

1. Permission to post fuel rating labels that deviate from the Rule's requirements concerning the external dimensions of labels for gasoline, alternative liquid automotive fuels, ethanol flex fuels, biodiesel, biodiesel blends, and biomass-based diesel to allow for labels that are 2.20 inch wide (and the same length as previously permitted by the Commission in previous exemption requests).[7]

2. Permission for fuel retailers to post fuel rating labels that deviate from font size and letterspace specifications contained in the Rule in the following manner:

a. 22-point font size for ''XX% ETHANOL'' instead of 24-point font as currently required on the ethanol label;

b. 10-point font size and 10.5-point letterspace for ''MINIMUM OCTANE RATING'' instead of 12-point font and 12 ½ point spacing as currently required on the octane label; and

c. 14-point font size for ''FLEX–FUEL VEHICLES'' instead of 16-point currently required on the ethanol label.

Under the proposed partial exemption, the overall length of the labels will remain as previously approved by the Commission, and their background and text insertions will otherwise comply with the Rule's color scheme, content, and font type and point size requirements.

III. Discussion

The Commission preliminarily concludes that Gilbarco's proposed label modifications meet the Rule's labeling requirements because they provide clear and conspicuous notice of the required information and are consistent with the Rule's other requirements relating to color scheme, content, and font. In addition, the Commission's experience with similar exemptions suggests the proposed slight reductions in font size

[1] The petition is available online at *https://www.regulations.gov*.

[2] *See* 15 U.S.C. 2823(c)(1).

[3] *See* Octane Posting and Certification Rule, 44 FR 19160 (1979).

[4] *See* 58 FR 41356 (Aug. 3, 1993) (alternative fuels); 73 FR 40154 (July 11, 2008); and 81 FR 2054 (Jan. 14, 2016).

[5] *See* Gilbarco exemptions at 60 FR 57584 (Nov. 16, 1995); 53 FR 29277 (Aug. 3, 1988); 81 FR 86914 (Dec. 2, 2016). *See also* similar exemptions granted to other companies including Sunoco, 44 FR 33740 (June 12, 1979) and 55 FR 1871 (Jan. 19, 1990); Dresser Industries, Inc., 56 FR 26821 (June 11, 1991); Exxon Corp., 54 FR 14072 (Apr. 7, 1989).

[6] In its petition, Gilbarco asked the Commission to consider granting the proposed exemptions without a notice and comment period. The Commission, however, has determined that the petition may raise issues appropriate for public comment, and is therefore publishing this Notice to seek comment before reaching a final decision on the petition. Under § 1.31 of the Commission's rules, 16 CFR 1.31(f), the FTC invites public comment on petitions for rulemaking including petitions for exemptions from Commission rules. This Notice satisfies the requirements of that section.

[7] The Rule (16 CFR 306.12) requires 3 inches wide by 2.5 inches long.

to several label disclosures are unlikely to materially affect consumers' understanding of the labels at the pump. Accordingly, the Commission proposes granting the requested exemption. The Commission requests comment on this proposal and whether the requested changes would materially affect the legibility of required fuel labels.

IV. Request for Comment

The Commission seeks comment on the proposed exemption in this Notice. You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 15, 2022. Write ''Gilbarco Exemption; Matter No. R811005'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the website *https://www.regulations.gov*.

Because of the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''Gilbarco Exemption; Matter No. R811005'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, Org 0825, Mail Stop H–144, 600 Pennsylvania Avenue NW, Washington, DC 20580.

Because your comment will be placed on the public record, you are solely responsible for making sure your comment does not include any sensitive or confidential information. Your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before August 15, 2022. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy*.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an opportunity for presentation of oral comments regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a request, on or before August 15, 2022, in the form of a written comment that describes the issues on which the party wishes to speak. If no oral presentations are scheduled, the Commission will base its decision on the written rulemaking record.

V. Paperwork Reduction Act

The Fuel Rating Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through September 30, 2023 (OMB Control No. 3084–0068). The proposed partial exemption would not amend the Rule or change the substance or frequency of the Rule's disclosure requirements and, therefore, does not require OMB clearance.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of the anticipated economic impact of the proposed partial exemption on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a rule unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The proposed exemption does not amend the Rule or alter the substance or frequency of the Rule's disclosure requirements. Thus, the Commission has concluded that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed exemption will not have a significant economic impact on a substantial number of small entities.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2022–13795 Filed 6–28–22; 8:45 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0788; EPA–R05–OAR–2020–0353; FRL–9879–01–R5]

Air Plan Approval; Indiana; Infrastructure SIP Requirements for the 2015 Ozone NAAQS and References to the Code of Federal Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from Indiana regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is also proposing to approve revisions to the Indiana SIP that would incorporate by reference a more recent edition of the Code of Federal Regulations (CFR).

DATES: Comments must be received on or before July 29, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2018–0788 or EPA–R05–OAR–2020–0353 at *https://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Lee, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)-353–7645, *lee.andrew.c@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What is the background of these SIP submissions?
II. What is EPA's analysis of the November 2, 2018, SIP submission?
III. What is EPA's analysis of the June 24, 2020, SIP submission?
IV. What action is EPA taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

I. What is the background of these SIP submissions?

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

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. On August 24, 2018, the Indiana Department of Environmental Management (IDEM) opened a 30-day comment period and provided the opportunity for public hearing. No requests for public hearing were received. Indiana received four separate comments pertaining to the transport requirements of section 110(a)(2)(D)(i)(I). EPA has proposed action on the transport portion of Indiana's submission in a separate rulemaking, therefore those comments are not germane to this action. *See* 87 FR 9838, February 22, 2022.

IDEM submitted these rules to EPA on November 2, 2018. In this rulemaking, EPA is proposing to approve most elements of this submission, which is intended to address all applicable infrastructure requirements for the 2015 ozone NAAQS.

Additionally, in this rulemaking EPA is proposing to approve a June 24, 2020, submission from IDEM that seeks to revise the Indiana SIP by incorporating by reference a more recent edition of the CFR.

II. What is EPA's analysis of the November 2, 2018, SIP submission?

Indiana has provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2015 ozone NAAQS, as applicable. The following review evaluates the state's submission.

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

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[3] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

EPA's 2013 Guidance states that to satisfy section 110(a)(2)(A) requirements, ''an air agency's submission should identify existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the subject

[1] EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013, Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior action on Indiana's infrastructure SIP to address the 2012 $PM_{2.5}$ NAAQS (August 31, 2017, 82 FR 41379, proposed rule and February 1, 2018, 83 FR 4595, final rule).

[2] *See* U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center* v. *EPA,* 902 F.3d 971.

[3] *E.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964 at 67034.

NAAQS, including precursors of the relevant NAAQS pollutant where applicable.'' IDEM's authority to adopt emissions standards and compliance schedules is found in the Indiana Code (IC) at IC 13–14–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. IDEM identified existing controls and emission limits in the IC. These regulations include controls and emission limits for volatile organic compounds (VOC) and nitrogen oxides (NO_X), which are precursors to ozone. VOC as an ozone precursor is regulated at 326 Indiana Administrative Code (IAC) 8, and NO_X as an ozone precursor is regulated by 326 IAC 10.

Furthermore, in Rules 326 IAC 8 and 326 IAC 10, respectively, Indiana provides category-specific and source-specific VOC and NO_X emission limits in addition to general VOC emission limits for Boone, Clark, Dearborn, Elkhart, Floyd, Hamilton, Hancock, Harrison, Hendricks, Johnson, Lake, Marion, Morgan, Porter, St. Joseph, and Shelby counties, and general NO_X emission limits for Clark, Floyd and Warrick counties.

In this rulemaking, EPA is not proposing to take any action on any new provisions currently in the IAC. EPA is also not proposing to take any action on any existing state provisions or rules related to start-up, shutdown or malfunction or director's discretion in the context of section 110(a)(2)(A). EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2015 ozone NAAQS.

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

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

In accordance with 40 CFR part 53 and 40 CFR part 58, IDEM continues to operate an air monitoring network that is used to determine compliance with the NAAQS. IDEM enters air monitoring data into AQS and provides EPA with prior notification when changes to its monitoring network or plan are being considered. Further, Indiana submits annual monitoring network plans to EPA. EPA approved Indiana's 2020 Annual Air Monitoring Network Plan on November 21, 2019, including the plan for ozone. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2015 ozone NAAQS.

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

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

1. Program for Enforcement of Emission Limitations and Control Measures

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

IDEM maintains an enforcement program to ensure compliance with SIP requirements. Specifically, IC 13–14–1–12 provides the Commissioner with the authority to enforce rules ''consistent with the purpose of the air pollution control laws.'' Additionally, IC 13–14–2–6, IC 13–14–2–7, IC 13–17–3–3 and 13–30–3 provide the Commissioner with the authority to assess civil penalties and obtain compliance with any applicable rule a board has adopted in order to enforce air pollution control laws. Lastly, IC 13–14–10–2 allows for an emergency restraining order that prevents any person from causing, or introducing contaminants, that cause or contribute to air pollution. EPA proposes that Indiana has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

2. Minor NSR

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

EPA approved Indiana's minor NSR program on March 16, 2015 (80 FR 13493); since that date, IDEM and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS. As stated in EPA's 2013 Guidance, the CAA allows EPA to approve infrastructure SIP submissions that do not implement the 2002 NSR Reform Rules. Therefore, EPA is not proposing action on existing NSR Reform regulations for Indiana. EPA proposes that Indiana has met the minor NSR requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

3. PSD

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) PSD provisions that explicitly identify NO_X as a precursor to ozone in the PSD program; (ii) identification of precursors to $PM_{2.5}$ [4] and the identification of $PM_{2.5}$ and PM_{10} [5] condensibles in the PSD program; (iii) $PM_{2.5}$ increments in the PSD program; and (iv) greenhouse gas (GHG) permitting and the ''Tailoring Rule'' in the PSD program.[6]

Some PSD requirements under section 110(a)(2)(C) overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E), and section 110(a)(2)(J).

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

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

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

These links are discussed in the appropriate areas below.

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

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166.[7]

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including provisions specifically identifying NO_X as a precursor to ozone, by June 15, 2007 (*see* 70 FR 71612 at 71683, November 29, 2005).

EPA approved revisions to Indiana's PSD SIP reflecting these requirements on July 2, 2014 (79 FR 37646), and therefore proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

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

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

The explicit references to SO_2, NO_X, and VOCs as they pertain to secondary $PM_{2.5}$ formation are codified at 40 CFR 51.166(b)(49)(i)(*b*) and 40 CFR 52.21(b)(50)(i)(*b*). As part of identifying pollutants that are precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define ''significant'' for $PM_{2.5}$ to mean the following emissions rates: 10 tons per year (tpy) of direct $PM_{2.5}$; 40 tpy of SO_2; and 40 tpy of NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).[8]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensibles, in $PM_{2.5}$ and PM_{10} emission limits in NSR permits. Instead, EPA determined that states had to account for $PM_{2.5}$ and PM_{10} condensibles for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 751.166(b)(49)(i)(*a*) and 40 CFR 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensibles were due to EPA by May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).

EPA approved revisions to Indiana's PSD SIP reflecting these requirements on July 2, 2014 (79 FR 37646), and therefore proposes that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

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

On October 20, 2010, EPA issued the final rule on the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including a system of ''increments'' which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in Table 1 below.

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

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

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

On July 12, 2012, and supplemented on December 12, 2012, IDEM submitted

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

[8] EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1 (*Natural Resources Defense Council* v. *EPA,* No. 08–1250). As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court's decision. Accordingly, EPA's approval of Indiana's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion.

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

revisions intended to address the increments established by the 2010 NSR Rule for incorporation into the SIP, as well as the revised major source baseline date, trigger date, and baseline area level of significance for $PM_{2.5}$. IDEM also requested that these revisions satisfy any applicable infrastructure SIP requirements related to PSD. Specifically, revisions to 326 IAC 2–2–6(b) contain the Federal increments for $PM_{2.5}$, 326 IAC 2–2–1(ee)(3) contains the new major source baseline date for $PM_{2.5}$ of October 20, 2010, 326 IAC 2–2–1(gg)(1)(C) contains the new trigger date for $PM_{2.5}$ of October 20, 2011, and 326 IAC 2–2–1(f)(1) contains the new baseline area level of significance for $PM_{2.5}$. It should be noted that Indiana's submitted revisions explicitly include only the $PM_{2.5}$ increments as they apply to Class II areas, and not the $PM_{2.5}$ increments as they apply to Class I or Class III areas.

On August 11, 2014 (79 FR 46709), EPA finalized approval of the applicable infrastructure SIP PSD revisions in the Indiana SIP; therefore, EPA is proposing that Indiana has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

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

With respect to the requirements of section 110(a)(2)(C) as well as section 110(a)(2)(J), EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of section 110(a)(2)(D)(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Indiana has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including GHGs. EPA finalized approval of a revision to Indiana's SIP on September 15, 2011 (76 FR 59899), which included revisions to 326 IAC 2–2–1 and 326 IAC 2–2–4 of Indiana's PSD regulations. These revisions established appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting stationary sources in accordance with EPA's GHG Tailoring Rule.

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

In accordance with the Supreme Court decision, on April 10, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (the D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of the EPA's PSD and Title V Greenhouse Gas Tailoring Rule, but not the regulations that implement Step 1 of that rule. *See Coalition for Responsible Regulation, Inc.* v. *EPA,* No. 09–1322. Step 1 of the Tailoring Rule covers sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs. Step 2 applied to sources that emitted only GHGs above the thresholds triggering the requirement to obtain a PSD permit. The amended judgment preserves, without the need for additional rulemaking by the EPA, the application of the BACT requirement to GHG emissions from Step 1 or ''anyway'' sources. With respect to Step 2 sources, the D.C. Circuit's amended judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emission increase from a modification.''

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

Under IC 13–14–9–8(h) Indiana's rules that implement Step 2 of the Tailoring Rule were automatically invalidated in the UARG case discussed above. Therefore, Indiana only implements Step 1 for ''anyway'' sources. The Indiana Environmental Rules Board adopted the GHG regulations required by EPA at 326 IAC 2–2–1(zz), pursuant to IC 13–14–9–8(h) (a section 8 rulemaking). While the Step 2 provisions still appear at 326 IAC 2–2–1(zz)(5), as a result of IC 13–14–9–8(h), a rule, or part of a rule, adopted under section 8 is automatically invalidated when the corresponding federal rule, or part of the rule, is invalidated. Due to the ruling in *UARG* v. *EPA*, the Step 2 portion of the Indiana's rule was automatically invalidated, and IDEM cannot consider GHG emissions to determine operating permit applicability or PSD applicability to a source or modification. Therefore, EPA is proposing that Indiana's SIP is sufficient to satisfy Elements (C), (D)(i)(II), and (J) with respect to GHGs because the PSD permitting program previously approved by the EPA into the Indiana SIP continues to require that PSD permits issued to ''anyway sources'' contain limitations on GHG emissions based on the application of BACT.

EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2015 ozone NAAQS.

3. Minor NSR

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

EPA approved Indiana's minor construction permit rule (326 IAC 2–1) on October 7, 1994 (59 FR 51108). On March 16, 2015, EPA approved revisions to 326 IAC 2–1 (*see* 80 FR 13493). Since October 7, 1994 and March 16, 2015, respectively, IDEM and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the NAAQS. As stated in EPA's 2013 Guidance, the CAA allows EPA to approve infrastructure SIP submissions that do not implement the 2002 NSR Reform Rules. Therefore, EPA is not proposing action on existing NSR Reform regulations for Indiana. EPA proposes that Indiana has met the minor NSR requirements of section

110(a)(2)(C) with respect to the 2015 ozone NAAQS.

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

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

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emission activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source of other type of emission activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality, or from interfering with measures required of any other state to protect visibility. Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

1. Significant Contribution to Nonattainment

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to significant contribution to nonattainment for the 2015 ozone NAAQS. Instead, EPA has evaluated these requirements in a separate rulemaking. *See* 87 FR 9838, February 22, 2022.

2. Interference With Maintenance

In this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to interference with maintenance for the 2015 ozone NAAQS. Instead, EPA has evaluated these requirements in a separate rulemaking. *See* 87 FR 9838, February 22, 2022.

3. Interference With PSD

EPA notes that Indiana's satisfaction of the applicable infrastructure SIP PSD requirements for the 2015 ozone NAAQS has been detailed in the section addressing section 110(a)(2)(C). EPA further notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

EPA has previously approved revisions to Indiana's SIP that meet certain requirements obligated by the Phase 2 Rule and the 2008 NSR Rule. These revisions included provisions that explicitly identify NO_X as a precursor to ozone, explicitly identify SO_2 and NO_X as precursors to $PM_{2.5}$ and regulate condensable $PM_{2.5}$ and PM_{10} in applicability determinations for purposes of establishing emission limits. EPA has also previously approved revisions to Indiana's SIP that incorporate the $PM_{2.5}$ increments and the associated implementation regulations including the major source baseline date, trigger date, and level of significance for $PM_{2.5}$ per the 2010 NSR Rule. EPA is proposing that Indiana's SIP contains provisions that adequately address the 2015 ozone NAAQS.

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

Indiana's EPA–approved NNSR regulations are contained in 326 IAC 2–3, approved on July 8, 2011 (76 FR 40242), and are consistent with 40 CFR 51.165 and 40 CFR part 51, appendix S. Therefore, EPA proposes that Indiana has met all of the applicable section 110(a)(2)(D)(i)(II) requirements relating to interference with PSD for the 2015 ozone NAAQS.

4. Interference With Visibility Protection

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

5. Interstate and International Pollution Abatement

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively). section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

Indiana's EPA-approved PSD portion of its program in 326 IAC 2–2–15 (b)(3) contains provisions requiring new or modified sources to notify neighboring states of potential negative air quality impacts. EPA is proposing that Indiana has met the infrastructure SIP requirements of section 126(a) with respect to the 2015 ozone NAAQS. Indiana does not have any obligations under any other subsection of section 126, nor does it have any pending obligations under section 115. Therefore, EPA proposes that Indiana has met all of the applicable section 110(a)(2)(D)(ii) requirements for the 2015 ozone NAAQS.

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

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

1. Adequate Resources

To satisfy the adequate resources requirements of section 110(a)(2)(E), the state should provide assurances that its air agency has adequate resources, personnel, and legal authority to implement the relevant NAAQS.

Indiana's biennial budget and its environmental performance partnership agreement with EPA document funding and personnel levels for IDEM every two years. As discussed in earlier sections, IC 13–14–1–12 provides the Commissioner of IDEM with the authority to enforce air pollution control laws. Furthermore, IC 13–14–8, IC 13–17–3–11, and IC 13–17–3–14 contain the authority for IDEM to adopt air emissions standards and compliance

schedules. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2015 ozone NAAQS.

2. State Board Requirements

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

On November 29, 2012, IDEM submitted rules regarding its Environmental Rules Board at IC 13–13–8 for incorporation into the SIP, pursuant to section 128 of the CAA. On December 12, 2012, IDEM provided a supplemental submission clarifying that the Environmental Rules Board established by IC 13–13–8, which has the authority to adopt environmental regulations under IC 4–22–2 and IC 13–14–9, does not have the authority to approve enforcement orders or permitting actions as outlined in section 128(a)(1) of the CAA. Therefore, section 128(a)(1) of the CAA is not applicable in Indiana.

Under section 128(a)(2), the head of the executive agency with the power to approve enforcement orders or permits must adequately disclose any potential conflicts of interest. IC 13–13–8–11 ''Disclosure of conflicts of interest'' contains provisions that adequately satisfy the requirements of section 128(a)(2). This section requires that each member of the board shall fully disclose any potential conflicts of interest relating to permits or enforcement orders. IC 13–13–8–4 defines the membership of the board, and the commissioner (of IDEM) or his/her designee is explicitly included as a member of the board. Therefore, when evaluated together in the context of section 128(a)(2), the commissioner (of IDEM) or his/her designee must fully disclose any potential conflicts of interest relating to permits or enforcement orders under the CAA. EPA concludes that IDEM's submission as it relates to the state board requirements under section 128 is consistent with applicable CAA requirements. EPA approved these rules on December 24, 2013 (78 FR 77599). Therefore, EPA is proposing that IDEM has satisfied the applicable infrastructure SIP requirements of section 110(a)(2)(E) for the 2015 ozone NAAQS.

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

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

1. Installation, Maintenance, Replacement of Equipment, and Other Necessary Steps by Owners or Operators of Stationary Sources To Monitor Emissions From Such Sources

EPA's rules regarding how SIPs need to address requirements for source monitoring are contained in 40 CFR 51.212 (''Testing, inspection, enforcement, and compliance''). This regulation requires SIPs to provide for a program of periodic testing and inspection of stationary sources, to provide for the identification of allowable test methods, and to exclude any provision that would prevent the use of any credible evidence of noncompliance. IDEM's rules for monitoring requirements are contained in 326 IAC 3, which includes provisions specific to the continuous monitoring of emissions at 326 IAC 3–5–1, approved on June 25, 2021 (86 FR 33525), and minimum performance and operating specifications at 326 IAC 3–5–2, quality assurance requirements at 326 IAC 3–5–5, recordkeeping requirements at 326 IAC 3–5–6, source sampling procedures at 326 IAC 3–6–1, and fuel sampling and analysis procedures at 326 IAC 7, approved on October 23, 2013 (78 FR 63093). Therefore, EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(F)(i) with respect to the 2015 ozone standard.

2. Periodic Reports on the Nature and Amounts of Emissions and Emissions-Related Data From Stationary Sources

To address periodic reporting requirements, the infrastructure SIP submission should include air agency requirements providing for periodic reporting of emissions and emissions-related data by sources to the air agency, as required by the following emissions reporting requirements: 40 CFR 51.211 (''Emissions reports and recordkeeping''); 40 CFR 51.321 through 51.323 (''Source Emissions and State Action Reporting''); and the EPA's Air Emissions Reporting Rule, 40 CFR part 51, subpart A (''Air Emissions Reporting Requirements'').[9] The section 51.321 requirement that emission reports from states be made through the appropriate EPA Regional Office has been superseded in practice, as these data are now to be reported electronically through a centralized data portal pursuant to 40 CFR 51.45(b), which refers to the website *http://www.epa.gov/ttn/chief,* which was moved to *https://www.epa.gov/*. All states have existing periodic source reporting of emissions and emission inventory reporting practices. Thus, for any new or revised NAAQS, the infrastructure SIP may be able to certify existing authority and commitments and provide any additional assurance needed to meet changes in reporting and inventory requirements associated with the new or revised NAAQS.

Indiana sets forth reporting requirements in 326 IAC 2–6–4, approved on March 29, 2007 (72 FR 14678), that are consistent with 40 CFR 51.211, 40 CFR 51.321 to 323, and 40 CFR part 51, subpart A. Therefore, EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(F)(ii) with respect to the 2015 ozone standard.

3. Correlation of Emissions Reports by the State Agency With Any Applicable Emission Limitations or Standards, Reports Shall Be Available at Reasonable Times for Public Inspection

For this sub-element, the infrastructure SIP submission should reference and describe existing air agency requirements that have been approved into the SIP by the EPA, or include air agency requirements being newly submitted, that provide for the following: (1) correlation [10] by the air agency of emissions reports by sources with applicable emission limitations or standards; and (2) the public availability of emission reports by sources. Under 40 CFR part 51 Subpart G, 40 CFR 51.116 (''Data availability''), contains the requirements for correlating data. Correlation with applicable emissions limitations or standards is relevant only for those reports of source emissions that reflect the test method(s) and averaging period(s) specified in applicable emission limitations or standards. Thus, source reports of annual, ozone season, or summer day

[9] 40 CFR 51.321 through 51.323 nominally address emission reporting but merely cross-reference to 40 CFR part 51, subpart A.

[10] As defined in 40 CFR 51.116(c), the term ''correlate'' means ''present in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures.''

emissions used by the air agency to create the annual and triennial emission inventory submission to the EPA under 40 CFR part 51 subpart A in general would not need to be correlated with specific emission limitations or standards, as many sources do not have applicable emission limitations defined for those averaging periods. However, if the sources have applicable emissions limitations that are defined for these averaging periods, then they would need to be correlated.

Emission reports are available from IDEM upon request by EPA or other interested parties. Additionally, IDEM emissions data can be downloaded from the IDEM website at *https://www.in.gov/idem/airquality/2507.htm*. This site provides summaries of emissions of air pollutants reported by companies throughout the state of Indiana. The pollutants in these summaries include NO_X and VOC. Therefore, EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(F)(iii) with respect to the 2015 ozone standard.

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

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

326 IAC 1–5–2, approved on May 31, 1972 (37 FR 10842), establishes air pollution episode alert levels based on concentrations of criteria pollutants. This rule requires that emergency reduction plans be submitted to the Commissioner of IDEM by major air pollution sources, and these plans must include actions that will be taken when each episode level is declared, to reduce or eliminate emissions of the appropriate air pollutants. Similarly, under IC 13–17–4, Indiana also retains the ability to declare an air pollution emergency and order all persons causing or contributing to the conditions warranting the air pollution emergency to immediately reduce or discontinue emission of air contaminants. EPA proposes that Indiana has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) related to authority to implement measures to restrain sources from causing or contributing to emissions which present an imminent and substantial endangerment to public health, welfare or the environment with respect to the 2015 ozone NAAQS.

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

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

IDEM continues to update and implement needed revisions to Indiana's SIP as necessary to meet ambient air quality standards. As discussed in previous sections, authority to adopt emissions standards and compliance schedules is found at IC 13–4–8, IC 13–17–3–4, IC 13–17–3–11, and IC 13–17–3–14. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2015 ozone NAAQS.

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

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

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

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

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

1. Consultation With Government Officials

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

IDEM actively participates in the regional planning efforts that include state rule developers, representatives from the FLMs, and other affected stakeholders. Additionally, Indiana is an active member of the Lake Michigan Air Director's Consortium (LADCO), which consists of collaboration with the States of Illinois, Wisconsin, Michigan, Minnesota, and Ohio. EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2015 ozone NAAQS.

2. Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.

IDEM monitors air quality data daily and reports the air quality index to the interested public and media, if necessary. IDEM also participates in and submits information to EPA's AIRNOW program, and maintains SmogWatch, which is an informational tool created by IDEM to share air quality forecasts for each day. SmogWatch provides daily information about ground-level ozone, particulate matter concentration levels, health information, and monitoring data for seven regions in Indiana. In addition, IDEM maintains a publicly available website that allows interested members of the community and other stakeholders to view current monitoring data summaries, including those for ozone.[11] EPA proposes that Indiana has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2015 ozone NAAQS.

3. PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. IDEM's PSD program in the context of infrastructure SIPs has already been discussed above in the paragraphs addressing sections 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J).

Therefore, EPA proposes that Indiana has met all of the infrastructure SIP requirements for PSD associated with section 110(a)(2)(D)(J) for the 2015 ozone NAAQS.

4. Visibility Protection

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

[11] *http://www.in.gov/idem/airquality/2489.htm.*

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

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

IDEM maintains the capability of performing computer modeling of the air quality impacts of all criteria pollutants, including both source-oriented and more regionally directed complex photochemical grid models. IDEM collaborates with LADCO, EPA, and other Lake Michigan states in performing modeling. These modeling data are available to EPA or other interested parties upon request. Indiana's rules regarding air quality modeling are contained in 326 IAC 2–2–4, 326 IAC 2–2–5, 326 IAC 2–2–6, and 326 IAC 2–2–7. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2015 ozone NAAQS.

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

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

IDEM's EPA-approved permit fee program, specifically contained in 326 IAC 2–1.1–7, contains the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2015 ozone NAAQS.

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

States must consult with and allow participation from local political subdivisions affected by the SIP. Any IDEM rulemaking procedure contained in IC 13–14–9 requires public participation in the SIP development process. In addition, IDEM ensures that the public hearing requirements of 40 CFR 51.102 are satisfied during the SIP development process. EPA proposes that Indiana has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2015 ozone NAAQS.

III. What is EPA's analysis of the June 24, 2020, SIP submission?

On June 24, 2020, IDEM submitted a separate SIP revision request that EPA approve into the Indiana SIP updated rules at 326 IAC 1–1–3 (References to the Code of Federal Regulations) with an effective date April 4, 2020.

IDEM periodically revises its rules to reference updated versions of the CFR. Most recently, on June 25, 2017, EPA approved into the Indiana SIP revised rules at 326 IAC 1–1–3, which removed a reference to the July 1, 2013, edition of the CFR and added a reference to the July 1, 2015, edition of the CFR (82 FR 28775).

IDEM's June 24, 2020, submittal includes a further revised version of 326 IAC 1–1–3, which removes the reference to the to the July 1, 2015, edition of the CFR and adds a reference to the July 1, 2018, edition of the CFR. Following approval of these revisions into the Indiana SIP, unless otherwise indicated, any reference within 326 IAC to a provision of the CFR shall mean the July 1, 2018, edition. By updating the reference date to July 1, 2018, the Indiana SIP will be consistent with those regulations that the Federal government promulgated between July 1, 2015, and June 30, 2018. EPA is therefore proposing to approve the revisions at 326 IAC 1–1–3 into the Indiana SIP.

Indiana's June 24, 2020, submission also includes a summary of several changes to the CFR, which upon EPA's approval will be incorporated into the Indiana SIP. These include revisions applicable to appendix W to 40 CFR part 51, which contains updates to the *Guideline on Air Quality Models* finalized by EPA on January 17, 2017 (82 FR 5182). In the context of infrastructure SIP requirements for the 2015 ozone NAAQS, EPA must demonstrate that a state provides for the performance of air quality modeling as prescribed by the Administrator, which means the 2017 revision to appendix W. If a state's SIP includes incorporation by reference to an outdated version of appendix W and the state lacks other authority to conduct modeling according to the 2017 revision to appendix W, EPA cannot approve the state's infrastructure SIP elements at section 110(a)(2)(C), ''prong 3'' of section 110(a)(2)(D)(i)(II), section 110(a)(2)(J), and section 110(a)(2)(K). Upon approval into the Indiana SIP of the revisions at 326 IAC 1–1–3, the Indiana SIP will include incorporation by reference of the current 2017 version of appendix W. In EPA's analysis, above, of Indiana's November 2, 2018, submittal regarding the infrastructure SIP requirements for the 2015 ozone NAAQS, EPA has evaluated the Indiana SIP together with the revisions at 326 IAC 1–1–3, which EPA is proposing to approve in this rulemaking, and which provide IDEM with the authority to conduct modeling according to the 2017 revision to appendix W.

IV. What action is EPA taking?

EPA is proposing to approve most elements of the November 2, 2018, submission from Indiana certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2015 ozone NAAQS. EPA has proposed action in a separate rulemaking on the portion of the submission pertaining to the interstate transport requirements of section 110(a)(2)(D)(i)(I) with respect to the 2015 ozone NAAQS. *See* 87 FR 9838. EPA is not taking action on the visibility protection requirements of section 110(a)(2)(D)(i)(II), transport prong 4, and will address this requirement in a future rulemaking.

EPA's proposed actions for the State's satisfaction of infrastructure SIP requirements pursuant to section 110(a)(2) and the NAAQS are contained in the table below.

Element	2015 ozone
(A)—Emission limits and other control measures	A
(B)—Ambient air quality monitoring/data system	A
(C)1—Program for enforcement of control measures	A
(C)2—PSD	A
(D)1—I Prong 1: Interstate transport—significant contribution	NA
(D)2—I Prong 2: Interstate transport—interfere with maintenance	NA
(D)3—II Prong 3: Interstate transport—prevention of significant deterioration	A
(D)4—II Prong 4: Interstate transport—protect visibility	NA
(D)5—Interstate and international pollution abatement	A
(E)1—Adequate resources	A
(E)2—State board requirements	A
(F)—Stationary source monitoring system	A
(G)—Emergency power	A

Element	2015 ozone
(H)—Future SIP revisions	A
(I)—Nonattainment planning requirements of part D	*
(J)1—Consultation with government officials	A
(J)2—Public notification	A
(J)3—PSD	A
(J)4—Visibility protection	*
(K)—Air quality modeling/data	A
(L)—Permitting fees	A
(M)—Consultation and participation by affected local entities	A

In the above table, the key is as follows:

A	Approve.
NA	No Action/Separate Rulemaking.
*	Not germane to infrastructure SIPs.

EPA is also proposing to approve the June 24, 2020, submission from Indiana, which revises the Indiana SIP by incorporating by reference the more recent July 1, 2018, edition of the CFR.

V. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 40 CFR 51.5, EPA is proposing to incorporate by reference Indiana rule 326 IAC 1–1–3, effective April 4, 2020, as discussed in Section III of this preamble. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, nitrogen oxides, ozone, Reporting and recordkeeping requirements, volatile organic compounds.

Dated: June 21, 2022.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2022–13716 Filed 6–28–22; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 87, No. 124
Wednesday, June 29, 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.

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Louisiana Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Louisiana Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold project planning meetings via WebEx on the following dates and times:

- Wednesday, July 20, at 2:00 p.m. ET
- Wednesday, August 17, at 2:00 p.m. ET
- Wednesday, September 21, at 2:00 p.m. ET
- Wednesday, October 19, at 2:00 p.m. ET

The purpose of these meetings is to discuss and vote to select the topic for the Committee's civil rights project. Each planning meeting will last for approximately one hour.

- *Date:* Wednesday, July 20, at 2:00 p.m. ET; Wednesday, August 17, at 2:00 p.m. ET; Wednesday, September 21, at 2:00 p.m. ET; and Wednesday, October 19, at 2:00 p.m. ET.

Meeting Link: https://tinyurl.com/5n75rk8x.

Telephone (Audio Only): Dial 1–800–360–9505 USA Toll Free; Access code: 2761 303 1881.

FOR FURTHER INFORMATION CONTACT: Ivy Davis, DFO, and Director of the Eastern Regional Office (ERO, at *ero@usccr.gov* or 1–202–376–7533).

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. Committee meetings are available to the public through the above call-in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are deaf, deafblind and hard of hearing may follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments via email. The comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed. The email subject line should state: Atten: LA and sent to this email address: *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at *ero@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Programs, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, West Virginia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Eastern Regional Office at the above email address.

Agenda

I. Roll Call
II. Welcome
III. Project Planning
IV. Other Matters
V. Next Meeting
VI. Public Comments
VII. Adjourn

Dated: June 16, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–13914 Filed 6–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Generic Clearance for Questionnaire Pretesting Research

AGENCY: Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed extension of Generic Clearance for Questionnaire Pretesting Research, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 29, 2022.

ADDRESSES: Interested persons are invited to submit written comments by email to Jennifer Hunter Childs (*jennifer.hunter.childs@census.gov*). Please reference Generic Clearance for Questionnaire Pretesting Research in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2022–0011, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Jennifer Hunter Childs, Assistant Center Chief, Emerging Methods and Applications, Center for Behavioral Science Methods, (202) 603–4827, *jennifer.hunter.childs@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request an extension of the current OMB approval to conduct a variety of small-scale questionnaire pretesting activities under this generic clearance. A block of hours will be dedicated to these activities for each of the next three years. OMB will be informed in writing of the purpose and scope of each of these activities, as well as the time frame and the number of burden hours used. The number of hours used will not exceed the number set aside for this purpose.

This research program will be used by the Census Bureau and survey sponsors to improve questionnaires and procedures, reduce respondent burden, and ultimately increase the quality of data collected in the Census Bureau censuses and surveys. The clearance will be used to conduct pretesting of decennial, demographic, and economic census and survey questionnaires prior to fielding them. Pretesting activities will involve one of the following methods for identifying measurement problems with the questionnaire or survey procedure: cognitive interviews, focus groups, respondent debriefing, behavior coding of respondent/interviewer interaction, and split panel tests.

II. Method of Collection

Any of the following methods may be used: mail, telephone, face-to-face; paper-and-pencil, CATI, CAPI, internet, mobile device, or IVR.

III. Data

OMB Control Number: 0607–0725.

Form Number(s): Various.

Type of Review: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Affected Public: Individuals or households, businesses or other for profit, farms.

Estimated Number of Respondents: 5,500 per year.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 5,500 hours annually.

Estimated Total Annual Cost to Public: There is no cost to the respondent other than time to answer the information request.

Respondent's Obligation: Voluntary.

Legal Authority: Data collection for this project is authorized under the authorizing legislation for the questionnaire being tested. This may be Title 13, Sections 131, 141, 161, 181, 182, 193, and 301 for Census Bureau-sponsored surveys, and Title 13 for surveys sponsored by other Federal agencies. We do not now know what other titles will be referenced, since we do not know what survey questionnaires will be pretested during the course of the clearance.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–13853 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Nordwind Airlines, Leningradskaya str., building 25, office 27. 28, Moscow region, Khimki city, 141402, Russia; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of Russian airline Nordwind Airlines (''Nordwind''). OEE's request and related information indicates that Nordwind is headquartered in Moscow, Russia.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).[2] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the EAR).[3] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request is based upon facts indicating that Nordwind engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991, including but not limited to those below, on international flights, including from Yerevan, Armenia, Istanbul, Turkey, and Sharm el-Sheikh, Egypt to Russia after March 2, 2022, without the required BIS authorization. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. Nordwind flights would not be eligible to use license exception AVS. No BIS authorizations were either sought or obtained by Nordwind for these exports or reexports to Russia.

Additionally, Nordwind's continued use of such U.S.-origin aircraft on domestic routes within Russia runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[4] Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after March 2, 2022, Nordwind continued to operate multiple U.S.-origin aircraft following their unauthorized export or reexport to Russia in violation of the EAR, including, but not limited to, those identified below, domestically on flights into and out of Russian cities, including Beslan, Russia; Makhachkala, Russia; Moscow, Russia; St. Petersburg, Russia; and Sochi, Russia. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
VQ–BJA/RA–73340	28520	777–212 (ER) (B772)	Samana, DO/Moscow, RU	March 7, 2022.
RA–73340	28520	777–212 (ER) (B772)	Moscow, RU/Sochi, RU	June 20, 2022.
RA–73340	28520	777–212 (ER) (B772)	Sochi, RU/Moscow, RU	June 21, 2022.
RA–73340	28520	777–212 (ER) (B772)	Moscow, RU/Sochi, RU	June 23, 2022.
VP–BSE/RA–73315	40236	737–8KN (B738)	Sharm el-Sheikh, EG/Moscow, RU	March 7, 2022.
RA–73315	40236	737–8KN (B738)	Makhachkala, RU/St. Petersburg, RU.	June 20, 2022.
RA–73315	40236	737–8KN (B738)	Makhachkala, RU/St. Petersburg, RU.	June 22, 2022.
RA–73315	40236	737–8KN (B738)	St. Petersburg, RU/Moscow, RU	June 23, 2022.
VP–BSC/RA–73314	40233	737–8KN (B738)	Istanbul, TR/Kazan, RU	March 7, 2022.
RA–73314	40233	737–8KN (B738)	Sochi, RU/Surgut, RU, RU	June 20, 2022.
RA–73314	40233	737–8KN (B738)	Sochi, RU/Ulyanovsk, RU	June 21, 2022.
RA–73314	40233	737–8KN (B738)	Sochi, RU/Samara, RU	June 23, 2022.
RA–73314	40233	737–8KN (B738)	Samara, RU/Sochi, RU	June 23, 2022.
VP–BSO/RA–73317	40874	737–82R (B738)	Yerevan, AM/Kazan, RU	March 7, 2022.
RA–73317	40874	737–82R (B738)	Moscow, RU/Beslan, RU	June 21, 2022.
RA–73317	40874	737–82R (B738)	Orsk, RU/Moscow, RU	June 21, 2022.
RA–73317	40874	737–82R (B738)	Moscow, RU/Beslan, RU	June 22, 2022.
RA–73317	40874	737–82R (B738)	Orsk, RU/Moscow, RU	June 23, 2022.

Based upon the on-going violations by Nordwind, there are heightened concerns of future violations of the EAR, especially given that any subsequent actions taken with regard to any of the listed aircraft, or other Nordwind aircraft exported or reexported to Russia after March 2, 2022, may violate the EAR. Such actions include, but are not

[2] 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List (''CCL'') under Categories 0–2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

[3] 87 FR 13048 (Mar. 8, 2022).

[4] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

limited to, refueling, maintenance, repair, or the provision of spare parts or services. *Id.*

Moreover, additional concerns of future violations of the Regulations are raised by public information on Nordwind's website, available as of the date of the signing of this order, indicating that Nordwind continues operating domestically, suggesting that Nordwind intends not only to maintain control over the aircraft but also to continue operating them in likely violation of the EAR. Specifically, Nordwind's website states that its worldwide network includes more than 200 destinations and that the airline ''fl[ies] to 75 cities in 7 countries'' and ''operate[s] 500 flights weekly.'' [5] Given BIS's review policy of denial under Section 746.8(a) of the Regulations for exports and reexports to Russia, it is foreseeable that Nordwind will attempt to evade the Regulations in order to obtain new or additional aircraft parts for or service its existing aircraft that were exported or reexported to Russia in violation of Section 746.8 of the Regulations.

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Nordwind took actions in apparent violation of the Regulations by operating the aircraft cited above, among many others, on flights into and within Russia after March 2, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by Nordwind, even on domestic routes within Russia, and the company's on-going need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. I further find that such apparent violations have been ''significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' Therefore, issuance of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Nordwind, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

[5] *https://nordwindairlines.ru/en/about-company.*

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IV. Order

It is therefore ordered:

First, Nordwind Airlines, Leningradskaya str., building 25, office 27. 28, Moscow region, Khimki city, 141402, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Nordwind any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Nordwind of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Nordwind acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Nordwind of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Nordwind in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Nordwind, or service any item, of whatever origin, that is owned, possessed or controlled by Nordwind if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Nordwind by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Nordwind may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Nordwind as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Nordwind and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: June 24, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce Export Enforcement.

[FR Doc. 2022–13876 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Washington, DC 20230; Pobeda Airlines, 108811, Russian Federation, Moscow, p. Moskovskiy, Kievskoe shosse, 22nd km, 4/1. Moscow, Russia; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of Russian airline Pobeda Airlines (''Pobeda''). OEE's request and related information indicates that Pobeda is headquartered in Moscow, Russia, and Aeroflot Russian Airlines JSC, a/k/a PJSC Aeroflot (''Aeroflot'') is Pobeda's majority shareholder.[2] The Russian Federal Government is the majority owner of Aeroflot, through its Federal Agency for State Property Management.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).[3] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the EAR).[4] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request is based upon facts indicating that Pobeda engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991, including but not limited to those below, on international flights, including from Antalya, Gazipasa, and Istanbul, Turkey to Russia after March 2, 2022, without the required BIS authorization. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. Pobeda flights would not be eligible to use license exception AVS. No BIS authorizations were either sought or obtained by Pobeda for these exports or reexports to Russia.

Additionally, Pobeda's continued use of such U.S.-origin aircraft on domestic routes within Russia runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[5] Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after March 2, 2022, Pobeda operated multiple U.S.-origin aircraft, including, but not limited to, those identified below, domestically on flights into and out of Russian cities, including Kazan, Russia; Moscow, Russia; Murmansk, Russia; Nalchik, Russia; Perm, Russia; St. Petersburg,

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. § 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

[2] Aeroflot is the subject of a Temporary Denial Order issued on April 8, 2022. *See* 87 FR 21611 (April 12, 2022).

[3] 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List (''CCL'') under Categories 0–2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

[4] 87 FR 13048 (Mar. 8, 2022).

[5] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

Russia; and Surgut, Russia. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
VQ–BQB/RA–73225	64862	737–8MC (B738)	Antalya, TR/Moscow, RU	March 6, 2022.
RA–73225	64862	737–8MC (B738)	Kazan, RU/St. Petersburg, RU	June 20, 2022.
RA–73225	64862	737–8MC (B738)	Moscow, RU/Nalchik, RU	June 21, 2022.
RA–73225	64862	737–8MC (B738)	Moscow, RU/Murmansk, RU	June 21, 2022.
RA–73225	64862	737–8MC (B738)	Moscow, RU/Nalchik, RU	June 22, 2022.
VQ–BQC/RA–73226	64863	737–8MC (B738)	Gazipasa, TR/Moscow, RU	March 7, 2022.
RA–73226	64863	737–8MC (B738)	Nalchik, RU/Moscow, RU	June 20, 2022.
RA–73226	64863	737–8MC (B738)	Saratov, RU/Moscow, RU	June 21, 2022.
RA–73226	64863	737–8MC (B738)	Moscow, RU/Saratov, RU	June 21, 2022.
RA–73226	64863	737–8MC (B738)	St. Petersburg, RU/Perm, RU	June 22, 2022.
VP–BQE/RA–73227	64864	737–8MC (B738)	Istanbul, TR/Mineralnye Vody, RU.	March 6, 2022.
RA–73227	64864	737–8MC (B738)	Minsk, BY/St. Petersburg, RU	June 17, 2022.
RA–73227	64864	737–8MC (B738)	Moscow, RU/Perm, RU	June 20, 2022.
RA–73227	64864	737–8MC (B738)	Perm, RU/St. Petersburg, RU	June 20, 2022.
RA–73227	64864	737–8MC (B738)	Perm, RU/St. Petersburg, RU	June 21, 2022.
RA–73227	64864	737–8MC (B738)	St. Petersburg, RU/Mineralnye Vody, RU.	June 22, 2022.
VP–BQQ/RA–73232	64869	737–8MC (B738)	Istanbul, TR/Moscow, RU	March 7, 2022.
RA–73232	64869	737–8MC (B738)	St. Petersburg, RU/Mineralnye Vody, RU.	June 20, 2022.
RA–73232	64869	737–8MC (B738)	Mineralnye Vody, RU/Moscow, RU.	June 20, 2022.
RA–73232	64869	737–8MC (B738)	Surgut, RU/Moscow, RU	June 21, 2022.
RA–73232	64869	737–8MC (B738)	Moscow, RU/Perm, RU	June 22, 2022.

Based upon the on-going violations by Pobeda, there are heightened concerns of future violations of the EAR, especially given that any subsequent actions taken with regard to any of the listed aircraft, or other Pobeda aircraft exported or reexported to Russia after March 2, 2022, may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services. *Id.*

Moreover, additional concerns of future violations of the Regulations are raised by public information on Pobeda's website, available as of the date of this order, indicating that Pobeda intends to continue its domestic flight routes. Specifically, Pobeda's website continues to advertise flights from Moscow, Russia to other Russian cities, including Kaliningrad, St. Petersburg, and Kazan.[6] Given BIS's review policy of denial under Section 746.8(a) of the Regulations for exports and reexports to Russia, it is foreseeable that Pobeda will attempt to evade the Regulations in order to obtain new or additional aircraft parts for or service its existing aircraft that were exported or reexported to Russia in violation of Section 746.8 of the Regulations.

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Pobeda took actions in apparent violation of the Regulations by operating the aircraft cited above, among many others, on flights into and within Russia after March 2, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by Pobeda, even on domestic routes within Russia, and the company's on-going need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. Additionally, given that Pobeda and its majority shareholder Aeroflot both own and operate a number of similar models of U.S-origin aircraft requiring the same spare parts, I find it necessary to issue this Order not only to prevent further violations involving Pobeda's aircraft but also to prevent evasion of the Aeroflot TDO that I issued on April 8, 2022. I further find that such apparent violations have been ''significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' Therefore, issuance of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Pobeda, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IV. Order

It is therefore ordered:

First, Pobeda Airlines, 108811, Russian Federation, Moscow, p. Moskovskiy, Kievskoe shosse, 22nd km, 4≠1. Moscow, Russia, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of

[6] *https://www.pobeda.aero/en/.*

the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Pobeda any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Pobeda of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Pobeda acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Pobeda of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Pobeda in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Pobeda, or service any item, of whatever origin, that is owned, possessed or controlled by Pobeda if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Pobeda by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Pobeda may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Pobeda as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Pobeda and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: June 24, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–13875 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Siberian Airlines d/b/a S7 Airlines 633104, Novosibirskaya obl., g. Ob, prospekt Mozzherina, d. 10 ofis 201; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of Russian airline Siberian Airlines d/b/a S7 Airlines (''Siberian''). OEE's request and related information indicates that Siberian is headquartered in Moscow, Russia.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. § 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

imposed expansive controls on aviation-related (*e.g.,* Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (Section 746.8(a)(1) of the EAR).[2] BIS will review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (Section 740.15 of the EAR).[3] Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license requirement before it can travel to Russia.

OEE's request is based upon facts indicating that Siberian engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991, including but not limited to those below, on international flights, including from Atyrau, Kazakhstan, Bishkek, Kyrgyzstan, and Urgench, Uzbekistan to Russia after March 2, 2022, without the required BIS authorization. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. Siberian flights would not be eligible to use license exception AVS. No BIS authorizations were either sought or obtained by Siberian for these exports or reexports to Russia.

Additionally, Siberian's continued use of such U.S.-origin aircraft on domestic routes within Russia runs afoul of General Prohibition 10, which (among other restrictions) prohibits the continued use of an item that was known to have been exported or reexported in violation of the EAR. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[4] Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after March 2, 2022, Siberian continued to operate multiple U.S.-origin aircraft following their unauthorized export or reexport to Russia in violation of the EAR, including, but not limited to, those identified below, domestically on flights into and out of Russian cities, including Bratsk, Russia; St. Petersburg, Russia; Moscow, Russia; Omsk, Russia; and Ufa, Russia. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
VQ–BVM/RA–73411	41400	737–8GJ (B738)	Atyrau, KZ/Moscow, RU	March 10, 2022.
RA–73411	41400	737–8GJ (B738)	Ufa, RU/Moscow, RU	June 21, 2022.
RA–73411	41400	737–8GJ (B738)	Irkutsk, RU/Moscow, RU	June 22, 2022.
RA–73411	41400	737–8GJ (B738)	Bratsk, RU/Moscow, RU	June 23, 2022.
RA–73411	41400	737–8GJ (B738)	Moscow, RU/Sochi, RU	June 23, 2022
VQ–BMG/RA–73672	41841	737–8LP (B738)	Urgench, UZ/Moscow, RU	March 4, 2022.
RA–73672	41841	737–8LP (B738)	Sochi, RU/Moscow, RU	June 22, 2022.
RA–73672	41841	737–8LP (B738)	Moscow, RU/Ufa, RU	June 23, 2022.
RA–73672	41841	737–8LP (B738)	Ufa, RU/Moscow, RU	June 23, 2022.
VQ–BRQ/RA–73670	41710	737–8LP (B738)	Khujand, TJ/Saratov, RU	March 4, 2022.
RA–73670	41710	737–8LP (B738)	Omsk, RU/Moscow, RU	June 20, 2022.
RA–73670	41710	737–8LP (B738)	Moscow, RU/Ufa, RU	June 21, 2022.
RA–73670	41710	737–8LP (B738)	St. Petersburg, RU/Moscow, RU	June 23, 2022.
RA–73667	41707	737–8LP (B738)	Bishkek, KG/Novosibirisk, RU	May 1, 2022.
RA–73667	41707	737–8LP (B738)	Bratsk, RU/Moscow, RU	June 21, 2022.
RA–73667	41707	737–8LP (B738)	Moscow, RU/Omsk, RU	June 21, 2022.
RA–73667	41707	737–8LP (B738)	Moscow, RU/Irkutsk, RU	June 22, 2022.

Based upon the on-going violations by Siberian, there are heightened concerns of future violations of the EAR, especially given that any subsequent actions taken with regard to any of the listed aircraft, or other Siberian aircraft exported or reexported to Russia after March 2, 2022, may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services. *Id.*

Moreover, additional concerns of future violations of the Regulations are raised by public information indicating efforts by Siberian to have aircraft re-registered in Russia and assigned Russian tail numbers, suggesting that Siberian intends not only to maintain control over the aircraft but also to continue operating them in likely violation of the EAR. For example, one of the U.S.-origin aircraft identified above, bearing serial number 41400, was registered under Bermudan tail number VQ–BVM as recently as April 2022. The aircraft has since been reregistered in Russia and assigned the aircraft Russian tail number RA–73411. Given BIS's review policy of denial under Section 746.8(a) of the Regulations for exports and reexports to Russia, it is foreseeable that Siberian will attempt to evade the Regulations in order to obtain new or additional aircraft parts for or service its existing aircraft that were exported or reexported to Russia in violation of Section 746.8 of the Regulations in order to continue operating on domestic routes in Russia.

[2] 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List (''CCL'') under Categories 0–2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

[3] 87 FR 13048 (Mar. 8, 2022).

[4] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Siberian took actions in apparent violation of the Regulations by operating the aircraft cited above, among many others, on flights into and within Russia after March 2, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by Siberian, even on domestic routes within Russia, and the company's on-going need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. I further find that such apparent violations have been ''significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' Therefore, issuance of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Siberian, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IV. Order

It is therefore ordered:

First, Siberian Airlines d/b/a S7 Airlines, 633104, Novosibirskaya obl., g. Ob, prospekt Mozzherina, d. 10 ofis 201, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Siberian any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Siberian of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Siberian acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Siberian of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Siberian in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Siberian, or service any item, of whatever origin, that is owned, possessed or controlled by Siberian if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Siberian by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Siberian may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Siberian as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Siberian and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: June 24, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–13881 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Establishment of the Ocean Research Advisory Panel and Solicitation of Nominations for Membership

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of establishment of the Ocean Research Advisory Panel and solicitation of nominations for membership.

SUMMARY: Pursuant to the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021

(H.R. 6395) Act and the Federal Advisory Committee Act (FACA), the NOAA Administrator and the Co-Chairs of the Ocean Policy Committee (OPC) announce the establishment of the Ocean Research Advisory Panel (ORAP). The ORAP shall advise the OPC on certain ocean science and research policies, procedures, priorities, and other appropriate matters. The ORAP charter shall terminate two years from the date of its filing with the appropriate U.S. Senate and House of Representatives Committees unless earlier terminated or renewed by proper authority. Notwithstanding section 14 of the Federal Advisory Committee Act, the Advisory Panel shall terminate on January 1, 2040. This notice also requests nominations for membership on the ORAP.

DATES: Nominations should be sent to the email address specified below and must be received no more than 45 days after publication of this notice.

ADDRESSES: Nominations and applications should be submitted electronically to Dr. Cynthia Decker, the Designated Federal Officer (DFO), ORAP, NOAA, at *cynthia.decker@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, DFO, ORAP, NOAA (Phone Number: (202) 936–5847), Email: *cynthia.decker@noaa.gov* and Andrew Peck, Program Support, ORAP, NOAA (Phone Number: 202–964–1254), Email: *andrew.peck@noaa.gov* in the Office of Science Support, Oceanic and Atmospheric Research.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Establishment of the ORAP implements a statutory requirement of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (H.R. 6395), 10 U.S.C. 8933 *et seq.* The ORAP is governed by the FACA, as amended, 5 U.S.C. App., which sets forth standards for the formation and use of advisory committees. Responsibilities include the following: (1) to advise the OPC on policies and procedures to implement the National Oceanographic Partnership Program; (2) to advise the OPC on matters relating to national oceanographic science, engineering, facilities, or resource requirements; (3) to advise the OPC on improving diversity, equity, and inclusion in the ocean sciences and related fields; (4) to advise the OPC on national ocean research priorities; and (5) any additional responsibilities that the OPC considers appropriate.

II. Structure

The ORAP shall consist of not fewer than 10 and not more than 18 members appointed by the co-chairs of the OPC, including each of the following: (A) three members who represent the National Academies of Sciences, Engineering, and Medicine; (B) members selected from among individuals who represent the views of ocean industries, State, tribal, territorial or local governments, academia, and such other views as the co-chairs consider appropriate; and (C) members selected from among individuals eminent in the fields of marine science, marine technology, and marine policy, or related fields.

Members shall serve in a representative capacity; they are, therefore, not Special Government Employees. As such, members are not subject to the ethics rules applicable to Government employees, except that they must not misuse Government resources or their affiliation with the ORAP for personal purposes. All members of the ORAP will be appointed by the OPC Co-Chairs for a three-year term, with one member appointed by the OPC Co-Chairs as the ORAP Chair. Members may not serve on the ORAP for more than two consecutive terms. A member of the ORAP may not serve as the ORAP Chair for more than two terms. The ORAP shall meet not less than two times each year. Additional meetings may be called as deemed desirable by the OPC. Members are reimbursed for actual and reasonable travel and other per diem expenses incurred in performing such duties but will not be compensated for their time. As a Federal Advisory Committee, the ORAP's membership is required to be balanced in terms of viewpoints represented and the functions to be performed. The OPC Co-Chairs shall ensure that an appropriate balance of academic, scientific, industry, and geographical interests are represented by the members of the ORAP. The OPC Co-Chairs shall also make appointments without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, or cultural, religious, or socioeconomic status.

III. Nominations

Interested persons may nominate themselves or third parties. An application is required to be considered for ORAP membership, regardless of whether a person is nominated by a third party or self-nominated. The application package must include: (1) the nominee's full name, title, institutional affiliation, and contact information; (2) identification of the nominee's area(s) of industry perspective—academia, commercial service provider, or end-user; (3) a short description of his/her qualifications relative to the kinds of advice being solicited in this Notice; and (4) a current resume (maximum length four [4] pages). All nomination information must be provided in a single, complete package, and must be sent to the ORAP DFO at the electronic address provided above.

Paul Johnson,

Acting Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–13919 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC132]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public hybrid meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) District Advisory Panels (DAPs) will hold a public hybrid meeting to discuss snapper/grouper deep-water fishing in the U.S. Caribbean and the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION.**

DATES: The DAPs public hybrid meeting will be held on July 20, 2022, from 9:30 a.m. to 4:30 p.m. All meetings will be at Atlantic Standard Time (AST).

ADDRESSES:

Meeting address: The meeting will be held at the Courtyard by Marriott Isla Verde Resort, at 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico 00979.

You may join the DAPs public hybrid meeting (via Zoom) from a computer, tablet, or smartphone by entering the following addresses:

Join Zoom Meeting:

https://us02web.zoom.us/j/86262657165?pwd=aGQ4U25rME92d1p1TWo4d3Y3RGFrdz09

Meeting ID: 862 6265 7165.

Passcode: 901759.

One tap mobile:

+17879451488,
86262657165#,,,,*901759# Puerto Rico
+17879667727,
86262657165#,,,,*901759# Puerto Rico
Dial by your location:
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 939 945 0244 Puerto Rico
Meeting ID: 862 6265 7165.
Passcode: 901759.

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903; telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda are:

July 20, 2022

9:30 a.m.–9:45 a.m.

—Welcome—Marcos Hanke
—Call to Order
—Adoption of Agenda

9:45 a.m.–10:15 a.m.

—Federal and Local Regulations for Deep-Water Snapper/Grouper Fishing—Graciela García-Moliner
—Applicable Trap and Other Fishing Gear Federal Regulations—Jocelyn D'Ambrosio/María del Mar López-Mercer

10:15 a.m.–11:15 a.m.

—Turning Fishing Knowledge into Scientific Information—Jorge R. García-Sáis
—Life History Parameters of Deep-Water Snappers—Stacey Williams

11:15 a.m.–12 p.m.

—Experiences in Deep-Water Fishing
—Puerto Rico—Nelson Crespo
—St. Croix—Edward Schuster
—St. Thomas—Julian Magras

12 p.m.–1:30 p.m.

—Lunch Break

1:30 p.m.–4 p.m.

—Discussion of Topics Discussed in the Morning Session
—Recommendations to the CFMC and Local Governments

4 p.m.–4:30 p.m.

—Other Business

Other than the starting date and time the order of business may be adjusted as necessary to accommodate the completion of agenda items, at the discretion of the Chair. The meeting will begin on July 20, 2022, at 9:30 a.m. AST, and will end on June 20, 2021, at 4:30 p.m. AST.

Special Accommodations

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 226–8849.

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

Dated: June 24, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–13893 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Meeting of the Ocean Exploration Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Ocean Exploration Advisory Board (OEAB). OEAB members will discuss and provide advice on the Federal ocean exploration program, with a particular emphasis on the topics identified in the section on Matters to Be Considered.

DATES: The announced meeting is scheduled for Wednesday, July 6, 2022 from 9:00 a.m.–4:00 p.m. (EDT) and Thursday, July 7, 2022 from 9:00 a.m.–2:30 p.m. (EDT).

ADDRESSES: This will be an in-person meeting. The meeting will be held at the National Oceanic and Atmospheric Administration's Silver Spring Metro Center in Building 3 (SSMC3) Room 5836, located at 1315 East West Highway, Silver Spring, MD 20910. Information about how to participate, including COVID–19 related protocols and remote access, will be posted to the OEAB website at *https://oeab.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Mr. David Turner, Designated Federal Officer, Ocean Exploration Advisory Board, National Oceanic and Atmospheric Administration, *David.Turner@noaa.gov* or (859) 327–9661.

SUPPLEMENTARY INFORMATION: NOAA established the OEAB under the Federal Advisory Committee Act (FACA) and legislation that gives the agency statutory authority to operate an ocean exploration program and to coordinate a national program of ocean exploration. The OEAB advises NOAA leadership on strategic planning, exploration priorities, competitive ocean exploration grant programs, and other matters as the NOAA Administrator requests.

OEAB members represent government agencies, the private sector, academic institutions, and not-for-profit institutions involved in all facets of ocean exploration—from advanced technology to citizen exploration.

In addition to advising NOAA leadership, NOAA expects the OEAB to help to define and develop a national program of ocean exploration—a network of stakeholders and partnerships advancing national priorities for ocean exploration.

Matters To Be Considered: The OEAB will deliberate about the rapid evolution of ocean exploration as a discipline; the rapidly emerging technological capabilities that are in many ways driving that evolution; and new opportunities that are revealed in the wake of that evolution. They will also receive updates from NOAA Ocean Exploration staff and engage in discussions about current and future programs; data integration and analysis capabilities currently being deployed by the private sector; and how NOAA mapping and exploration activities in the Pacific Ocean can support National strategic objectives. Portions of the meeting may be partially closed to the public based upon provisions of the Government in the Sunshine Act of 1976 (Pub. L. 94–409). The agenda and other meeting materials will be made available on the OEAB website at *https://oeab.noaa.gov/.*

Status: The meeting will be open to the public via remote access and include a 30-minute public comment period on Thursday, July 7, 2022, from 11:00–11:30 a.m. (EDT). Please check the final agenda on the OEAB website to confirm the public comment period schedule.

The OEAB expects that public statements at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to three minutes. The Designated Federal Officer must receive written comments by June 27, 2022, to provide sufficient time for OEAB review. Written comments received after June 27, 2022, will be distributed to the OEAB but may not be reviewed prior to the meeting date. Comments should be submitted to

Designated Federal Officer *David.Turner@NOAA.gov.*

Special Accomodations: Requests for sign language interpretation or other auxiliary aids should be directed to the Designated Federal Officer by June 27, 2022.

Paul Johnson,

Acting Chief Financial and Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–13925 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2021–0037]

Fourth Extension of the Modified COVID–19 Prioritized Examination Pilot Program for Patent Applications

AGENCY: Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: To further support the acceleration of innovations in the fight against COVID–19, the United States Patent and Trademark Office (USPTO or Office) is extending the modified COVID–19 Prioritized Examination Pilot Program, which provides prioritized examination of certain patent applications. Requests that are compliant with the pilot program's requirements and are filed on or before December 31, 2022, will be accepted. The USPTO will evaluate whether to terminate or further extend the program during this extension period.

DATES: The COVID–19 Prioritized Examination Pilot Program is extended as of June 29, 2022, to run until December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Robert A. Clarke, Director, Office of Patent Legal Administration (571–272–7735, *robert.clarke@uspto.gov*).

SUPPLEMENTARY INFORMATION: On May 14, 2020, the USPTO published a notice on the implementation of the COVID–19 Prioritized Examination Pilot Program. *See* COVID–19 Prioritized Examination Pilot Program, 85 FR 28932 (May 14, 2020) (COVID–19 Track One Notice). On September 3, 2021, the USPTO published a notice extending the program to December 31, 2021, and modifying it by removing the limit on the number of patent applications that could receive prioritized examination. *See* Modification of COVID–19 Prioritized Examination Pilot Program, 86 FR 49522 (September 3, 2021). On December 30, 2021, the USPTO published a notice extending the program to March 31, 2022. *See* Extension of the Modified COVID–19 Prioritized Examination Pilot Program, 86 FR 74406 (December 30, 2021) (Second Extension Notice). On March 25, 2022, the USPTO published a notice extending the program to June 30, 2022. *See* Third Extension of the Modified COVID–19 Prioritized Examination Pilot Program for Patent Applications, 87 FR 17073 (March 25, 2022) (Third Extension Notice).

The COVID–19 Track One Notice indicated that an applicant may request prioritized examination without payment of the prioritized examination fee and associated processing fee if: (1) the patent application's claim(s) covered a product or process related to COVID–19, (2) the product or process was subject to an applicable Food and Drug Administration (FDA) approval for COVID–19 use, and (3) the applicant met other requirements noted in the COVID–19 Track One Notice. As of May 16, 2022, 261 patents had issued from applications granted prioritized status under the pilot program. The average total pendency, from filing date or later submission of a request for continued examination to issue date, for those applications was 280 days. The shortest pendency from filing date to issue date for those applications was 75 days.

The Third Extension Notice indicated that the pilot program would expire on June 30, 2022. In the current notice, the USPTO is further extending the pilot program by setting the expiration date as December 31, 2022. The Office will evaluate whether to terminate or further extend the program during this fourth extension period. If the USPTO determines that an additional extension of the pilot program is appropriate, the Agency will publish a subsequent notice to the public.

Unless the pilot program is further extended by a subsequent notice, following the expiration of this extension, the pilot program will be terminated, and patent applicants interested in expediting the prosecution of their patent application may instead seek to use the Prioritized Examination (Track One) Program. Patent applications accorded prioritized examination under the pilot program will not lose that status merely because the application is still pending after the date the pilot program is terminated but will instead retain prioritized examination status until that status is terminated for one or more reasons, as described in the COVID–19 Track One Notice.

The Track One Program permits an applicant to have a patent application advanced out of turn (accorded special status) for examination under 37 CFR 1.102(e) if the applicant timely files a request for prioritized (Track One) examination accompanied by the appropriate fees and meets the other conditions of 37 CFR 1.102(e). *See* § 708.02(b)(2) of the Manual of Patent Examining Procedure (9th ed., rev. 10.2019, June 2020). The current USPTO fee schedule is available at *www.uspto.gov/Fees.*

The Track One Program does not have the restrictions of the COVID–19 Prioritized Examination Pilot Program regarding the types of inventions for which special status may be sought, as the Track One Program does not require a connection to any particular technology. Moreover, under the Track One Program, an applicant can avoid delays associated with the determination of whether a patent application presents a claim that covers a product or process related to COVID–19 and whether the product or process is subject to an applicable FDA approval for COVID–19 use.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–13892 Filed 6–28–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2022–0019]

Extension of the Cancer Immunotherapy Pilot Program and Request for Comments

AGENCY: Patent and Trademark Office, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: On June 29, 2016, the United States Patent and Trademark Office (USPTO) implemented the Cancer Immunotherapy Pilot Program in support of the White House's National Cancer Moonshot initiative, which sought to accelerate cancer research. The program permits patent applications pertaining to cancer immunotherapy to be advanced out of turn for examination. To date, over 835 petitions requesting participation in the pilot program have been filed, and over 615 patents have been granted under the program. In view of the continued interest in the Cancer Immunotherapy Pilot Program, as well as the White House's recent reignition of the National

Cancer Moonshot initiative, the USPTO is extending the program, with all parameters remaining the same, until September 30, 2022. The USPTO is also in the process of deciding whether to expand the scope of the pilot program and may, additionally, further extend it (with or without modifications), depending on feedback from the participants and the public, additional continued interest, and the program's effectiveness.

DATES: Comments must be received by July 29, 2022 to ensure consideration.

Pilot duration: The Cancer Immunotherapy Pilot Program will continue to run until September 30, 2022. Therefore, petitions to make special under the Cancer Immunotherapy Pilot Program must be filed on or before September 30, 2022.

ADDRESSES: For reasons of Government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, enter docket number PTO–P–2022–0019 on the homepage and click ''Search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click on the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in ADOBE® portable document format or MICROSOFT WORD® format. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

Visit the Federal eRulemaking Portal website (*www.regulations.gov*) for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: For questions regarding this pilot program in general, please contact Susy Tsang-Foster, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, at 571–272–7711or *susy.tsang-foster@uspto.gov.* For questions related to a particular petition, please contact Gary B. Nickol, Supervisory Patent Examiner, at 571–272–0835 or *gary.nickol@uspto.gov;* or Brandon J. Fetterolf, Supervisory Patent Examiner, at 571–272–2919 or *brandon.fetterolf@uspto.gov,* both of Technology Center 1600.

SUPPLEMENTARY INFORMATION: On June 29, 2016, the USPTO published a notice for the implementation of the Cancer Immunotherapy Pilot Program. *See* Cancer Immunotherapy Pilot Program, 81 FR 42328 (Cancer Immunotherapy Notice). The pilot program was designed to support the global fight against cancer. The Cancer Immunotherapy Notice indicated that an applicant could have an application advanced out of turn (accorded special status) for examination without meeting all the current requirements of the accelerated examination program set forth in item VIII of section 708.02(a) of the Manual of Patent Examining Procedure if the application contained at least one claim to a method of treating a cancer using immunotherapy and the applicant met other requirements specified in the Cancer Immunotherapy Notice.

The Cancer Immunotherapy Notice established that the pilot program would run for 12 months, beginning on June 29, 2016. Over the course of the pilot program, the USPTO has extended it through notices published in the **Federal Register**. The most recent notice extended the program until June 30, 2022. *See* Extension of the Cancer Immunotherapy Pilot Program, 85 FR 41570 (July 10, 2020). In view of the continued interest in the pilot program, the USPTO is hereby extending it through September 30, 2022. The extension will also allow the USPTO to continue its evaluation of the program. The requirements of the pilot program have not been modified.

Various stakeholders from around the world—including independent inventors, universities, research institutions, hospitals, medical centers, government agencies, and large and small companies—have filed petitions to participate in the pilot program. To date, over 835 petitions requesting participation have been filed, and over 615 patents have been granted under the pilot program.

The USPTO is currently deciding whether to expand the scope of the pilot program. The USPTO may further extend the program (with or without modifications), depending on feedback from the participants, additional continued interest, and the program's effectiveness. The USPTO welcomes public comment on these topics.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2022–13908 Filed 6–28–22; 8:45 am]

BILLING CODE 3510—P

COMMODITY FUTURES TRADING COMMISSION

Energy and Environmental Markets Advisory Committee; Request for Nominations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is requesting nominations for Associate Members of the Energy and Environmental Markets Advisory Committee (EEMAC or Committee) and also inviting the submission of potential topics for discussion at future Committee meetings. The EEMAC is an advisory committee established by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

DATES: The deadline for the submission of nominations and topics is July 13, 2022.

ADDRESSES: Nominations and topics for discussion at future EEMAC meetings should be emailed to *EEMAC_Submissions@cftc.gov* or sent by hand delivery or courier to Chris Lucas, Chief of Staff to Commissioner Summer K. Mersinger, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Please use the title ''Energy and Environmental Markets Advisory Committee'' for any nominations or topics you submit.

FOR FURTHER INFORMATION CONTACT: Lauren Fulks, EEMAC Secretary, (816) 960–7719 or email: *lfulks@cftc.gov.*

SUPPLEMENTARY INFORMATION: The EEMAC was established to conduct public meetings; submit reports and recommendations to the Commission; and otherwise serve as a vehicle for discussion and communication on matters of concern to exchanges, trading firms, end users, energy producers, and regulators regarding energy and environmental markets and their regulation by the Commission.

Pursuant to the EEMAC's authorizing statute, the EEMAC must have nine members. In addition, the EEMAC Charter requires that the Committee have approximately 9–20 Associate Members. The EEMAC currently has twelve Associate Members and Commissioner Summer K. Mersinger, the EEMAC's Sponsor, seeks additional Associate Members of the EEMAC.

Accordingly, the Commission invites the submission of nominations for EEMAC Associate Members who represent a wide diversity of opinions and a broad spectrum of interests

related to the energy and environmental markets and their regulation by the Commission. To advise the Commission effectively, EEMAC Associate Members must have a high level of expertise and experience in the energy and/or environmental markets and the Commission's regulation of such markets, including from a historical perspective. To the extent practicable, the Commission will strive to select members reflecting wide ethnic, racial, gender, and age representation. All EEMAC Associate Members must be willing to participate in a public forum.

Each nomination submission should include relevant information about the proposed Associate Member, such as the individual's name, title, organizational affiliation and address, email address and telephone number, as well as information that supports the individual's qualifications to serve as an Associate Member of the EEMAC. The submission should also include the name, email address, and telephone number of the person nominating the proposed Associate Member. Self-nominations are acceptable.

Submission of a nomination is not a guarantee of selection as an Associate Member of the EEMAC. As noted in the EEMAC's Charter, the CFTC identifies Associate Members of the EEMAC through a variety of methods. Such methods may include public requests for nominations for membership; recommendations from existing advisory committee members; consultations with knowledgeable persons outside the CFTC (industry, consumer groups, other state or federal government agencies, academia, etc.); requests to be represented received from individuals and organizations; and Commissioners' and CFTC staff's professional knowledge of those experienced in the energy and environmental markets. The office of the Commissioner primarily responsible for the EEMAC plays a primary, but not exclusive, role in this process and makes recommendations regarding membership to the Commission. The Commission, by vote, authorizes Associate Members to serve on the EEMAC.

Associate Members may be appointed as representatives, special government employees, or regular government employees. Associate Members serve at the pleasure of the Commission, and may be appointed to serve for one, two, or three-year terms. As required by the EEMAC Charter, Associate Members provide their reports and recommendations directly to the EEMAC and not the Commission. Associate Members do not have the right to vote on matters before the EEMAC and may not sign or otherwise formally approve reports or recommendations made by the EEMAC to the Commission. Associate Members do not receive compensation for their services, and are not reimbursed for travel and per diem expenses. The EEMAC meets at such intervals as are necessary to carry out its functions and must meet at least two times per year. Associate Members are expected to provide their advice and recommendations to EEMAC members during these meetings.

In addition, the Commission invites submissions from the public regarding the topics on which EEMAC should focus. Such topics should:

(a) Reflect matters of concern to exchanges, trading firms, end users, energy producers, and regulators regarding energy and environmental markets and their regulation by the Commission; and/or

(b) Are important to otherwise assist the Commission in identifying and understanding the impact and implications of the evolving market structure of the energy, environmental, and other related markets.

Each topic submission should include the commenter's name and email or mailing address.

(Authority: 5 U.S.C. App. II)

Dated: June 23, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–13824 Filed 6–28–22; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. EDT, Friday, July 1, 2022.

PLACE: Virtual meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Robert Sidman, 202–418–5317.

Authority: 5 U.S.C. 552b.

Dated: June 24, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2022–13982 Filed 6–27–22; 11:15 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0038]

Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Testing of Children's Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995, the Consumer Product Safety Commission (CPSC) announces that the CPSC has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information for Third Party Testing of Children's Products, approved previously under OMB Control No. 3041–0159. In the **Federal Register** of April 13, 2022, the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. The Commission did not receive any comments on the proposed extension of approval. By publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Submit written or electronic comments on the collection of information by July 29, 2022.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB, also should be submitted electronically at: *http://www.regulations.gov,* under Docket No. CPSC–2010–0038.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

Title: Third Party Testing of Children's Products.

OMB Number: 3041–0159.

Type of Review: Renewal of collection of information for third party testing of children's products, which includes: (1)

previously approved burden for marking and labeling of certain durable infant and toddler products; (2) the labeling and recordkeeping requirements (not covered by the Commission's third party testing rule at 16 CFR part 1107) set forth in the rule establishing requirements for electrically operated toys or other electrically operated articles intended for children (16 CFR part 1505) (electrically operated toys and other articles rule); and (3) recordkeeping and labeling requirements set forth in the ban on articles known as ''baby bouncers'' or ''walker-jumpers'' (baby bouncer/walker-jumper rule, 16 CFR 1500.18(a)(6) and 1500.86(a)(4)), or similar articles that are not covered by the safety standard for infant walkers (16 CFR part 1216) and that also are not covered by the third party testing rule or any other rule issued under section 104 of the Consumer Product Safety Improvement Act.

General Description of Collection

Testing and Certification: On November 8, 2011, the Commission issued two rules for implementing third party testing and certification of children's products, as required by section 14 of the Consumer Product Safety Act (CPSA):

- *Testing and Labeling Pertaining to Product Certification* (76 FR 69482, codified at 16 CFR part 1107; the testing rule); and
- *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification to Meet Testing and Certification Requirements* (76 FR 69547, codified at 16 CFR part 1109; the component part rule).

The testing rule establishes requirements for manufacturers to conduct initial third party testing and certification of children's products, testing when there has been a material change in the product, continuing testing (periodic testing), and guarding against undue influence. A final rule on *Representative Samples for Periodic Testing of Children's Products* (77 FR 72205, Dec. 5, 2012) amended the testing rule to require that representative samples be selected for periodic testing of children's products.

The component part rule is a companion to the testing rule that is intended to reduce third party testing burdens, by providing all parties involved in the required testing and certifying of children's products the flexibility to conduct or rely upon testing where testing is the easiest and least expensive to accomplish. Certification of a children's product can be based upon one or more of the following: (a) component part testing; (b) component part certification; (c) another party's finished product testing; or (d) another party's finished product certification.

Section 1107.26 of the testing rule states the records required for testing and selecting representative samples. 16 CFR 1107.26. Required records include a certificate, and records documenting third party testing and related sampling plans. These requirements largely overlap the recordkeeping requirements in the component part rule, codified at 16 CFR 1109.5(g). Duplicate recordkeeping is not required; records need to be created and maintained only once to meet the applicable recordkeeping requirements. The component part rule requires records that enable tracing a product or component back to the entity that had a product tested for compliance; the rule also requires attestations of due care to ensure test result integrity.

Section 104 Rules: The Commission has issued 26 rules for durable infant and toddler products under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) (section 104 rules). The Section 104 rules that have been issued, to date, appear in Table 1. Each section 104 rule contains requirements for marking, labeling, and instructional literature:

- Each product and the shipping container must have a permanent label or marking that identifies the name and address (city, state, and zip code) of the manufacturer, distributor, or seller.
- A permanent code mark or other product identification shall be provided on the product and its package or shipping container, if multiple packaging is used. The code will identify the date (month and year) of manufacture and permit future identification of any given model.

Each standard also requires products to include easy-to-read and understand instructions regarding assembly, maintenance, cleaning, use, and adjustments, where applicable. See, *e.g.,* sections 8 (marking and labeling) and 9 (instructional literature) of every ASTM voluntary standard incorporated by reference into a CPSC mandatory standard, as listed in Table 1.

OMB has assigned control numbers for the estimated burden to comply with marking and labeling requirements in each section 104 rule. With this renewal, CPSC is moving the marking and labeling burden requirements for four additional section 104 rules that have been issued since the last renewal in 2019, into the collection of information for Third Party Testing of Children's Products (bold font in Table 1). The paperwork burdens associated with the section 104 rules are appropriately included in the collection for Third Party Testing of Children's Products because all the section 104 products are also required to be third party tested. Having all of the burden hours under one collection for children's products provides one OMB control number and eases the administrative burden of renewing multiple collections. CPSC will discontinue using the OMB control numbers currently assigned to individual section 104 rules. The discontinued OMB control numbers are listed in Table 1.

Electrically Operated Toys and Other Articles: The requirements for electrically operated toys and other electrically operated articles intended for use by children are set forth in 16 CFR part 1505. The regulation establishes certain criteria to use in determining whether electrically operated toys and other electrically operated children's products are banned and requires that certain warning and identification labeling be included on both the product and the packaging. The regulation also requires that manufacturers establish a quality assurance program to assure compliance and to keep records pertaining to the quality assurance program. Additionally, manufacturers or importers must keep records of the sale and distribution of the products.

Baby-Bouncer/Walker-Jumper Rule: The requirements for baby bouncers, baby walkers, and similar articles that are not covered by 16 CFR part 1216 (Safety Standard for Infant Walkers) are set forth under 16 CFR 1500.18(a)(6) and 1500.86(a)(4). These regulations establish criteria to use in determining whether certain baby-bouncers, walker-jumpers, or similar products are banned. The regulation requires that each product be labeled with information that will permit future identification by the manufacturer of the particular model of bouncer or walker-jumper. In addition, manufacturers must maintain records of sale, distribution, and results of tests and inspections for 3 years and make such records available to CPSC, upon request. Products covered under this regulation are not duplicative of an existing section 104 rule.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of children's products subject to a children's product safety rule.

Estimated Number of Respondents

Testing and Certification: The recordkeeping requirements in parts

1107 and 1109 apply to all manufacturers or importers of children's products that are covered by one or more children's product safety rules promulgated and/or enforced by CPSC. To estimate the number of respondents, we reviewed every industry category in the NAICS and selected industry categories that included firms that could manufacture or sell such children's products. Using data from the U.S. Census Bureau, we determined that there are more than 20,000 manufacturers, almost 85,000 wholesalers, and about 263,000 retailers in these categories. However, not all of the firms in these categories manufacture or import children's products that are covered by children's product safety rules. Therefore, these numbers would constitute a high estimate of the number of firms that are subject to the recordkeeping requirements. Accordingly, when calculating the recordkeeping burden, CPSC relies on estimates of the number of children's products that are manufactured or imported. We estimate that approximately 311,400 non-apparel children's products and approximately 1.2 million children's apparel and footwear products are covered by the rules.

Section 104 Rules: Table 1 summarizes the section 104 rules for durable infant or toddler products subject to the marking and labeling requirement that have been or are now being moved into OMB control number 3041–0159. Table 1 contains the estimated number of manufacturers and models and the total respondent hours. The four new section 104 rules being moved into this information collection are shown in bold text.

TABLE 1: ESTIMATED BURDEN FOR MARKING AND LABELING IN SECTION 104 RULES

Discontinued OMB control No.	16 CFR part	Description	Mfrs.	Models	Total respondent hours
3041–0145	1215	Safety Standard for Infant Bath Seats	12	2	24
3041–0141	1216	Safety Standard for Infant Walkers	19	4	76
3041–0150	1217	Safety Standard for Toddler Beds	111	10	1,110
3041–0157	1218	Safety Standard for Bassinets and Cradles	72	4	288
3041–0147	1219	Safety Standard for Full-Size Cribs	80	13	1,040
3041–0147	1220	Safety Standard for Non-Full-Size Cribs	39	2	78
3041–0152	1221	Safety Standard for Play Yards	34	4	136
3041–0160	1222	Safety Standard for Infant Bedside Sleepers	13	2	26
3041–0155	1223	Safety Standard for Swings	6	8	48
3041–0149	1224	Safety Standard for Portable Bedrails	18	2	36
3041–0158	1225	Safety Standard for Hand-Held Infant Carriers	78	2	156
3041–0162	1226	Safety Standard for Soft Infant and Toddler Carriers	44	3	132
3041–0164	1227	Safety Standard for Carriages and Strollers	100	7	700
3041–0167	1228	Safety Standard for Sling Carriers	1,000	2	* 8,500
3041–0174	1229	Safety Standard for Infant Bouncer Seats	26	4	104
3041–0166	1230	Safety Standard for Frame Child Carriers	14	3	42
3041–0173	1231	Safety Standard for High Chairs	83	3	249
3041–0172	1232	Safety Standard for Children's Folding Chairs and Stools.	17	2	34
3041–0170	1233	Safety Standard for Hook-On-Chairs	7	1	7
3041–0171	1234	Safety Standard for Infant Bath Tubs	27	2	54
3041–0175	1235	Safety Standard for Baby Changing Products	141	6	846
	1236	Safety Standard for Infant Sleep Products	1,325	6,528	* 68,650
3041–0178	1237	Safety Standard for Booster Seats	52	2	104
3041–0179	1238	Safety Standard for Stationary Activity Centers	11	4	44
3041–0182	1239	Safety Standard for Gates and Enclosures	127	3.6	* 9,496
3041–0185	1241	Safety Standard for Crib Mattresses	38	10	380
Total Burden Hours.					92,280

* Includes additional hours for instructional literature.
* Includes 6,500 hours for instructional literature.
** Includes 60,000 hours for instructional literature.
*** Includes 8,000 hours for instructional literature. The total estimated burden associated with labels is 1,416 hours. Eighty small firms produce 2 models, while an additional 37 entities are estimated to produce 8 models. Therefore, the 127 entities produce, on average, 3.6 models.

Electrically Operated Toys and Other Articles Rule: CPSC staff estimates that about 40 manufacturers and importers are subject to this regulation.

Baby-Bouncer/Walker-Jumper Rule: CPSC staff estimates that about six firms are subject to the testing and recordkeeping requirements of this regulation.

Estimated Time per Response

Testing and Certification: We estimate that approximately 311,400 non-apparel children's products are covered by the rule and that an average of 5 hours per year will be needed for the recordkeeping associated with these products. We also estimate that there are approximately 1.2 million children's apparel and footwear products, for which an average of 3 hours of recordkeeping will be required per year. Manufacturers that are required to conduct periodic testing have an additional recordkeeping burden estimated at 4 hours per representative sampling plan.

Section 104 Rules: Each section 104 rule contains a similar analysis for marking and labeling that estimates the time to make any necessary changes to marking and labeling requirements at 1 hour per model. Some section 104 rules also contain requirements for instructional literature, and we have included estimates for instructional literature in this analysis, where required.

Electrically Operated Toys and Other Articles: Products subject to this regulation are also subject to the

requirements of the testing rule. Therefore, the burden of any duplicative recordkeeping requirements will not be reported here, to avoid double-counting the burden. CPSC staff estimates that the additional burden imposed by this regulation over that imposed by the testing rule, is 30 minutes per product, to maintain sales and distribution records for 3 years, and 1 hour to make labeling changes per model.

Baby-Bouncer/Walker-Jumpers CPSC staff estimates that firms will spend 1 hour per model on recordkeeping requirements, and 1 hour per model on labeling requirements.

Total Estimated Annual Burden

Testing and Certification: The total estimated annual burden for recordkeeping associated with the testing rule is 5.2 million hours ((311,400 non-apparel children's products × 5 hours per non-apparel children's product) + (1,200,000 children's apparel products × 3 hours per children's apparel product) = 1.6 million hours + 3.6 million hours, or a total of 5.2 million hours). Next, we describe the potential additional annual burden associated with use of a representative sampling plan and component part testing.

Representative Sampling Plans for Periodic Testing: We estimate that if each product line averages 50 individual models or styles, then a total of 30,000 individual representative sampling plans (1.5 million children's products ÷ 50 models or styles) would need to be developed and documented. This would require 120,000 hours (30,000 plans × 4 hours per plan). If each product line averages 10 individual models or styles, then a total of 150,000 different representative sampling plans (1.5 million children's products ÷ 10 models or styles) would need to be documented. This would require 600,000 hours (150,000 plans × 4 hours per plan). Accordingly, the requirement to document the basis for selecting representative samples could increase the estimated annual burden by up to 600,000 hours.

Component Part Testing: The component part rule shifts some testing costs and some recordkeeping costs to suppliers of component parts and finished products because some testing will be performed by these parties, rather than by the finished product certifiers (manufacturers and importers). Even if a finished product certifier can rely entirely on component part and finished product suppliers for all required testing, however, the finished product supplier will still have some recordkeeping burden to create and maintain a finished product certificate. Therefore, although the component part testing rule may reduce the total cost of the testing required by the testing and certification rule, the rule increases the estimated annual recordkeeping burden for those who choose to use component part testing.

Because we do not know how many companies participate in component part testing and supply test reports or certifications to other certifiers in the supply chain, we have no concrete data to estimate the recordkeeping and third party disclosure requirements in the component part rule. Likewise, no clear method exists for estimating the number of finished product certifiers who conduct their own component part testing. In the component part rulemaking, we suggested that the recordkeeping burden for the component part testing rule could amount to 10 percent of the burden estimated for the testing and labeling rule. 76 FR 69546, 69579 (Nov. 8, 2011). Currently, we have no basis to change this estimate.

In addition to recordkeeping, the component part rule requires third party disclosure of test reports and certificates, if any, to a certifier who intends to rely on such documents to issue its own certificate. Without data, allocation of burden estimation between the recordkeeping and third party disclosure requirements is difficult. However, based on our previous analysis, we continue to estimate that creating and maintaining records accounts for approximately 90 percent of the burden, while the third party disclosure burden is much less, approximately 10 percent. Therefore, if we continue to use the estimate that component part testing will amount to about 10 percent of the burden estimated for the testing rule, then the hour burden of the component part rule is estimated to be about 520,000 hours total annually (10% of 5.2 million hours); allocating 468,000 hours for recordkeeping and 52,000 hours for third party disclosure.

Section 104 Rules: The burden for marking and labeling for each section 104 rule is provided in Table 1. The estimated total number of respondent hours is 92,280.

Electrically Operated Toys and Other Articles Rule: Assuming each of the 40 firms produces 10 new models per year, the estimated annual burden is 200 hours for recordkeeping (40 firms × .5 hour × 10 models) and 400 hours for labeling changes (40 firms × 1 hour × 10 models), for a total estimated annual burden of 600 hours.

Baby-Bouncer/Walker-Jumper Rule: Firms are expected to test, on average, four new models per year. Accordingly, the estimated annual burden is 12 hours on recordkeeping (6 firms × 1 hour × 2 models), and 12 hours on labeling (6 firms × 1 hour × 2 models), for a total estimated annual burden of 24 hours per year.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–13937 Filed 6–28–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Promise Neighborhoods (PN) Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2022 for the PN program, Assistance Listing Number 84.215N. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: June 29, 2022.

Deadline for Notice of Intent to Apply: July 29, 2022.

Date of Pre-Application Meetings: The Department will hold pre-application meetings via webinar for prospective applicants. Detailed information regarding pre-application webinars will be provided on the PN website at *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/school-choice-improvement-programs/promise-neighborhoods-pn/.*

Deadline for Transmittal of Application: September 27, 2022.

Deadline for Intergovernmental Review: November 28, 2022.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI).

More information on the phaseout of DUNS numbers is available at *www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

FOR FURTHER INFORMATION CONTACT: Rich Wilson, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W101, Washington, DC 20202. Telephone: (202) 453–6709. Email: *Richard.Wilson@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The PN program is authorized under the Elementary and Secondary Education Act of 1965, as amended (ESEA). The purpose of the PN program is to significantly improve the academic and developmental outcomes of children and youth living in the most distressed communities of the United States, including ensuring school readiness, high school graduation, and access to a community-based continuum of high-quality services. The program serves neighborhoods with high concentrations of individuals with low incomes; multiple signs of distress, which may include high rates of poverty, childhood obesity, academic challenges, and juvenile delinquency, adjudication, or incarceration; adverse childhood experiences (ACEs); and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA. All strategies in the continuum of solutions must be accessible to children with disabilities and English learners.

Priorities: This competition includes three absolute priorities and three competitive preference priorities.

Absolute Priorities 1 and 3 and Competitive Preference Priority 3 are from the notice of final priorities, requirements, definitions, and selection criteria for this program published in the **Federal Register** on January 19, 2021 (86 FR 5009) (PN NFP). Absolute Priority 2 is from the notice of final priorities published in the **Federal Register** on March 9, 2020 (85 FR 13640) (Administrative Priorities). Competitive Preference Priorities 1 and 2 are from the Secretary's Supplemental Priorities and Definitions for Discretionary Grants Programs published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Absolute Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one or more of these priorities.

These priorities are:

Absolute Priority 1—Non-Rural and Non-Tribal Communities.

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more non-rural or non-Tribal communities.

Absolute Priority 2—Rural Applicants.

Under this priority, an applicant must demonstrate one or more of the following:

(a) The applicant proposes to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title V, Part B of the ESEA.

(b) The applicant proposes to serve a community that is served by one or more LEAs with a locale code of 32, 33, 41, 42, or 43.

(c) The applicant proposes a project in which a majority of the schools served have a locale code of 32, 33, 41, 42, or 43.

(d) The applicant is an institution of higher education (IHE) with a rural campus setting, or the applicant proposes to serve a campus with a rural setting. Rural settings include any of the following: Town-Fringe, Town-Distant, Town-Remote, Rural-Fringe, Rural-Distant, Rural-Remote, as defined by the National Center for Education Statistics (NCES) College Navigator search tool.

Note: To determine whether a particular LEA is eligible for SRSA or RLIS, refer to the Department's website at *https://oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/rural-education-achievement-program/.* Applicants are encouraged to retrieve locale codes from the NCES School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where LEAs can be looked up individually to retrieve locale codes, and the Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), where individual schools can be looked up to retrieve locale codes. Applicants are encouraged to retrieve campus settings from the NCES College Navigator search tool (*https://nces.ed.gov/collegenavigator/*), where IHEs can be looked up individually to determine the campus setting.

Absolute Priority 3—Tribal Communities.

To meet this priority, an applicant must propose to implement a PN strategy that serves one or more Indian Tribes (as defined in this notice).

Competitive Preference Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 10 points to an application, depending on how well the application meets one or more of these priorities; the total possible points for each competitive preference priority are noted in parentheses.

These priorities are:

Competitive Preference Priority 1—Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change (up to 5 points).

Projects that are designed to take a systemic evidence-based approach to improving outcomes for underserved students in coordinating efforts with Federal, State, or local agencies, or community-based organizations that support students to address community violence prevention and intervention.

Note: Federal programs that may support such work could include the U.S. Department of Housing and Urban Development's Choice Neighborhoods or Promise Zones programs; the Department of Justice's Office of Juvenile Justice and Delinquency Prevention programs, the Byrne Criminal Justice Innovation, or Project Safe Neighborhoods programs; the Department of Agriculture's Summer Lunch program; the Department of Labor's Growth Opportunities or YouthBuild programs; and the Department of Health and Human Services' Community Health Centers program. Applicants that propose to coordinate efforts with such a Federal, state, or local program or agencies, or in partnership with community organizations must do so as part of a systemic approach to establish and enhance community violence prevention and intervention strategies in order to receive points under this priority.

Competitive Preference Priority 2—Increasing Postsecondary Education Access, Affordability, Completion, and Post-Enrollment Success (up to 3 points).

Projects that are designed to increase postsecondary access, affordability, completion, and success for underserved students by addressing one or more of the following priority areas:

(a) Increasing the number and proportion of underserved students who

enroll in and complete postsecondary education programs, which may include strategies related to college preparation, awareness, application, selection, advising, counseling, and enrollment.

(b) Supporting the development and implementation of student success programs that integrate multiple comprehensive and evidence-based services or initiatives, such as academic advising, structured/guided pathways, career services, credit-bearing academic undergraduate courses focused on career, and programs to meet basic needs, such as housing, childcare and transportation, student financial aid, and access to technological devices.

(c) Increasing the number of individuals who return to the educational system and obtain a regular high school diploma, or its recognized equivalent for adult learners; enroll in and complete community college, college, or career and technical training; or obtain basic and academic skills, including English language learning, that they need to succeed in college—including community college—as well as career and technical education and/or the workforce.

Within this competitive preference priority, we are particularly interested in applications that address the following invitational priority.

Invitational Priority: Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Invitational Priority—Increasing the Number or Percent of Students Who Complete the Free Application for Federal Student Aid (FAFSA).

Projects that propose to increase the number or percent of students who complete the FAFSA. An applicant should describe in its application how it will use program funds and partnerships to provide support to students to complete the FAFSA as they approach eligibility to enroll in postsecondary education.

Note: Applicants can use data available at *https://studentaid.gov/data-center/student/application-volume/fafsa-completion-high-school* to track FAFSA completion at their partner high schools.

Competitive Preference Priority 3—Evidence-Based Activities to Support Academic Achievement (0 or 2 points).

Projects that propose to use evidence-based (as defined in this notice) activities, strategies, or interventions that support teaching practices that will lead to increasing student achievement (as defined in this notice), graduation rates, and career readiness.

Note: If an applicant chooses to address Competitive Preference Priority 3, it must identify at least one but no more than two citations for the purposes of meeting the evidence requirement for the priority. An applicant should clearly identify these citations in the Evidence form. The Department will not review a citation that an applicant fails to clearly identify for review. Studies included for review may have been conducted by the applicant or by a third party.

In addition to including up to two citations, an applicant must provide a description of (1) the positive outcome(s) and practice(s) the applicant intends to replicate under its PN grant and (2) the relevance of the outcome(s) and practice(s) to the PN program.

An applicant must ensure that all evidence is available to the Department from publicly available sources and provide links or other guidance indicating where it is available. If the Department determines that an applicant has provided insufficient information, the applicant will not have an opportunity to provide additional information at a later time.

Requirements: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, applicants must meet the following application and program requirements from section 4624 of the ESEA and the PN NFP.

Application Requirements: The application requirements are as follows:

(a) A plan to significantly improve the academic outcomes of children living in the geographically defined area (neighborhood) that is served by the eligible entity by providing pipeline services that address the needs of children in the neighborhood, as identified by the needs analysis, and that is supported by effective practices.

(b) A description of the neighborhood the eligible entity will serve.

Note: Applicants may propose to serve multiple, non-contiguous geographically defined areas. In cases where target areas are non-contiguous, the applicant should explain its rationale for including non-contiguous areas.

(c) An applicant must demonstrate that its proposed project—

(1) Is representative of the geographic area proposed to be served (as defined in this notice); and

(2) Would provide a majority of the solutions from the applicant's proposed pipeline services in the geographic area proposed to be served.

(d) An analysis of the needs and assets of the neighborhood, including:

(1) The size and scope of the population affected;

(2) A description of the process through which the needs analysis was produced, including a description of how parents, families, and community members were engaged in such analysis;

(3) An analysis of community assets and collaborative efforts (including programs already provided from Federal and non-Federal sources) within, or accessible to, the neighborhood, including, at a minimum, early learning opportunities, family and student supports, local businesses, LEAs, and IHEs;

(4) The steps that the eligible entity is taking at the time of the application to address the needs identified in the needs analysis; and

(5) Any barriers the eligible entity, public agencies, and other community-based organizations have faced in meeting such needs.

(e) A description of all information the entity used to identify the pipeline services to be provided, which shall not include information that is more than 3 years old. This description should address how the eligible entity plans to collect data on children served by each pipeline service and increase the percentage of children served over time.

(f) A description of how the pipeline services will facilitate the coordination of the following activities:

(1) Providing early learning opportunities for children, including by:

(i) Providing opportunities for families to acquire the skills to promote early learning and child development; and

(ii) Ensuring appropriate diagnostic assessments and referrals for children with disabilities and children aged 3 through 9 experiencing developmental delays, consistent with the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 *et seq.*), where applicable.

(2) Supporting, enhancing, operating, or expanding rigorous, comprehensive, effective educational improvements, which may include high-quality academic programs, expanded learning time, and programs and activities to prepare students for postsecondary education admissions and success.

(3) Supporting partnerships between schools and other community resources with an integrated focus on academics and other social, health, and familial supports.

(4) Providing social, health, nutrition, and mental health services and supports, for children, family members, and community members, which may include services provided within the school building.

(5) Supporting evidence-based programs that assist students through school transitions, which may include expanding access to postsecondary education courses and postsecondary education enrollment aid or guidance, and other supports for at-risk youth.

(g) Each applicant must submit, as part of its application, a preliminary memorandum of understanding, signed by each organization or agency with which it would partner in implementing the proposed PN program. Within the preliminary memorandum of understanding, all applicants must detail each partner's financial, programmatic, and long-term commitment with respect to the strategies described in the application. Under section 4624(c) of the ESEA, applicants that are nonprofit entities must submit a preliminary memorandum of understanding signed by each partner entity or agency, which must include at least one of the following: A high-need LEA; an IHE, as defined in section 102 of the HEA (20 U.S.C. 1002); the office of a chief elected official of a unit of local government; or an Indian Tribe or Tribal organization as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(h) A description of the process used to develop the application, including the involvement of family and community members. In addressing this paragraph, an applicant must provide a description of the process used to develop the application, which must include the involvement of an LEA(s) (including but not limited to the LEA's or LEAs' involvement in the creation and planning of the application and a signed Memorandum of Understanding) and at least one public elementary or secondary school that is located within the identified geographic area that the grant will serve.

(i) A description of the strategies that will be used to provide pipeline services (including a description of which programs and services will be provided to children, family members, community members, and children within the neighborhood) to support the purpose of the PN program.

(j) An explanation of the process the eligible entity will use to establish and maintain family and community engagement, including:

(1) Involving representative participation by the members of such neighborhood in the planning and implementation of the activities of each grant awarded;

(2) The provision of strategies and practices to assist family and community members in actively supporting student achievement and child development;

(3) Providing services for students, families, and communities within the school building; and

(4) Collaboration with IHEs, workforce development centers, and employers to align expectations and programming with postsecondary education and workforce readiness.

(k) An explanation of how the eligible entity will continuously evaluate and improve the continuum of high-quality pipeline services to provide for continuous program improvement and potential expansion.

(l) In addressing the application requirements in paragraphs (d), (e), and (f), an applicant must clearly demonstrate needs, including a segmentation analysis, gaps in services, and any available data from within the last 3 years to demonstrate needs. The applicant must also describe proposed activities that address these needs and the extent to which these activities are evidence-based (as defined in this notice). The applicant must also describe its experience, or its partner organizations' experience, if applicable, providing these activities, including any data demonstrating effectiveness.

Program Requirements: Each applicant that receives a grant award for the PN competition must use the grant funds to implement the pipeline services and continuously evaluate the success of the program and improve the program based on data and outcomes. Section 4624(d) of the ESEA. Applicants may use not less than 50 percent of grant funds in year one, and not less than 25 percent of grant funds in year two for planning activities to develop and implement pipeline services.

Each eligible entity that receives a grant under this program must prepare and submit an annual report to the Secretary that includes the following: (1) Information about the number and percentage of children in the neighborhood who are served by the grant program, including a description of the number and percentage of children accessing each support service offered as part of the pipeline of services; and (2) information relating to the metrics established under the Promise Neighborhood Performance Indicators.

In addition, grantees must make these data publicly available, including through electronic means. To the extent practicable, and as required by law, such information must be provided in a form and language accessible to parents and families in the neighborhood served under the PN grant. In addition, data on academic indicators pertinent to the PN program will be, in most cases, part of statewide longitudinal data systems already.

Definitions: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following definitions apply. The definitions for ''eligible entity'' and ''pipeline services'' are from section 4622 of the ESEA. The definitions of ''graduation rate,'' ''Indian Tribe,'' ''indicators of need,'' ''regular high-school diploma,'' ''representative of the geographic area to be served,'' ''segmentation analysis,'' ''student achievement,'' and ''student mobility rate'' are from the PN NFP. The definitions of ''children or students with disabilities,'' ''community college,'' ''disconnected youth,'' ''early learning,'' ''English learner,'' and ''underserved student'' are from the Supplemental Priorities. The remaining definitions are from 34 CFR 77.1.

Children or students with disabilities means children with disabilities as defined in section 602(3) of the IDEA (20 U.S.C. 1401(3)) and 34 CFR 300.8, or students with disabilities, as defined in the Rehabilitation Act of 1973 (29 U.S.C. 705(37), 705(202)(B)).

Community college means ''junior or community college'' as defined in section 312(f) of the Higher Education Act of 1965, as amended (HEA).

Disconnected youth means an individual, between the ages 14 and 24, who may be from a low-income background, experiences homelessness, is in foster care, is involved in the justice system, or is not working or not enrolled in (or at risk of dropping out of) an educational institution.

Early learning means any (a) State-licensed or State-regulated program or provider, regardless of setting or funding source, that provides early care and education for children from birth to kindergarten entry, including, but not limited to, any program operated by a child care center or in a family child care home; (b) program funded by the Federal Government or State or LEAs (including any IDEA-funded program); (c) Early Head Start and Head Start program; (d) non-relative child care provider who is not otherwise regulated by the State and who regularly cares for two or more unrelated children for a fee in a provider setting; and (e) other program that may deliver early learning and development services in a child's home, such as the Maternal, Infant, and Early Childhood Home Visiting Program; Early Head Start; and Part C of IDEA.

Eligible entity means (1) an IHE, as defined in section 102 of the HEA (20

U.S.C. 1002); (2) an Indian tribe or tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); or (3) one or more nonprofit entities working in formal partnership with not less than 1 of the following entities:

(i) A high-need LEA.

(ii) An IHE, as defined in section 102 of the HEA (20 U.S.C. 1002).

(iii) The office of a chief elected official of a unit of local government.

(iv) An Indian tribe or tribal organization, as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

English learner means an individual who is an English learner as defined in section 8101(20) of the ESEA, or an individual who is an English language learner as defined in section 203(7) of the Workforce Innovation and Opportunity Act.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, or promising evidence.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Graduation rate means the four-year adjusted cohort graduation rate or extended-year adjusted cohort graduation rate as defined in section 8101(25) and (23) of the ESEA.

Indian Tribe means an Indian Tribe or Tribal organization as defined in section 4 of the Indian Self-determination Act (25 U.S.C. 5304(e)).

Indicators of need means currently available data that describe—

(a) Education need, which means—

(1) All or a portion of the neighborhood includes or is within the attendance zone of a low-performing school that is a high school, especially one in which the graduation rate (as defined in this notice) is less than 60 percent or a school that can be characterized as low-performing based on another proxy indicator, such as students' on-time progression from grade to grade; and

(2) Other indicators, such as significant achievement gaps between subgroups of students (as identified in section 1111(b)(2)(B)(xi) of the ESEA), within a school or LEA, high teacher and principal turnover, or high student absenteeism; and

(b) Family and community support need, which means—

(1) Percentages of children with preventable chronic health conditions (*e.g.,* asthma, poor nutrition, dental problems, obesity) or avoidable developmental delays;

(2) Immunization rates;

(3) Rates of crime, including violent crime;

(4) Student mobility rates;

(5) Teenage birth rates;

(6) Percentage of children in single parent or no-parent families;

(7) Rates of vacant or substandard homes, including distressed public and assisted housing; or

(8) Percentage of the residents living at or below the Federal poverty threshold.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4,0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

Pipeline services means a continuum of coordinated supports, services, and opportunities for children from birth through entry into and success in postsecondary education, and career attainment. Such services shall include, at a minimum, strategies to address through services or programs (including integrated student supports) the following:

(a) High-quality early childhood education programs.

(b) High-quality school and out-of-school-time programs and strategies.

(c) Support for a child's transition to elementary school, from elementary school to middle school, from middle school to high school, and from high school into and through postsecondary education and into the workforce, including any comprehensive readiness assessment determined necessary.

(d) Family and community engagement and supports, which may include engaging or supporting families at school or at home.

(e) Activities that support postsecondary and work-force readiness, which may include job training, internship opportunities, and career counseling.

(f) Community-based support for students who have attended the schools in the area served by the pipeline, or students who are members of the community, facilitating their continued connection to the community and success in postsecondary education and the workforce.

(g) Social, health, nutrition, and mental health services and supports.

(h) Juvenile crime prevention and rehabilitation programs.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Regular high school diploma has the meaning set out in section 8101(43) of the ESEA.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Representative of the geographic area proposed to be served means that residents of the geographic area proposed to be served have an active role in decision-making and that at least one-third of the applicant's governing board or advisory board is made up of—

(a) Residents who live in the geographic area proposed to be served, which may include residents who are representative of the ethnic and racial composition of the neighborhood's residents and the languages they speak;

(b) Residents of the city or county in which the neighborhood is located but who live outside the geographic area proposed to be served, and who earn less than 80 percent of the area's median income as published by the U.S. Department of Housing and Urban Development;

(c) Public officials who serve the geographic area proposed to be served (although not more than one-half of the governing board or advisory board may be made up of public officials); or

(d) Some combination of individuals from the three groups listed in paragraphs (a), (b), and (c) of this definition.

Segmentation analysis means the process of grouping and analyzing data from children and families in the geographic area proposed to be served according to indicators of need or other relevant indicators to allow grantees to differentiate and more effectively target interventions based on the needs of different populations in the geographic area.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

Student achievement means—

(a) For tested grades and subjects—

(1) A student's score on the State's assessments under the ESEA; and

(2) As appropriate, other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms and programs; and

(b) For non-tested grades and subjects, alternative measures of student learning and performance, such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms.

Student mobility rate is calculated by dividing the total number of new student entries and withdrawals at a school, from the day after the first official enrollment number is collected through the end of the academic year, by the first official enrollment number of the academic year.

Underserved student means a student (which may include children in early learning environments, students in K–12 programs, students in postsecondary education or career and technical education, and adult learners, as appropriate) in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student of color.

(c) A student who is a member of a federally recognized Indian Tribe.
(d) An English learner.
(e) A child or student with a disability.
(f) A disconnected youth.
(g) A technologically unconnected youth.
(h) A migrant student.
(i) A student experiencing homelessness or housing insecurity.
(j) A lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) student.
(k) A student who is in foster care.
(l) A student without documentation of immigration status.
(m) A pregnant, parenting, or caregiving student.
(n) A student impacted by the justice system, including a formerly incarcerated student.
(o) A student who is the first in their family to attend postsecondary education.
(p) A student enrolling in or seeking to enroll in postsecondary education for the first time at the age of 20 or older.
(q) A student who is working full-time while enrolled in postsecondary education.
(r) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Program Authority: 20 U.S.C. 7273–7274.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The PN NFP. (e) The notice of final priorities, requirements, definitions, and selection criteria published in the **Federal Register** on July 6, 2011 (76 FR 39589) (2011 PN NFP). (f) The Administrative Priorities. (g) The Supplemental Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: $18,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 or in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $4,000,000 to $6,000,000.

Estimated Average Size of Awards: $5,000,000.

Maximum Award: We will not make an award exceeding $6,000,000 for a single budget period of 12 months.

Estimated Number of Awards: 4–5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Under section 4623 of the ESEA, a grant awarded under this competition will be for a period of not more than 5 years and may be extended for an additional period of not more than 2 years.

III. Eligibility Information

1. *Eligible Applicants:* Under section 4622 of the ESEA, an eligible entity must be one of the following:

(a) An IHE, as defined in section 102 of the HEA (20 U.S.C. 1002);

(b) An Indian Tribe or Tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304); or

(c) One or more nonprofit entities working in formal partnership with not less than one of the following entities:

(i) A high-need LEA.

(ii) An IHE, as defined in section 102 of the HEA (20 U.S.C. 1002).

(iii) The office of a chief elected official of a unit of local government.

(iv) An Indian Tribe or Tribal organization, as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* Under section 4623(d)(1)(A) of the ESEA, to be eligible for a grant under this competition, an applicant must demonstrate a commitment from one or more entities in the public or private sector, which may include Federal, State, and local public agencies, philanthropic organizations, and private sources, to provide matching funds.

An applicant proposing a project that meets Absolute Priority 1—Non-rural and Non-Tribal Communities must obtain matching funds or in-kind donations equal to at least 100 percent of its grant award. Section 4623(d)(1)(A) of the ESEA.

An applicant proposing a project that meets Absolute Priority 2—Rural Applicants or Absolute Priority 3—Tribal Communities must obtain matching funds or in-kind donations equal to at least 50 percent of its grant award. Section 4623(d)(1)(C) of the ESEA.

Eligible sources of matching funds include sources of funds used to pay for solutions within the pipeline services, initiatives supported by the LEA, or public health services for children in the neighborhood. At least 10 percent of an applicant's total match must be cash or in-kind contributions from the private sector, which may include philanthropic organizations or private sources. Section 4623(d)(1)(B) of the ESEA.

Applicants must demonstrate a commitment of matching funds in the

application. Applicants must specify the source of the funds or contributions and, in the case of a third-party in-kind contribution, describe how the value was determined for the donated or contributed goods or service. Section 4623(d)(1)(B) of the ESEA. Applicants must demonstrate the match commitment by including letters in their applications explaining the type and quantity of the match commitment with original signatures from the executives of organizations or agencies providing the match.

The Secretary may consider decreasing the matching requirement in the most exceptional circumstances, on a case-by-case basis. Section 4623(d)(1)(C) of the ESEA. An applicant that is unable to meet the matching requirement must include in its application a request to the Secretary to reduce the matching requirement, including the amount of the requested reduction, the total remaining match contribution, and a statement of the basis for the request. The Secretary will grant this request only if an applicant demonstrates a significant financial hardship. Section 4623(d)(1)(D) of the ESEA.

An applicant should review the Department's cost-sharing and cost matching regulations, which include specific limitations, in 2 CFR 200.306 and the cost principles regarding donations, capital assets, depreciations, and allowable costs, in subpart E of 2 CFR part 200.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate.

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a DUNS number to the implementation of the UEI. More information on the phase-out of DUNS numbers is available at *www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the PN competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* Applicants that operate a school in a neighborhood served by a grant program must provide such school with the operational flexibility, including autonomy over staff, time, and budget, needed to effectively carry out the activities described in this notice. Grantees cannot, in carrying out activities to improve early childhood education programs, use PN funds to carry out the following activities: (1) Assessments that provide rewards or sanctions for individual children or teachers; (2) A single assessment that is used as the primary or sole method for assessing program effectiveness; or (3) Evaluation of children, other than for the purposes of improving instruction, classroom environment, professional development, or parent and family engagement, or program improvement.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

V. Application Review Information

1. *Selection Criteria:* The selection criteria ''Need for project'' and ''Quality of project design'' are from the PN NFP. The remaining selection criteria are from 34 CFR 75.210 and the 2011 PN NFP. Each selection criterion includes the factors that reviewers will consider in determining the extent to which an applicant meets the criterion. The

maximum score for each criterion and factor is included in parentheses following the title of the specific selection criterion and factors. Points awarded under these selection criteria are in addition to any points an applicant earned under the competitive preference priorities in this notice. The maximum score that an application may receive is 110 points.

The selection criteria are as follows:

(a) *Need for project (up to 20 points).*

In determining the need for the proposed project, the Secretary considers the following factors—

(1) The magnitude or severity of the problems to be addressed by the proposed project as described by indicators of need and other relevant indicators identified in part by the needs assessment and segmentation analysis (up to 5 points);

(2) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including—

(i) The nature and magnitude of those gaps or weaknesses (up to 5 points); and

(ii) A pipeline of solutions addressing the identified gaps and weaknesses, including solutions targeted to early childhood, K–12, family and community supports, and college and career (up to 10 points).

(b) *Quality of project services (up to 30 points).*

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the project services, the Secretary considers:

(1) The quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (34 CFR 75.210) (up to 10 points);

(2) The likelihood that the services to be provided by the proposed project will lead to improvement in the achievement of students as measured against rigorous academic standards (34 CFR 75.210) (up to 10 points); and

(3) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services (34 CFR 75.210) (up to 10 points).

(c) *Quality of project design (up to 20 points).*

In determining the quality of project design for the proposed project, the Secretary considers the following factors—

(1) The extent to which the applicant describes a plan to create a complete pipeline of services, without time and resource gaps, that is designed to prepare all children in the neighborhood to attain a high-quality education and successfully transition to college and a career (up to 15 points); and

(2) The extent to which the project will significantly increase the proportion of students in the neighborhood that are served by the complete continuum of high-quality services (up to 5 points).

(d) *Quality of the management plan (up to 15 points).*

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks (34 CFR 75.210) (up to 5 points); and

(2) The experience, lessons learned, and proposal to build capacity of the applicant's management team and project director in collecting, analyzing, and using data for decision making, learning, continuous improvement, and accountability, including whether the applicant has a plan to build, adapt, or expand a longitudinal data system that integrates student-level data from multiple sources in order to measure progress while abiding by privacy laws and requirements (2011 PN NFP) (up to 10 points).

(e) *Adequacy of resources (up to 15 points).*

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

(1) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits (34 CFR 75.210) (up to 5 points);

(2) The extent to which the applicant demonstrates that it has the resources to operate the project beyond the length of the grant, including a multiyear financial and operating model and accompanying plan; the demonstrated commitment of any partners; evidence of broad support from stakeholders (*e.g.,* State educational agencies, teachers' unions) critical to the project's long-term success; or more than one of these types of evidence (34 CFR 75.210) (up to 5 points); and

(3) The extent to which the applicant identifies existing neighborhood assets and programs supported by Federal, State, local, and private funds that will be used to implement a continuum of solutions (2011 PN NFP) (up to 5 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about

yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The Secretary has established performance indicators (*i.e.,* performance measures) for the PN program under section 4624(h) of the ESEA. Performance indicators established by the Secretary include improved academic and development outcomes for children, including indicators of school readiness, high school graduation, postsecondary education and career readiness, and other academic and developmental outcomes. These outcomes promote data-driven decision-making and access to a community-based continuum of high-quality services for children living in the most distressed communities of the United States, beginning at birth. All grantees will be required to submit data annually against these performance measures as part of their annual performance report.

The Secretary establishes, in Table 1, the following performance indicators under section 4624(h) of the ESEA and 34 CFR 75.110:

TABLE 1—PROMISE NEIGHBORHOODS PERFORMANCE INDICATORS

Result	Indicator	Recommended source
1. Children enter kindergarten ready to succeed in school.	1. Number and percentage of children in kindergarten who demonstrate at the beginning of the program or school year age-appropriate functioning across multiple domains of early learning as determined using developmentally appropriate early learning measures.	Administrative data from LEA.
2. Students are proficient in core academic subjects.	2.1 Number and percentage of students at or above grade level according to State mathematics assessments in at least the grades required by the ESEA (third through eighth grades and once in high school). 2.2 Number and percentage of students at or above grade level according to State English language arts assessments in at least the grades required by the ESEA.	

TABLE 1—PROMISE NEIGHBORHOODS PERFORMANCE INDICATORS—Continued

Result	Indicator	Recommended source
3. Students successfully transition from middle school grades to high school.	3.1 Attendance rate of students in sixth, seventh, eighth, and ninth grade as defined by average daily attendance.	
	3.2 Chronic absenteeism rate of students in sixth, seventh, eighth, and ninth grades.	
4. Youth graduate from high school	4. 4-year adjusted cohort graduation rate..	
5. High school graduates obtain a post-secondary degree, certification or credential.	5.1 Number and percentage of Promise Neighborhood students who enroll in a 2-year or 4-year college or university after graduation.	
	5.2 Number and percent of Promise Neighborhood students who graduate from a 2-year or 4-year college or university or vocational certification completion.	Third party data such as the National Student Clearinghouse.
6. Students are healthy	6. Number and percentage of children who consume five or more servings of fruits and vegetables daily.	Neighborhood survey, school climate survey or other reliable data source for population level data collection.
7. Students feel safe at school and in their community.	7. Number and percentage of children who feel safe at school and traveling to and from school as measured by a school climate survey.	
8. Students live in stable communities ...	8. Student mobility rate (as defined in the notice).	
9. Families and community members support learning in PN schools.	9.1 Number and percentage of parents or family members that read to or encourage their children to read three or more times a week or reported their child read to themselves three or more times a week (birth-eighth grade).	
	9.2 Number and percentage of parents/family members who report talking about the importance of college and career (ninth-12th grade).	
10. Students have access to 21st century learning tools.	10. Number and percentage of students who have school and home access to broadband internet and a connected computing device.	

Note: The indicators in Table 1 are not intended to limit an applicant from collecting and using data from additional Family and Community Support indicators proposed to the Department. Applicants are strongly encouraged, but not required, to propose additional performance indicators aligned to the specific pipeline services proposed in their application.

Please see the *Program requirements* section of this notice for the reporting requirements associated with the PN program performance indicators.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Also, in making continuation awards for years four and five, the Department will consider whether the grantee is achieving the intended goals and outcomes of the grant and shows substantial improvement against baseline data on performance indicators and performance measures.

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ruth E. Ryder,

Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education.

[FR Doc. 2022–13916 Filed 6–28–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0089]

Agency Information Collection Activities; Comment Request; Impact Aid Program—Application for Section 7003 Assistance

AGENCY: Office of Elementary and Secondary Education (OESE), 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 29, 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–0089. 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 Faatimah Muhammad, (202) 453–6827.

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: Impact Aid Program—Application for Section 7003 Assistance.

OMB Control Number: 1810–0687.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 301,079.

Total Estimated Number of Annual Burden Hours: 87,656.

Abstract: The U.S. Department of Education is requesting approval for an extension without change for the Application for Assistance under Section 7003 of Title VIII of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). This application is for a grant program otherwise known as Impact Aid Basic Support Payments. Local Educational Agencies (LEAs) whose enrollments and revenues are adversely impacted by Federal activities use this form to request financial assistance. Regulations for the Impact Aid Program are found at 34 CFR 222.

The statute and regulations for this program require a variety of data from applicants annually to determine eligibility for the grants and the amount of grant payment under the statutory formula. The least burdensome method of collecting this required information is for each applicant to submit these data through a web-based electronic application hosted on the Impact Aid Grant System (IAGS) website.

Dated: June 23, 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. 2022–13828 Filed 6–28–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Availability for the Draft Supplemental Environmental Impact Statement for the Alaska LNG Project

AGENCY: Office of Fossil Energy and Carbon Management, Department of Energy.

ACTION: Notice of availability and virtual public meeting.

SUMMARY: The U.S. Department of Energy (DOE) has prepared a Draft Supplemental Environmental Impact Statement (SEIS) to evaluate the potential environmental impacts associated with authorizing Alaska LNG Project LLC (Alaska LNG) to export liquefied natural gas (LNG) from the Alaska Gasline Development Corporation's (AGDC) proposed Alaska LNG Project. DOE is also announcing a public comment period and a virtual public meeting to receive comments on the Draft SEIS. DOE prepared the Draft SEIS in accordance with the National Environmental Policy Act of 1969 (NEPA), to inform its decision on rehearing under the Natural Gas Act (NGA).

DATES: DOE invites the public to comment on the Draft SEIS during the 45-day public comment period, which begins on July 1, 2022, and ends on August 15, 2022. Beginning July 1, 2022, comments may be submitted online at *www.regulations.gov* by entering ''Alaska LNG'' into the search field and following the prompts. Written comments may also be sent via mail to: U.S. Department of Energy, National Energy Technology Laboratory, ATTN: Mark Lusk, NEPA Compliance Officer, 3610 Collins Ferry Road, Morgantown, WV 26505. DOE will consider all comments postmarked or received during the public comment period when preparing the Final SEIS.

DOE will hold a virtual public meeting on Wednesday July 20, 2022, in which the public may provide verbal comments on the Draft SEIS during the meeting. See the **ADDRESSES** section for details on the meeting process.

ADDRESSES: Questions concerning the Draft SEIS or requests for a paper copy should be directed to: Mark Lusk via email to *mark.lusk@netl.doe.gov* or phone at (304) 285–4145.

Availability of the Draft SEIS: DOE mailed notification letters to announce the *Notice of Availability* of the Draft SEIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Tribes; other interested individuals and groups; and newspapers and libraries in the project area.

An electronic copy of the Draft SEIS may be found online on the following website: *www.energy.gov/nepa/doeeis-0512-s1-supplemental-environmental-impact-statement-alaska-lng-project.*

Paper copies of the Draft SEIS are available for public review at the following locations: Anchorage Public Library (Z.J. Loussac Library), 3600 Denali Street, Anchorage, AK 99503;

Arctic Interagency Visitor Center, Mile 175 Dalton Highway, P.O. Box 9079, Coldfoot, AK 99701; Charles Evans Community School Library, 299 Antoski Drive, Galena, AK 99741; Noel Wien Public Library, 1215 Cowles Street, Fairbanks, AK 99701; Kenai Community Library, 163 Main Street Loop, Kenai, AK 99611; Trapper Creek Library, 8901 East Devonshire Drive, Trapper Creek, AK 99683; Tri-Valley Community Library, Suntrana Road, P.O. Box 518, Healy, AK 99743; and Wasilla Public Library, 500 North Crusey Street, Wasilla, AK 99654. Additional copies also can be requested (*see* **ADDRESSES** section for details).

Virtual Public Meeting: DOE will conduct a virtual public meeting for the Draft SEIS on Wednesday July 20, 2022, from 4:00 p.m. to 6:00 p.m. AKDT (8:00 p.m. to 10:00 p.m. EDT). Members of the public may join the virtual public meeting from a computer or compatible mobile device through the Zoom app, clicking 'Join a Meeting', and entering the following information—Meeting ID: 944 3452 6764. The Zoom app may also be launched from the Zoom website at *https://zoom.us/join,* entering the Meeting ID, and following the prompts. For members of the public who do not have access to an internet connection, they may join the meeting audio by dialing the following number: (301) 715–8592. When prompted, enter the following information: Meeting ID—944 3452 6764. Then press the pound (#) key.

The virtual public meeting will begin with a presentation on the NEPA process and the proposed Project. Following the presentation, there will be a moderated session during which members of the public can provide verbal comments on the Draft SEIS. All comments provided during the virtual public meeting will be transcribed and become part of the formal record. Commenters will be asked to limit their verbal comments during the virtual public meeting to 3 minutes. As indicated previously comments on the Draft SEIS may also be submitted during the public comment period via the *www.regulations.gov* website or mailed by paper copy (See the **DATES** section for details). All comments, whether verbal or written, will be considered by DOE as the SEIS is finalized.

FOR FURTHER INFORMATION CONTACT: Please contact Mark Lusk, via email to *mark.lusk@netl.doe.gov* or phone at (304) 285–4145, NEPA Compliance Officer, if special assistance is needed to participate in the virtual public meeting (see **ADDRESSES** section for details).

SUPPLEMENTARY INFORMATION:

Background

DOE's Office of Fossil Energy and Carbon Management [1] is in the process of rehearing DOE/FE Order No. 3643–A, issued on August 20, 2020, in Docket No. 14–96–LNG (Alaska LNG Order).[2] In the Alaska LNG Order, DOE authorized exports of LNG from the proposed Alaska LNG Project to countries that do not have a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries).[3]

As approved by the Federal Energy Regulatory Commission (FERC), the Alaska LNG Project involves producing natural gas from resources on the North Slope of Alaska, transporting the natural gas on a proposed 806.9-mile-long pipeline, and exporting the natural gas in the form of LNG by vessel from a liquefaction facility to be constructed in the Nikiski area of the Kenai Peninsula in south central Alaska.[4] Under Order No. 3643–A, Alaska LNG is currently authorized to export this LNG in a volume equivalent to 929 billion cubic feet per year (Bcf/yr) of natural gas (2.55 Bcf per day), for a term of 30 years.

On April 15, 2021, in Order No. 3643–B, DOE announced that it was granting rehearing of Order No. 3643–A under the NGA for the purpose of conducting additional environmental analysis.[5] Subsequently, on July 2, 2021, DOE published a ''Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Alaska LNG Project'' under NEPA.[6] The Draft SEIS being issued today supplements the Final Environmental Impact Statement (EIS) for the Alaska LNG Project published by FERC on March 6, 2020, and adopted by DOE on March 16, 2020 (DOE/EIS–0512).

The Draft SEIS examines the potential upstream environmental effects associated with incremental natural gas production on the North Slope of Alaska to support Alaska LNG's exports of LNG. The SEIS also includes a life cycle analysis (LCA) calculating the greenhouse (GHG) emissions associated with exporting LNG from the proposed Project.[7] Specifically, the LCA examines the life cycle GHG emissions for LNG exported from Alaska by vessel to import markets in Asia (the markets targeted for exports from Alaska) and potentially in other regions.

NEPA Process and Public Involvement

DOE prepared the Draft SEIS in accordance with the Council on Environmental Quality (CEQ) regulations at Title 40, *Code of Federal Regulations,* Parts 1500–1508 (40 CFR 1500–1508) and DOE NEPA implementing procedures at 10 CFR part 1021. DOE published a Notice of Intent in the **Federal Register** on July 2, 2021, announcing its intent to prepare a SEIS.[8] DOE is providing opportunities for public review and comments, including a virtual public meeting, on this Draft SEIS (see **DATES** and **ADDRESSES** sections of this notice).

Signed in Washington, DC, on June 24, 2022.

Amy Sweeney,

Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.

[FR Doc. 2022–13869 Filed 6–28–22; 8:45 am]

BILLING CODE 6450–01–P

[1] The Office of Fossil Energy (FE) changed its name to the Office of Fossil Energy and Carbon Management (FECM) on July 4, 2021.

[2] *See Alaska LNG Project LLC,* DOE/FE Order No. 3643–A, Docket 14–96–LNG, Final Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations (Aug. 20, 2020), *www.energy.gov/fecm/downloads/alaska-lng-project-llc-fe-dkt-no-14-96-lng-0.* For all DOE documents referenced herein, please see the Alaska LNG docket at: *www.energy.gov/fecm/articles/alaska-lng-project-llc-fe-dkt-no-14-96-lng.*

[3] 15 U.S.C. 717b(a).

[4] *See Alaska Gasline Dev. Corp.,* Order Granting Authorization Under Section 3 of the Natural Gas Act, 171 FERC ¶ 61,134 (May 21, 2020). Alaska Gasline Development Corporation (AGDC), an independent, public corporation of the State of Alaska, holds the authorization from FERC to site, construct, and operate the proposed Alaska LNG Project.

[5] *See Alaska LNG Project LLC,* DOE/FE Order No. 3643–B, Docket 14–96–LNG, Order on Rehearing (Apr. 15, 2021), *www.energy.gov/sites/default/files/2021-04/ord3643b.pdf.* DOE's Order on Rehearing granted a Request for Rehearing filed by Sierra Club. *See* Id. at 1–2, 5–6 (discussing procedural background).

[6] 42 U.S.C. 4321 *et seq. See* U.S. Dep't of Energy, Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Alaska LNG Project, 86 FR 35280 (July 2, 2021); *see also www.energy.gov/nepa/articles/doeeis-0512-s1-notice-intent-july-2-2021.*

[7] DOE previously has explained that a LCA is a method of accounting for cradle-to-grave GHG emissions over a single common denominator. DOE considers GHG emissions from all processes in the LNG supply chains—from the ''cradle'' when natural gas is extracted from the ground, to the ''grave'' when electricity is used by the consumer. *See* U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments,* 85 FR 72, 76 (Jan. 2, 2020).

[8] *See supra* note 6.

DEPARTMENT OF ENERGY

Notice of Availability of State, Local, and Tribal Allocation Formulas for the Energy Efficiency and Conservation Block Grant Program

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

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE or the Department) is publishing three allocation formulas that will be used to distribute funds to local governments, states, and Indian tribes through the Energy Efficiency and Conservation Block Grant Program (EECBG Program or Program), as required by the Program's authorizing legislation, Title V, Subtitle E of the Energy Independence and Security Act of 2007. The purpose of the EECBG Program is to assist eligible entities in implementing strategies to reduce fossil fuel emissions, to reduce total energy use, and to improve energy efficiency. This notice provides the allocation formulas established by the Department to distribute funds to eligible entities.

FOR FURTHER INFORMATION CONTACT: Mr. Adam Guzzo, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Weatherization and Intergovernmental Programs Office, EE–5W, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1585. Email: *eecbg@hq.doe.gov. Electronic communications are recommended for correspondence.*

SUPPLEMENTARY INFORMATION:

I. Introduction

DOE is publishing the formulas for allocating EECBG Program funding to eligible units of local government, states, and Indian tribes as required by section 543(e) of the Program's authorizing legislation, Title V, Subtitle E of the Energy Independence and Security Act of 2007 (EISA), as amended.[1] Through section 40552(b) of the Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law 117–58, Congress appropriated $550 million to the EECBG Program for fiscal year 2022, to remain available until expended.

The EECBG Program provides Federal grants to states, units of local government, and Indian tribes to assist eligible entities in implementing strategies to reduce fossil fuel emissions, to reduce total energy use, and to improve energy efficiency.[2] Of the amounts appropriated by IIJA, DOE will allocate funds as prescribed in section 543 of EISA:

- 34% to eligible units of local government-alternative 1 through formula grants;
- 34% to eligible units of local government-alternative 2 through formula grants;
- 28% to states through formula grants;
- 2% to Indian tribes through formula grants; and
- 2% for competitive grants to ineligible local governments and Indian tribes.[3]

This notice describes the three allocation formulas that DOE will use when issuing funds to eligible local governments, states, and Indian tribes. The allocation formulas described in this notice take into consideration feedback provided by state and local governments during DOE hosted listening sessions in 2022, as well as feedback from Indian tribes during a Tribal Consultation DOE hosted in 2022. In addition, DOE established the allocation formulas in alignment with the allocation formulas DOE used for the EECBG Program previously under the American Recovery and Reinvestment Act of 2009, Public Law 111–5, to the extent practicable. Appendices A–C of this notice provide the mathematical formulas and data sources used by DOE when developing the local government, state, and Tribal allocation formulas.

II. EECBG Local Government Allocation Formula

The EECBG Program provides grants to local governments in two allocations as outlined in section 541(3) of EISA.[4] The term ''eligible unit of local government-alternative 1'' (Local Government-Alternative 1) means—(1) A city with a population—of at least 35,000; or that causes the city to be 1 of the 10 highest populated cities of the state in which the city is located; and (2) A county with a population—of at least 200,000; or that causes the county to be 1 of the 10 highest populated counties of the state in which the county is located.[5] The term ''eligible unit of local government-alternative 2'' (Local Government-Alternative 2) means—(1) A city with a population of at least 50,000; or (2) A county with a population of at least 200,000.[6] Cities and counties eligible to receive an allocation under the definition Local Government-Alternative 2 are also eligible to receive an allocation under the definition Local Government-Alternative 1. 74 FR 17461, 17463 (Apr. 15, 2009).

Formula Factors. Section 543(b) of EISA directs DOE to establish a formula to distribute grant funding to eligible units of local government according to the following factors: (1) The population served by the local government, according to the latest available decennial census; and (2) the daytime population of the local government, and other similar factors determined by DOE (section 543(b)).[7] As utilized previously under ARRA, the local government allocation formula established by DOE for the EECBG Program uses the following two weighted factors: the population served by the local government weighted at 70.25%; and the daytime population of the local government weighted at 29.75%. 74 FR 17461, 17463.

Funding Allocation Design: Local Government-Alternative 1—34%. Local governments eligible under the definition Local Government-Alternative 1 receive 34% of the grant funding available through section 40552(b) of the IIJA. The formula sets a minimum level of funding at $75,000. The formula allocates $75,000 to each eligible local government and then distributes the remaining funds on a pro rata basis via the weighted factors set in the formula.

Funding Allocation Design: Local Government-Alternative 2—34%. Another 34% of the available grant funding is allocated to the subset of local governments that are eligible under the definition of Local Government-Alternative 2. There is no minimum level of funding for this formula. All local governments eligible under the definition of Local Government-Alternative 2 receive at least the minimum allocation through the Local Government-Alternative 1 formula. The Local Government-Alternative 2 formula apportions the funding to each local government eligible under the definition of Local Government-Alternative 2 on a pro rata basis via the weighted factors set in the formula. The total allocation for each local government eligible under the definition Local Government-Alternative 2 is equal to its allocation from the Local Government-Alternative 1 formula plus its allocation from the Local Government-Alternative 2 formula. For more detail on the local government allocation formula, see Appendix A of this notice.

[1] 42 U.S.C. 17153(e).

[2] 42 U.S.C. 17152.

[3] 42 U.S.C. 17153(a).

[4] 42 U.S.C. 17151(3).

[5] 42 U.S.C. 17151(3)(A).

[6] 42 U.S.C. 17151(3)(B).

[7] 42 U.S.C. 17153(b).

III. EECBG State Allocation Formula

Under section 541(6) of EISA, the term 'State' means: a state; the District of Columbia; the Commonwealth of Puerto Rico; and any other territory or possession of the United States.[8]

Formula Factors. EISA directs that, of the amount allocated for states, DOE shall provide not less than 1.25% to each state, and the remainder distributed among the states based on an allocation formula established by the Department that takes into account the population of each state and any other criteria that DOE determines to be appropriate.[9]

The state allocation formula established by DOE for the EECBG Program uses the following three equally weighted factors:

1. The total population for the state weighted at $33.3\bar{3}$%;

2. The remaining population of the state after subtracting the populations of all eligible local governments within the state weighted at $33.3\bar{3}$; and

3. Total state energy consumption, except for consumption in the industrial sector, weighted at $33.3\bar{3}$%.

Funding Allocation Design: State—28%. Eligible states receive 28% of the grant funding available through section 40552(b) of the IIJA. The formula provides a minimum funding allocation for states of 1.25% of the total state allocation as mentioned previously. The formula distributes the minimum amount of funding to each eligible state and then distributes the remaining funds pro rata via the three weighted factors set in the formula. For more detail on the state allocation formula, see Appendix B of this notice.

IV. EECBG Tribal Allocation Formula

As defined by section 541(4) of EISA, " 'Indian tribe' has the meaning given the term in the Indian Self-Determination and Education Assistance Act." [10] The Indian Self-Determination and Education Assistance Act states that the term means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Formula Factors. Section 543(d) of the EISA directs DOE to establish a formula to distribute grant funding to eligible Indian tribes taking into account any factors that the Secretary determines to be appropriate.[11] The Tribal allocation formula established by DOE for the EECBG Program uses the following factor: Tribal population weighted at 100%.

Funding Allocation Design: Tribal—2%. Eligible Indian tribes receive 2% of the grant funding available through section 40552(b) of the IIJA. The formula establishes a minimum level of funding at $10,000 and allocates $10,000 to each eligible Indian tribe. The formula then distributes the remaining funds via the weighted factor set in the formula on a pro rata basis to all eligible Indian tribes. For more detail on the Tribal allocation formula, see Appendix C of this notice.

Appendix A—EECBG Local Government Allocation Formula

Local Government—Alternative 1:

$$A_{i1} = m + (F \cdot l_1 - n_1 \cdot m) \cdot \left((1-d) \cdot \frac{E_i}{\sum E_i} + d \cdot \frac{D_i}{\sum D_i} \right)$$

Local Government—Alternative 2:

$$A_{i2} = F \cdot l_2 \cdot \left((1-d) \cdot \frac{E_i}{\sum E_i} + d \cdot \frac{D_i}{\sum D_i} \right)$$

A_{i1} = Total amount of funding allocated to local government i under definition Local Government—Alternative 1

A_{i2} = Total amount of funding allocated to local government i under definition Local Government—Alternative 2

m = $75,000 (the minimum amount of funding each local government must receive)

F = Total amount of EECBG Program funding allocated to grants

l_1 = 0.34 (percentage of total funding available to local governments eligible under definition Local Government—Alternative 1)

l_2 = 0.34 (percentage of total funding available to local governments eligible under definition Local Government—Alternative 2)

n_1 = Number of eligible local governments under definition Local Government—Alternative 1

n_2 = Number of eligible local governments under definition Local Government-Alternative 2 only

E_i = Population served by local government i based on U.S. Census Bureau, Decennial Census Redistricting Data (Pub. L. 94–171), 2020

D_i = Daytime population of local government i based on U.S. Census Bureau, American Community Survey, 5-Year Estimates, 2020

d = 29.75% (daytime population coefficient weighting scheme based on an estimated 50 working hours out of a total 168 hours in a week (50/168 is equal to approximately 29.75%). Working hours are used because daytime population estimates are based on working commutes.)

$A_{i1} + A_{i2}$ = The total allocation for each local government eligible under the definition Local Government—Alternative 2

Notes:

• EISA directs DOE to include considerations of "daytime population" in the local government allocation formula.[12] The concept of the daytime population refers to the number of people who are present in an area during normal business hours, including workers. This contrasts with the "resident" population present during the evening and nighttime hours. The U.S. Census Bureau creates estimates of daytime population by adding the total number of workers working in the jurisdiction minus workers who live and work in the same jurisdiction with the total resident population.[13] The U.S. Census Bureau estimate of daytime population adjusts only for work-related travel, *i.e.,* in commuters to

[8] 42 U.S.C. 17151(6).

[9] 42 U.S.C. 17153(c).

[10] 42 U.S.C. 17151(4), referencing 25 U.S.C. 5304(e).

[11] 42 U.S.C. 17153(d).

[12] *See* 42 U.S.C. 17153(b).

[13] U.S. Census Bureau, Calculating Commuter-Adjusted Population Estimates, *available* at Calculating Commuter-Adjusted Population Estimates (*census.gov*).

an area and out commuters from an area. Data necessary to adjust for shopping, school, recreation, tourism, etc. is not available.

• For counties, all population figures are adjusted to reflect only the balance of their population excluding the populations of any eligible entities therein. In determining county balance populations, DOE identified a number of cities with geographic boundaries that cross the borders of multiple counties. In calculating county balance populations for those counties which contain only a part of an eligible city, DOE subtracted the portion of the eligible city's population living within that county.

Appendix B—EECBG State Allocation Formula

$$A_i = m + (F \cdot s - n \cdot m) \cdot \left(\frac{1}{3} \cdot \frac{E_i}{\sum E_i} + \frac{1}{3} \cdot \frac{B_i}{\sum B_i} + \frac{1}{3} \cdot \frac{C_i}{\sum C_i}\right)$$

A_i = Total amount of funding allocated to state i
m = 0.0125 * s * F (minimum amount of funding each state must receive)
F = Total amount of EECBG Program funding allocated to grants
s = 0.28 (percentage of total funding available to eligible states)
n = Number of states
E_i = Total population for state i based on U.S. Census Bureau, Decennial Census Redistricting Data (Pub. L. 94–171), 2020; U.S. Census Bureau, 2020 Census of American Samoa; U.S. Census Bureau, 2020 Census of the Commonwealth of the Northern Mariana Islands; U.S. Census Bureau, 2020 Census of Guam; U.S. Census Bureau, 2020 Census of the Unites States Virgin Islands.
B_i = Balance population for State i after subtracting the populations of eligible local governments in State i based U.S. Census Bureau, Decennial Census Redistricting Data (Pub. L. 94–171), 2020; U.S. Census Bureau, 2020 Census of American Samoa; U.S. Census Bureau, 2020 Census of the Commonwealth of the Northern Mariana Islands; U.S. Census Bureau, 2020 Census of Guam; U.S. Census Bureau, 2020 Census of the Unites States Virgin Islands.
C_i = Energy consumption less the industrial sector's consumption for State i based on U.S. Energy Information Administration, Total Energy Consumption Estimates by End-Use Sector, 2019 and U.S. Energy Information Administration, International, 2019 (for U.S. territories)

Notes:

• For those states that do not have any eligible local governments their balance population (B_i) is equal to their total population (E_i)

• Energy consumption data for the industrial sector is not available for the U.S. territories

Appendix C—EECBG Tribal Allocation Formula

$$A_i = m + (F \cdot t - n \cdot m) \cdot \frac{E_i}{\sum E_i}$$

A_i = Total amount of funding allocated to Indian tribe i
m = $10,000 (minimum funding each Indian tribe must receive)
F = Total amount of EECBG Program funding allocated to grants
t = 0.02 (percentage of total funding available to eligible Indian tribes)
n = number of Indian tribes
E_i = Tribal population based on a combination of U.S. Census Bureau, Decennial Census Redistricting Data (Pub. L. 94–171), 2020 and American Community Survey 5-year Estimates, 2020 and/or self-reported Tribal enrollment data

Signing Authority

This document of the Department of Energy was signed on June 19, 2022, by Kelly 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 24, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–13859 Filed 6–28–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Advanced Scientific Computing Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open hybrid meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). Due to the COVID–19 pandemic, we are strongly encouraging virtual participation by members of the public. There will, however, be limited seating available for the public at the Westin, listed below. The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, July 21, 2022; 10:00 a.m. to 4:00 p.m. (eastern time), and Friday, July 22, 2022; from 10:00 a.m. to 1:00 p.m. (eastern time).

ADDRESSES: Westin Crystal City, 1800 Richmond Hwy, Arlington, VA 22202 and via Teleconference: Remote attendance of the ASCAC meeting will be possible via Zoom. Instructions will be posted on the ASCAC website at: *https://science.energy.gov/ascr/ascac* prior to the meeting and can also be obtained by contacting Christine Chalk by email at *christine.chalk@science.doe.gov* or by phone at (301) 903–7486.

FOR FURTHER INFORMATION CONTACT: Christine Chalk, Office of Advanced Scientific Computing Research; SC–31/Germantown Building; U.S. Department of Energy; 1000 Independence Avenue SW, Washington, DC 20585–1290; Telephone (301) 903–7486, email: *christine.chalk@science.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The purpose of the committee is to provide advice and guidance on a continuing basis to the Office of Science and to the Department of Energy on scientific priorities within the field of advanced scientific computing research.

Purpose of the Meeting: This meeting is the semi-annual meeting of the Committee.

Tentative Agenda

- View from Washington
- View from Germantown
- Update on Exascale project activities
- Update on ASCR facilities and testbeds
- Update on International Charge
- Technical presentations
- Public Comment (10-minute rule)

The meeting agenda includes an update on the budget, accomplishments and planned activities of the Advanced Scientific Computing Research program and the exascale computing project; an update from the Office of Science; technical presentations from funded researchers; updates from subcommittees and there will be an opportunity for comments from the public. The meeting will conclude at 1:00 p.m. (eastern time) on July 22, 2022. Agenda updates and presentations will be posted on the ASCAC website prior to the meeting: *https://science.osti.gov/ascr/ascac.*

Public Participation: The meeting is open to the public. Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 10 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should submit your request at least five days before the meeting. Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Christine Chalk, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or email to *Christine.Chalk@science.doe.gov.*

Minutes: The minutes of this meeting will be available within 90 days on the Advanced Scientific Computing website at: *https://science.osti.gov/ascr/ascac.*

Signed in Washington, DC, on June 24, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–13873 Filed 6–28–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2173–000]

Bakeoven Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Bakeoven Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 13, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13882 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3511–000]

Lower Saranac Hydro, LLC; Notice of Authorization for Continued Project Operation

The license for the Groveville Hydroelectric Project No. 3511 was issued for a period ending May 31, 2022.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 3511 is issued to Lower Saranac Hydro, LLC

for a period effective June 1, 2022 through May 31, 2023, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before May 31, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Lower Saranac Hydro, LLC is authorized to continue operation of the Groveville Hydroelectric Project under the terms and conditions of the prior license until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

Dated: June 22, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13822 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2174–000]

Daybreak Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Daybreak Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 13, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13885 Filed 6–28–22; 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:

RP22–988–000.

Applicants: RH energytrans, LLC.

Description: Request for Waiver of Requirement to File FL&U Percentage Adjustment of RH energytrans, LLC.

Filed Date: 6/16/22.

Accession Number: 20220616–5194.

Comment Date: 5 p.m. ET 6/28/22.

Docket Numbers: RP22–990–000.

Applicants: WBI Energy Transmission, Inc.

Description: § 4(d) Rate Filing: 2022 Negotiated and Non-Conforming SA ONEOK to be effective 8/1/2022.

Filed Date: 6/23/22.

Accession Number: 20220623–5016.

Comment Date: 5 p.m. ET 7/5/22.

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 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13883 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9951–055]

STS Hydropower, LLC; Township of Van Buren, Michigan; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of ILP Pre-Filing Process; Waiving Parts of the ILP Pre-Filing Process; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 9951–055.

c. *Dated Filed:* April 29, 2022.

d. *Submitted By:* STS Hydropower, LLC (STS Hydropower) and Township of Van Buren, Michigan (Township of Van Buren).

e. *Name of Project:* French Landing Hydroelectric Project (French Landing Project).

f. *Location:* The French Landing Project is located on the Huron River in Wayne County, Michigan. The project does not occupy federal land.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contacts:* Melissa Sonnleitner, STS Hydropower, LLC, c/o Eagle Creek RE Management, LLC, 116 N. State Street, P.O. Box 167, Neshkoro, WI 54960; (920) 293–4628 (extension 347); *melissa.sonnleitner@eaglecreekre.com.*

Tim Sullivan, Gomez and Sullivan Engineers, D.P.C, 41 Liberty Hill Road, P.O. Box 2179, Henniker, NH 03242; (716) 402–6795; *timsullivan@gomezandsullivan.com.*

i. *FERC Contact:* Aaron Liberty at (202) 502–6862 or email at *aaron.liberty@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) the U.S. Fish and Wildlife Service and/or National Oceanic and Atmospheric Administration Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402 and (b) the State 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 STS Hydropower and the Township of Van Buren as the Commission's non-federal representatives for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. STS Hydropower and the Township of Van Buren filed with the Commission a Pre-Application Document (PAD, including a proposed process plan and schedule), 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 (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCONlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659. A copy is also available for public inspection during normal business hours at the Van Buren Charter Township Clerk's Office, 46425 Tyler Road, Van Buren Township, Michigan 48111.

You may register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission staff's Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be emailed (preferred) or mailed to the addresses above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: French Landing Hydroelectric Project (P–9951–055).

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by August 27, 2022.

p. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission prepares an environmental assessment or Environmental Impact Statement.

Scoping Process

Due to ongoing concerns with large gatherings related to COVID–19, we do not intend to hold in-person public scoping meetings or an in-person environmental site review. Additionally, staff's review of the PAD indicates that the complexity of the resource issues is minor and the level of anticipated controversy associated with the project is expected to be minimal. Therefore, we are waiving section 5.8(b)(viii) of the Commission's regulations and do not intend to conduct a public scoping meeting or environmental site review in this case. Instead, we are soliciting written comments on the SD1. Any individual or entity interested in submitting scoping comments must do so by the date specified in item o. SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Dated: June 23, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13894 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4428–000]

Walden Hydro, LLC; Notice of Authorization for Continued Project Operation

The license for the Walden Hydroelectric Project No. 4428 was issued for a period ending May 31, 2022.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 4428 is issued to Walden Hydro, LLC for a period effective June 1, 2022 through May 31, 2023, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before May 31, 2023, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Walden Hydro, LLC is authorized to continue operation of the Walden Hydroelectric Project under the terms and conditions of the prior license until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

Dated: June 22, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13821 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–466–000]

WBI Energy Transmission, Inc.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Wahpeton Expansion Project; Request for Comments on Environmental Issues, and Schedule for Environmental Review

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Wahpeton Expansion Project (Project) involving construction and operation of facilities by WBI Energy Transmission, Inc. (WBI Energy) in Cass and Richland Counties, North Dakota. The Commission will use this EIS in its decision-making process to determine whether the Project is in the public convenience and necessity. The schedule for preparation of the EIS is discussed in the *Schedule for Environmental Review* section of this notice.

As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' By notice issued on January 4, 2022, in Docket No. PF21–4–000, the Commission opened a scoping period during WBI Energy's planning process for the Project and prior to filing a formal application with the Commission, a process referred to as ''pre-filing.'' WBI Energy has now filed an application with the Commission, and staff intends to prepare an EIS that will address the concerns raised during the pre-filing scoping process and comments received in response to this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document, including comments on potential alternatives and impacts, and any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on July 22, 2022. Comments may be submitted in written or oral form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

As mentioned above, during the pre-filing process, the Commission opened a scoping period which expired on February 3, 2022; however, Commission staff continued to accept comments during the entire pre-filing process. Staff also held two virtual scoping sessions to take oral scoping comments. Those sessions were held on January 25 and 27, 2022. All substantive written and oral comments provided during pre-filing will be addressed in the EIS. Therefore, if you submitted comments on this Project to the Commission during the pre-filing process in Docket No. PF21–4–000 you do not need to file those comments again.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not grant, exercise, or oversee the exercise of eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

WBI Energy provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website

(*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. 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, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using *eComment* 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, which is located 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.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; 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 (CP22–466–000) 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.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Summary of the Proposed Project, the Project Purpose and Need, and Expected Impacts

WBI Energy proposes to construct and operate about 60.5 miles of 12-inch-diameter natural gas pipeline from WBI Energy's existing Mapleton Compressor Station near Mapleton, North Dakota to a new meter station near Wahpeton, North Dakota. The Wahpeton Expansion Project would provide about 20.6 million standard cubic feet of natural gas per day to southeastern North Dakota. According to WBI Energy, its Project would provide additional natural gas supply to Wahpeton, North Dakota and new natural gas service to Kindred, North Dakota, as requested by Montana-Dakota Utilities Co. (MDU).

The Wahpeton Expansion Project would consist of the following facilities in addition to the pipeline, all in North Dakota:

- modifications (installation of additional equipment and facilities, but no additional compression) to WBI Energy's existing Mapleton Compressor Station in Cass County to facilitate a tie-in to WBI's existing pipeline system.
- two delivery stations (MDU-Kindred Border Station and MDU-Wahpeton Border Station) in Cass and Richland Counties;
- seven block valve settings (Valve Site 1 would be located within the existing Mapleton Compressor Station and Valve Sites 3 and 7 would be collocated within the two delivery stations);
- four pig launcher/receiver settings [1] collocated with Valve Sites 1, 2, 5, and 7; and
- possible farm taps (unspecified number and locations at this time).

The general location of the Project facilities is shown in appendix 1.[2]

Construction of the proposed facilities would disturb at least 791.5 acres of land for the pipeline, aboveground facilities, and associated workspaces, of which approximately 728 acres are agricultural lands (crops, pasture, hayfields). Following construction, WBI Energy would maintain at least 372.5 acres for permanent operation of the Project's facilities; the remaining acreage would be restored and revert to former uses. Approximately 346 acres of permanent operational footprint would be within agricultural lands, which would be allowed to revert to agricultural uses. About 51 percent of the proposed pipeline route parallels existing electric transmission line, railroad, and road rights-of-way.

Based on an initial review of WBI Energy's and public comments received during the pre-filing process, Commission staff have identified several expected impacts that deserve attention in the EIS. The Project would impact 20 waterbodies, crossing 18 using a guided bore which would largely avoid impacts on the waterbodies except for potential temporary equipment bridge crossings. Two ephemeral waterbodies (roadside ditches) would be crossed using open-cut methods. Five additional ephemeral waterbodies (roadside ditches) would be crossed by access roads.

Of the 8.5 acres of wetland which could be impacted by the Project, approximately 6.3 acres, including 0.4 acre of forested wetlands, would be impacted during the open-cut construction method for installation of the pipeline. The remainder of wetland impacts would result from access roads, aboveground facilities, and pipe yards. In total, approximately 0.10 acre of permanent wetland impact is anticipated, of which most would result from a conversion in type of wetland (from forested to emergent); less than 0.01 acre would consist of permanent fill of a roadside ditch for a permanent access road.

Other potential impacts associated with the Project would include:

- noise resulting from 24-hour construction activities;
- construction through areas with drain tiles;
- disturbance of wildlife species and habitats (although most areas proposed for disturbance consist of agricultural land);
- disturbance of soils and subsequent restoration of farmland;
- air emissions during construction; and
- environmental justice.

The NEPA Process and the EIS

The EIS issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed Project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- socioeconomics and environmental justice;
- land use;
- cumulative impacts;
- air quality and noise; and
- reliability and safety.

Commission staff will also make recommendations on how to lessen or

[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

avoid impacts on the various resource areas. Your comments will help Commission staff focus its analysis on the issues that may have a significant effect on the human environment.

The EIS will present Commission staff's independent analysis of the issues. Staff will prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any draft and final EIS will be available in electronic format in the public record through library [3] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

Alternatives Under Consideration

The EIS will evaluate reasonable alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.[4] Alternatives currently under consideration include:

- the no-action alternative, meaning the Project is not implemented;
- four system alternatives;
- possible route alternatives and route variations;
- possible aboveground facility alternatives for delivery stations; and
- construction method alternatives.

With this notice, the Commission requests specific comments regarding any additional potential alternatives to the proposed action or segments of the proposed action. Please focus your comments on reasonable alternatives (including alternative facility sites and pipeline routes) that meet the Project objectives, are technically and economically feasible, and avoid or lessen environmental impact.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission initiated section 106 consultation for the Project in the notice issued on January 4, 2022, with the North Dakota State Historic Preservation Office, and other government agencies, interested Indian tribes, and the public to solicit their views and concerns regarding the Project's potential effects on historic properties.[5] This notice is a continuation of section 106 consultation for the Project. The Project EIS will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Schedule for Environmental Review

On June 10, 2022, the Commission issued its Notice of Application for the Project. Among other things, that notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final EIS for the Project. This notice identifies the Commission staff's planned schedule for completion of the final EIS for the Project, which is based on an issuance of the draft EIS in November 2022.

Issuance of Notice of Availability of the final EIS—April 7, 2023

90-day Federal Authorization Decision Deadline [6]—July 6, 2023

If a schedule change becomes necessary for the final EIS, an additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Permits and Authorizations

The table below lists the anticipated permits and authorizations for the Project required under federal law. This list may not be all-inclusive and does not preclude any permit or authorization if it is not listed here. Agencies with jurisdiction by law and/or special expertise may formally cooperate in the preparation of the Commission's EIS and may adopt the EIS to satisfy its NEPA responsibilities related to this Project. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Agency	Permit
FERC	Certificate of Public Convenience and Necessity under Section 7c of the Natural Gas Act.
U.S. Army Corps of Engineers	Section 404 of the Clean Water Act.
U.S. Fish and Wildlife Service	Section 7 of the Endangered Species Act.
North Dakota Department of Environmental Quality	Water Quality Certificate under Section 401 of the Clean Water Act.
State Historical Society of North Dakota	Section 106 of the National Historic Preservation Act.

Environmental Mailing List

This notice is being sent to the Commission's current environmental mailing list for the Project which includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project. State and local government representatives should notify their constituents of this proposed Project and encourage them to comment on their areas of concern.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] 40 CFR 1508.1(z).

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

[6] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP22–466–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP22–466). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: June 22, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13818 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–18–000]

Commission Information Collection Activity (FERC–715); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

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 collections, FERC–715 (Annual Transmission Planning and Evaluation Report).

DATES: Comments on the collections of information are due August 29, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–18–000) on FERC–715 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, 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,* or by telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–715, Annual Transmission Planning and Evaluation Report.

OMB Control No.: 1902–0171.

Abstract: Acting under section 213 of the Federal Power Act [1] and 18 CFR 141.300, FERC requires each transmitting utility that operates integrated transmission system facilities rated above 100 kilovolts (kV) to submit annually:

- Contact information;
- Base case power flow data (if the respondent does not participate in the development and use of regional power flow data);
- Transmission system maps and diagrams used by the respondent for transmission planning;
- A detailed description of the transmission planning reliability criteria used to evaluate system performance for time frames and planning horizons used in regional and corporate planning;
- A detailed description of the respondent's transmission planning assessment practices (including, but not limited to, how reliability criteria are applied and the steps taken in performing transmission planning studies); and
- A detailed evaluation of the respondent's anticipated system performance as measured against its stated reliability criteria using its stated assessment practices.

FERC–715 enables the Commission to use the information as part of their regulatory oversight functions which includes:

- The review of rates and charges;
- The disposition of jurisdictional facilities;
- The consolidation and mergers;
- The adequacy of supply and;
- Reliability of the nation's transmission grid.

FERC–715 also helps the Commission resolve transmission disputes. Additionally, the Office of Electric Reliability (OER) uses the FERC–715 data to help protect and improve the reliability and security of the nation's bulk power system. OER oversees the development and review of mandatory reliability and security standards and ensures compliance with the approved standards by the users, owners, and operators of the bulk power system. OER also monitors and addresses issues concerning the nation's bulk power system including assessments of resource adequacy and reliability.

Without the FERC–715 data, the Commission would be unable to evaluate planned projects or requests related to transmission.

Type of Respondent: Integrated transmission system facilities rated at or above 100 kilovolts (kV).

Estimate of Annual Burden: [2] The Commission estimates the total annual burden and cost [3] for this information collection as follows.

[1] 16 U.S.C. 824*l*.

[2] ''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 Code of Federal Regulations 1320.3.

[3] The Commission staff estimates that the industry's hourly cost for wages plus benefits is similar to the Commission's $87.00 FY 2021 average hourly cost for wages and benefits.

FERC–715—ANNUAL TRANSMISSION PLANNING AND EVALUATION REPORT

Type of response	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 & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Annual Transmission Planning and Evaluation Report.	111	1	111	160 hrs.; $13,920	17,760 hrs.; $1,545,120.	$13,920

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 22, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13817 Filed 6–28–22; 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: EC22–80–000.
Applicants: Capistrano Portfolio Holdco LLC, Broken Bow Wind, LLC, Crofton Bluffs Wind, LLC, Mountain Wind Power, LLC, Mountain Wind Power II LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Capistrano Portfolio Holdco LLC, et al.
Filed Date: 6/23/22.
Accession Number: 20220623–5159.
Comment Date: 5 p.m. ET 7/14/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1553–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company's (SCE)Errata Notice of Intent to Revise SCE's Formula Transmission Rate Annual Update TO2021 and TO2022.
Filed Date: 6/22/22.
Accession Number: 20220622–5140.
Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–69–001.
Applicants: Indeck Niles, LLC.
Description: Compliance filing: Amended Notice of Change in Status & Change in Seller Category (ER22–69–) to be effective N/A.
Filed Date: 6/23/22.
Accession Number: 20220623–5030.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–1743–001.
Applicants: Indeck Corinth Limited Partnership.
Description: Tariff Amendment: Amended Notice of Change in Status & Seller Category Designation (ER22–1743) to be effective 5/2/2022.
*Filed Date:*6/23/22.
Accession Number: 20220623–5045.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–1744–001.
Applicants: Indeck Energy Services of Silver Springs, Inc.
Description: Tariff Amendment: Amended Notice of Change in Status & Seller Category Designation (ER22–1744) to be effective 5/2/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5031.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–1745–001.
Applicants: Indeck-Olean Limited Partnership.
Description: Tariff Amendment: Amended Notice of Change in Status & Seller Category Designation (ER22–1745) to be effective 5/2/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5039.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–1748–001.
Applicants: Indeck-Oswego Limited Partnership.
Description: Tariff Amendment: Amended Notice of Change in Status & Seller Category Designation (ER22–1748) to be effective 5/2/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5044.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–1751–001.
Applicants: Indeck-Yerkes Limited Partnership.
Description: Tariff Amendment: Amended Notice of Change in Status & Seller Category Designation (ER22–1751) to be effective 5/2/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5042.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–2176–000.
Applicants: Rolling Hills Generating, L.L.C.
Description: Compliance filing: eTariff Baseline Filing to be effective 6/24/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5094.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–2176–001.
Applicants: Rolling Hills Generating, L.L.C.
Description: Compliance filing: Informational Filing Pursuant to Schedule 2 of the PJM OATT & Request for Waiver to be effective N/A.
Filed Date: 6/23/22.
Accession Number: 20220623–5148.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–2177–000.
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 revised SA No. 1422 OPCo-Deshler ILDSA to be effective 5/1/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5120.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–2178–000.
Applicants: ORNI 50 LLC.
Description: Baseline eTariff Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 6/24/2022.
Filed Date: 6/23/22.
Accession Number: 20220623–5122.
Comment Date: 5 p.m. ET 7/14/22.

Docket Numbers: ER22–2179–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: UMPA Const Agmt Nephi to be effective 8/23/2022.

Filed Date: 6/23/22.
Accession Number: 20220623–5145.
Comment Date: 5 p.m. ET 7/14/22.

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 23, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13884 Filed 6–28–22; 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: RP22–989–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement Filing—Mercuria Energy America, LLC to be effective 6/21/2022.
Filed Date: 6/21/22.
Accession Number: 20220621–5175.
Comment Date: 5 p.m. ET 7/5/22.

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 22, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13819 Filed 6–28–22; 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: EC22–79–000.
Applicants: Lea Power Partners, LLC, Waterside Power, LLC, Badger Creek Limited, Bear Mountain Limited, Chalk Cliff Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, Live Oak Limited, McKittrick Limited, WGP Redwood Holdings, LLC, Cretaceous Bidco Limited.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Lea Power Partners, LLC, et al.
Filed Date: 6/22/22.
Accession Number: 20220622–5078.
Comment Date: 5 p.m. ET 7/13/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–149–000.
Applicants: Big Cypress Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Big Cypress Solar, LLC.
Filed Date: 6/21/22.
Accession Number: 20220621–5064.
Comment Date: 5 p.m. ET 7/12/22.

Docket Numbers: EG22–150–000.
Applicants: Bakeoven Solar, LLC.
Description: Bakeoven Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/21/22.
Accession Number: 20220621–5189.
Comment Date: 5 p.m. ET 7/12/22.

Docket Numbers: EG22–151–000.
Applicants: Daybreak Solar, LLC.
Description: Daybreak Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 6/21/22.
Accession Number: 20220621–5191.
Comment Date: 5 p.m. ET 7/12/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–47–000.
Applicants: Tucson Electric Power Company.
Description: Refund Report: Refund Report—Spot Market Sales Exceeding WECC Soft Price Cap to be effective N/A.
Filed Date: 6/22/22.
Accession Number: 20220622–5051.
Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–1734–000; ER22–1735–000; ER22–1736–000; ER22–1737–000; ER22–1739–000; ER22–1740–000; ER22–1742–000; ER22–1765–000; ER22–1750–000; ER22–1747–000; ER22–1749–000; ER22–1752–000; ER22–1753–000; ER22–1754–000; ER22–1755–000; ER22–1756–000; ER22–1757–000; ER22–1758–000; ER22–1759–000; ER22–1760–000; ER22–1761–000; ER22–1762–000; ER22–1763–000; ER22–1764–000; ER22–1776–000; ER22–1766–000; ER22–1767–000; ER22–1768–000; ER22–1769–000; ER22–1771–000; ER22–1772–000; ER22–1770–000; ER22–1773–000; ER22–1775–000; ER22–1774–000; ER22–1732–000.
Applicants: Wind Capital Holdings, LLC, Wildcat Wind, LLC, West Medway II, LLC, Tuana Springs Energy, LLC, Shooting Star Wind Project, LLC, R.E. Ginna Nuclear Power Plant, LLC, Nine Mile Point Nuclear Station, LLC, Michigan Wind 2, LLC, Michigan Wind 1, LLC, High Mesa Energy, LLC, Harvest Windfarm, LLC, Harvest II Windfarm, LLC, Handsome Lake Energy, LLC, Fourmile Wind Energy, LLC, Fair Wind Power Partners, LLC, Criterion Power Partners, LLC, CR Clearing, LLC, Cow Branch Wind Power, LLC, Constellation Wyman, LLC, Constellation West Medway, LLC, Constellation Power Source Generation, LLC, Constellation NewEnergy, Inc., Constellation New Boston, LLC, Constellation Mystic Power, LLC, Constellation Framingham, LLC, Constellation FitzPatrick, LLC, Constellation Energy Generation, LLC, Constellation Energy Commodities Group Maine, LLC, Clinton Battery Utility, LLC,CER Generation, LLC, Cassia Gulch Wind Park, LLC, Calvert Cliffs Nuclear Power Plant, LLC, Bluestem Wind Energy, LLC, Beebe Renewable Energy, LLC, Beebe 1B Renewable Energy, LLC, AV Solar Ranch 1, LLC.
Description: Supplement to April 29, 2022 AV Solar Ranch 1, LLC submits

tariff filing per 35.13(a)(2)(iii: Notice of Change in Status, Revised MBR Tariffs, and Request for Waiver to be effective 5/2/2022.

Filed Date: 6/21/22.

Accession Number: 20220621–5209.

Comment Date: 5 p.m. ET 7/12/22.

Docket Numbers: ER22–2158–000.

Applicants: Public Service Company of New Mexico.

Description: § 205(d) Rate Filing: Compliance Filing Regarding April 21, 2022 Show Cause Order to be effective 6/22/2022.

Filed Date: 6/21/22.

Accession Number: 20220621–5187.

Comment Date: 5 p.m. ET 7/12/22.

Docket Numbers: ER22–2159–000.

Applicants: Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–06–21_SA 3849 ATC-City of Negaunee D–TIA to be effective 8/22/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5006.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2160–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–06–22_SA 3848 Ameren IL-Midwest Hydro to be effective 8/22/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5007.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2161–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Compliance filing: 881 Compliance Filing to be effective 6/23/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5009.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2162–000.

Applicants: Deseret Generation & Transmission Co-operative, Inc.

Description: Compliance filing: 881 Compliance Filing to be effective 6/23/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5014.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2163–000.

Applicants: East Kentucky Power Cooperative, Inc., PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: East Kentucky Power Cooperative, Inc. submits tariff filing per 35.13(a)(2)(iii: EKPC submits revised depreciation rates to OATT, Att. H–24A, App. D to be effective 6/1/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5026.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2164–000.

Applicants: Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: 2022–06–22 Concurrence to Cost Sharing and Recovery Agreement to be effective 8/22/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5049.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2165–000.

Applicants: Southwestern Public Service Company.

Description: Tariff Amendment: Tri-County Cancellation to be effective 6/23/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5058.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2166–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 307 to be effective 8/22/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5063.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2167–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3978 Tip Top Solar, SPS & PSCo OK Shared Network Upgrade FCA to be effective 8/22/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5064.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2168–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2022–06–21–PSCo–HLYCRS–O&M Agrmt 430–0.3.0 to be effective 6/23/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5066.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2169–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL Revisions to Transmission Service Agreement No. 274 to be effective 4/1/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5068.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2170–000.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Amendment: DEF-Mt. Dora Termination of Reimbursement Agreement RS No. 267 to be effective 8/22/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5069.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2171–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–06–22_SA 3333 ITC–DTE Electric 2nd Rev GIA (J793) to be effective 6/9/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5097.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2172–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, SA No. 6510; Queue No. AE2–040 to be effective 5/23/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5099.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2173–000.

Applicants: Bakeoven Solar, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 8/11/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5122.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2174–000.

Applicants: Daybreak Solar, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 8/11/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5123.

Comment Date: 5 p.m. ET 7/13/22.

Docket Numbers: ER22–2175–000.

Applicants: New England Power Company.

Description: § 205(d) Rate Filing: 2022–06–22 Filing of Civil Work and Construction Agreement between NEP and NSTAR to be effective 4/19/2022.

Filed Date: 6/22/22.

Accession Number: 20220622–5126.

Comment Date: 5 p.m. ET 7/13/22.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES22–50–000.

Applicants: Deerfield Wind Energy 2, LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Deerfield Wind Energy 2, LLC.

Filed Date: 6/21/22.

Accession Number: 20220621–5118.

Comment Date: 5 p.m. ET 7/12/22.

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 22, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13820 Filed 6–28–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0660; FRL–9980–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; TSCA Section 5 Premanufacture Review of New Chemical Substances and Significant New Use Rules for New and Existing Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), TSCA Section 5 Premanufacture Review of New Chemical Substances and Significant New Use Rules for New and Existing Chemical Substances'' (EPA ICR Number 1188.13, OMB Control Number 2070–0038) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a request that will rename and consolidate two currently approved collections under OMB Control No. 2070–0038. Public comments were previously requested on a new consolidated ICR identified as EPA ICR No. 2702.01 via the **Federal Register** on December 27, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 29, 2022.

ADDRESSES: Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OPPT–2021–0660, online using *https://www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Regulatory Support Branch (7101M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–1204; email address: *sleasman.katherine@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the docket for this ICR. The docket can be viewed online at *https://www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's dockets, visit *https://www.epa.gov/dockets.*

Abstract: This information collection request consolidates the reporting and recordkeeping requirements associated with the premanufacture review of new chemical substances and those associated with new and existing chemical substances that are subject to significant new use rules, which are programs administered by EPA under section 5 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2604). Originally identified as a new ICR and assigned EPA ICR No. 2702.01 (OMB Control No. 2070–NEW), this request consolidates two currently approved collections identified as EPA ICR No. 0574.18 (OMB Control No. 2070–0012) and EPA ICR No. 1188.12 (OMB Control No. 2070–0038). Based on discussions with OMB, EPA subsequently determined that the consolidated ICR should be submitted as a revision to the existing ICR approved under OMB Control No. 2070–0038. The consolidation ICR is now identified as EPA ICR No. 1188.13 and includes a change in its title.

TSCA section 5 requires that any person who proposes to manufacture (which includes import) a ''new chemical'' (*i.e.,* a chemical not listed on the TSCA section 8(b) Inventory) must provide a premanufacture notice (PMN), a Microbial Commercial Activity Notice (MCAN) or an exemption application to EPA at least 90 days prior to commencing manufacture of that chemical and that EPA review such notice and take action as appropriate. In addition, if EPA determines that a non-ongoing use of a new or existing chemical substance is a significant new use, EPA may promulgate a significant new use rule (SNUR) under TSCA section 5 to require any person who intends to manufacture (import) or process the chemical substance for that designated ''significant new use'' must first submit a significant new use notice (SNUN) to EPA at least 90 days prior to commencing the manufacture or processing of that chemical for that use, which allows EPA to review such notice and take action as appropriate. TSCA section 5 also requires EPA to make determinations before the conclusion of its 90-day review of the submitted notices regarding whether the manufacture, processing, distribution in commerce, use and/or disposal of the new chemical substances or the significant new use of the existing chemical substances may present unreasonable risk to health or the environment. EPA's determination on a chemical substance or new use will dictate how and to what extent the chemical's manufacture, use, processing and/or disposal may be restricted.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b), and regulations that interpret TSCA section 12(b) appear at 40 CFR

part 707 and the associated paperwork activities and burdens are approved under OMB Control No. 2070–0030, ICR entitled ''Notification of Chemical Exports—TSCA Section 12(b),'' identified by EPA ICR No. 0795.16.

Form Numbers: 7710–23, 7710–25, 7710–56 and 6300–7.

Respondents/affected entities: Chemical manufacturers (defined by statute to include importers) and processors, *e.g.,* entities identified by the North American Industrial Classification System (NAICS) codes 325, Chemicals and Allied Products Manufacturers, and 324, Petroleum Refining.

Respondent's obligation to respond: Mandatory, 15 U.S.C 2604. 40 CFR parts 720, 721, 723 and 725.

Estimated number of respondents: 234 (total).

Frequency of response: On occasion.

Total estimated burden: 136,292 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $37,354,814 (per year), includes $0 annualized capital or operation and maintenance costs.

Changes in the estimates: The consolidation of the currently approved ICRs is expected to result in an overall decrease of 56,001 burden hours and $17,188,154 burden costs when compared to the total combined burden and costs that is currently approved by OMB. Discussed in more detail in the ICR, this decrease is an adjustment.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2022–13855 Filed 6–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0254; FRL–9347–02–OCSPP]

Asbestos Part 2 Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos; Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with implementing regulations for the Toxic Substances Control Act (TSCA), EPA is announcing the availability of the final scope of the risk evaluation to be conducted for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. In the Part 2 risk evaluation for asbestos, EPA will evaluate the conditions of use of asbestos (including other types of asbestos fibers in addition to chrysotile) that EPA had excluded from Part 1 as legacy uses and associated disposals, as well as any conditions of use of asbestos-containing talc. The final scope for this chemical substance includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this chemical substance.

ADDRESSES: The docket, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0254, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. Additional information about visiting the docket is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Peter Gimlin, Existing Chemical Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency (Mailcode 7404T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0515; email address: *gimlin.peter@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?

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA, 15 U.S.C. 2601 *et seq.,* (*e.g.,* entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

B. What is the Agency's authority for taking this action?

The final scope document is issued pursuant to TSCA section 6(b)(4)(D) and TSCA implementing regulations at 40 CFR 702.41(c)(8).

C. What action is the Agency taking?

EPA is publishing the final scope of the risk evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. Through the TSCA risk evaluation process, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, in accordance with TSCA section 6(b)(4).

II. Background

In June 2016, EPA designated asbestos as one the first 10 chemicals to undergo risk evaluation under TSCA, as amended by Frank R. Lautenberg Chemical Safety for the 21st Century Act. EPA initially focused the risk evaluation for asbestos on chrysotile asbestos as this is the only asbestos fiber type that is currently imported, processed, or distributed in the United States. However, in late 2019, the court in *Safer Chemicals, Healthy Families* v. *EPA,* 943 F.3d 397 (9th Cir. 2019) held that EPA's Risk Evaluation Procedural Rule (82 FR 33726, July 20, 2017 (FRL–9964–38)) should not have excluded ''legacy uses'' (*i.e.,* uses without ongoing or prospective manufacturing, processing, or distribution) or ''associated disposals'' (*i.e.,* future disposal of legacy uses) from the definition of conditions of use, although the court did uphold EPA's exclusion of ''legacy disposals'' (*i.e.,* past disposal).

Following this court ruling, EPA continued development of the risk evaluation focused on chrysotile asbestos and determined that the risk evaluation for asbestos would be issued in two parts. The risk evaluation for Asbestos Part 1: Chrysotile Asbestos was released in January 2021 (86 FR 89, January 4, 2021; FRL–10017–43), allowing the Agency to expeditiously move into risk management for the unreasonable risk identified in Part 1. Under the consent decree in the case *Asbestos Disease Awareness Organization et al* v. *Regan et al,* 4:21–

cv–03716 (N.D. Cal.), EPA is required to publish a final Part 2 Risk Evaluation for Asbestos on or before December 1, 2024. The final scope of the Risk Evaluation for Asbestos Part 2 is the subject of this notice.

The purpose of a risk evaluation is to determine whether a chemical substance presents an unreasonable risk to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation, under the conditions of use (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazards and exposures for the conditions of use; describe whether aggregate or sentinel exposures were considered and the basis for consideration; not consider costs or other nonrisk factors; take into account where relevant, likely duration, intensity, frequency, and number of exposures; and describe the weight-of-scientific-evidence for hazards and exposures (15 U.S.C. 2605(b)(4)(F)). This process will culminate in a determination of whether or not the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use (15 U.S.C. 2605(b)(4)(A); 40 CFR 702.47).

III. Information and Comments Received on the Draft Scope

In the **Federal Register** of December 29, 2021 (Ref. 1), EPA announced the availability of the draft scope document for the Part 2 risk evaluation for asbestos to be conducted under TSCA and invited public comments on EPA's draft scope document, including additional data or information relevant to the chemical substance or that otherwise could be useful to the Agency in finalizing the scope of the risk evaluation. To the extent that comments provided information on conditions of use, as well as other elements of the draft scope document, those comments and other submitted information (*e.g.,* relevant studies, assessments, information on degradation products, and information on conditions of use) were used to inform revisions to the draft scope document and may be considered in subsequent phases of the risk evaluation process.

EPA received 38 unique submissions, including comments from potentially affected businesses or trade associations, environmental and public health advocacy groups, and members of the general public.

Comments addressed the overall approach to the risk evaluation process (*e.g.,* collection, consideration, and systematic review of relevant information), the specific elements of the scope document (*e.g.,* human hazard, exposure, and potentially exposed or susceptible subpopulations), information specific to asbestos (*e.g.,* physical-chemical properties and fate, relevant studies, and conditions of use), and topics beyond the draft scope document phase of the TSCA section 6 process (*e.g.,* risk management). EPA considered those comments, as applicable and appropriate, in developing the final scope document. Concurrently with the publication of the final scope document, EPA is publishing a response to comments document that contains a comprehensive summary of and response to public comments received on the draft scope document for Part 2 of the Risk Evaluation for Asbestos. The comprehensive response to comments document is available in the docket EPA–HQ–OPPT–2021–0254 (Ref. 2).

IV. References

The following is a listing of the documents that are specifically referenced in this **Federal Register** notice. The docket for this action includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket. For assistance in locating these referenced documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos; Draft Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act; Notice of Availability and Request for Comments. **Federal Register**. (86 FR 74088, December 29, 2021) (FRL–9347–01–OCSPP).
2. EPA. EPA Response to Public Comments Received on the Draft Scopes of the Risk Evaluations under the Toxic Substances Control Act (TSCA) for: Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos (June 2022).

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 24, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–13852 Filed 6–28–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0237; FRL–9283–03–OCSPP]

Cyclic Aliphatic Bromide Cluster (HBCD); Revision to the Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final revision to the risk determination for the Cyclic Aliphatic Bromide Cluster (HBCD) risk evaluation issued under the Toxic Substances Control Act (TSCA). The revision to the HBCD risk determination reflects the announced policy changes to ensure the public is protected from unreasonable risks from chemicals in a way that is supported by science and the law. EPA determined that HBCD, as a whole chemical substance, presents an unreasonable risk of injury to health and the environment when evaluated under its conditions of use. In addition, this revised risk determination does not reflect an assumption that all workers always appropriately wear personal protective equipment (PPE). EPA understands that there could be occupational safety protections in place at workplace locations; however, not assuming use of PPE reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, or their employers are out of compliance with OSHA standards, or because OSHA has not issued a permissible exposure limit (PEL) (as is the case for HBCD). This revision supersedes the condition of use-specific no unreasonable risk determinations in the September 2020 HBCD risk evaluation and withdraws the associated order included in section 5.4.1 of the September 2020 HBCD risk evaluation.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0237, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the

Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Alie Muneer, Office of Pollution Prevention and Toxics (7404T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6369; email address: *muneer.alie@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. Executive Summary

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to those involved in the manufacture, processing, distribution, use, disposal, and/or the assessment of risks involving chemical substances and mixtures. You may be potentially affected by this action if you manufacture (defined under TSCA to include import), process (including recycling), distribute in commerce, use or dispose of HBCD, including HBCD in products. Since other entities may also be interested in this revision to the risk determination, EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What is EPA's authority for taking this action?

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation (PESS) identified as relevant to the risk evaluation by the Administrator, under the conditions of use. 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); *see also Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983). Further, on August 10, 2021, the Ninth Circuit granted EPA's motion for voluntary remand without vacatur, so that EPA may conduct reconsideration proceedings on the HBCD Risk Evaluation—particularly to reconsider the no unreasonable risk determinations made within. *Alaska Community Action on Toxics at al.,* v. *U.S. Environmental Protection Agency et al.,* (9th Cir. No. 20–73099).

C. What action is EPA taking?

EPA is announcing the availability of the final revision to the risk determination for the HBCD risk evaluation issued under TSCA that published in September 2020. In December 2021, EPA sought public comment on the draft revisions (86 FR 74082, December 29. 2021 (FRL–9283–01–OCSPP)) and reopened the comment period for an additional 15 days (87 FR 9047, February 17, 2022 (FRL–9283–02–OCSPP)). EPA appreciates the public comments received on the draft revision to the HBCD risk determination. After review of these comments and consideration of the specific circumstances of HBCD, EPA concludes that the Agency's risk determination for HBCD is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations. Accordingly, EPA is revising and replacing section 5 of the 2020 risk evaluation for HBCD where the findings of unreasonable risk to health and the environment were previously made for the individual conditions of use evaluated. EPA is also withdrawing the previously-issued TSCA section 6(i)(l) order for six conditions of use previously determined not to present unreasonable risk that was included in section 5.4.1 of the September 2020 HBCD risk evaluation.

This final revision to the HBCD risk determination is consistent with EPA's plans to revise specific aspects of the first ten TSCA chemical risk evaluations to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. The six conditions of use identified in the 2020 HBCD risk evaluation as presenting unreasonable risk still drive the unreasonable risk determination for HBCD. By removing the assumption that all workers always and appropriately wear PPE (See Unit II.C.), four of the six conditions of use driving the unreasonable risk to the environment in the 2020 HBCD risk evaluation now also drive unreasonable risk based on health risks to workers, an identified potentially exposed or susceptible subpopulation (PESS). The four conditions of use affected by this change are: Manufacturing (Import); Processing: Incorporation into formulation, mixture, or reaction products; Processing: Incorporation into articles; and Processing: Recycling (of XPS and EPS foam, resin, panels containing HBCD). Overall, six conditions of use drive the HBCD whole chemical unreasonable risk determination due to risks identified for both health and the environment. The full list of the conditions of use evaluated for the HBCD TSCA risk evaluation is in Table 1–8 of the risk evaluation available here *https://www.epa.gov/sites/default/files/2020-09/documents/1._risk_evaluation_for_cyclic_aliphatic_bromide_cluster_hbcd_casrn25637-99-4_casrn_3194-5_casrn_3194-57-8.pdf.*

II. Background

A. Why is EPA re-issuing the risk determination for the HBCD risk evaluation conducted under TSCA?

In accordance with Executive Order 13990 (Ref. 1) and other Administration priorities (Refs. 2, 3, and 4), EPA reviewed the risk evaluations for the first ten chemical substances, including HBCD, to ensure that they meet the requirements of TSCA, including conducting decision-making in a manner that is consistent with the best available science.

As a result of this review, EPA announced plans to revise specific aspects of the first ten risk evaluations in order to ensure that the risk evaluations appropriately identify unreasonable risks and thereby help ensure the protection of human health and the environment (available here *https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations*). Following a review of specific aspects of the September 2020 HBCD risk evaluation and after considering comments received on a draft revised risk determination for HBCD, EPA has determined that making an unreasonable risk determination for HBCD as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation, is the most appropriate approach to HBCD under the statute and implementing regulations. Second, EPA's final risk determination is explicit insofar as it does not rely on assumptions regarding the use of personal protective equipment (PPE) in making the unreasonable risk determination under TSCA section 6, even though some facilities might be using PPE as one means to reduce workers exposures; rather, the use of PPE as a means of addressing unreasonable risk will be considered during risk management, as appropriate.

This action pertains only to the risk determination for HBCD. While EPA intends to consider and may take additional similar actions on other of the first ten chemicals, EPA is taking a chemical-specific approach to reviewing these risk evaluations and is incorporating new policy direction in a surgical manner, while being mindful of Congressional direction on the need to complete risk evaluations and move toward any associated risk management activities in accordance with statutory deadlines.

B. What is a whole chemical view of the unreasonable risk determination for the HBCD risk evaluation?

TSCA section 6 repeatedly refers to determining whether a chemical *substance* presents unreasonable risk under its conditions of use. Stakeholders have disagreed over whether a chemical substance should receive: A single determination that is comprehensive for the chemical substance after considering the conditions of use, referred to as a whole-chemical determination; or multiple determinations, each of which is specific to a condition of use, referred to as condition-of-use-specific determinations.

As explained in the **Federal Register** document announcing the availability of the draft revised risk determination for HBCD (86 FR 74082, December 29, 2021 (FRL–9283–01–OCSPP), the proposed Risk Evaluation Procedural Rule (Ref. 5) was premised on the whole chemical approach to making unreasonable risk determinations. In that proposed rule, EPA acknowledged a lack of specificity in statutory text that might lead to different views about whether the statute compelled EPA's risk evaluations to address all conditions of use of a chemical substance or whether EPA had discretion to evaluate some subset of conditions of use (*i.e.,* to scope out some manufacturing, processing, distribution in commerce, use, or disposal activities), but also stated that ''EPA believes the word ''the'' (in TSCA section 6(b)(4)(A)) is best interpreted as calling for evaluation that considers all conditions of use.'' The proposed rule, however, was unambiguous on the point that unreasonable risk determinations would be for the chemical substance as a whole, even if based on a subset of uses. See Ref. 5 at 7565–66 (''TSCA section 6(b)(4)(A) specifies that a risk evaluation must determine whether 'a chemical substance' presents an unreasonable risk of injury to health or the environment 'under the conditions of use.' The evaluation is on the chemical substance—not individual conditions of use—and it must be based on 'the conditions of use.' In this context, EPA believes the word 'the' is best interpreted as calling for evaluation that considers all conditions of use.''). In proposed regulatory text, EPA proposed to determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use. Ref. 5 at 7480.

The final Risk Evaluation Procedural Rule stated (82 FR 33726, July 20, 2017 (FRL–9964–38)) (Ref. 6): ''As part of the risk evaluation, EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (40 CFR 702.47). For the unreasonable risk determinations in the first ten risk evaluations, EPA applied this provision by making individual risk determinations for each condition of use evaluated as part of each risk evaluation document (*i.e.,* the condition-of-use-specific approach to risk determinations). That approach was based on one particular passage in the preamble to the final Risk Evaluation Rule ''which stated that EPA will make individual risk determinations for all conditions of use identified in the scope. (Ref. 6 at 33744).''

In contrast to this portion of the preamble of the final Risk Evaluation Rule, the regulatory text itself and other statements in the preamble reference a risk determination *for the chemical substance* under its conditions of use, rather than separate risk determinations for each of the conditions of use of a chemical substance. In the key regulatory provision excerpted previously from 40 CFR 702.47, the text explains that, ''[a]s part of the risk evaluation, EPA will determine whether *the chemical substance* presents an unreasonable risk of injury to health or the environment under each condition of uses [sic] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents'' (emphasis added). Other language reiterates this perspective. For example, 40 CFR 702.31(a) states that the purpose of the rule is to establish the EPA process for conducting a risk evaluation to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment as required under TSCA section 6(b)(4)(B). Likewise, there are recurring references to whether the chemical substance presents an unreasonable risk in 40 CFR 702.41(a). See, for example, 40 CFR 702.41(a)(6), which ''[e]xplains that the extent to which EPA will refine its evaluations for one or more condition of use in any risk evaluation will vary as necessary to determine whether a chemical substance presents an unreasonable risk.'' Notwithstanding the one preambular statement about condition-of-use-specific risk determinations, the preamble to the final rule also contains support for a risk determination on the chemical substance as a whole. In

discussing the identification of the conditions of use of a chemical substance, the preamble notes that this task inevitably involves the exercise of discretion on EPA's part, and, ''as EPA interprets the statute, the Agency is to exercise that discretion consistent with the objective of conducting a technically sound, manageable evaluation to determine whether a chemical substance—not just individual uses or activities—presents an unreasonable risk'' (Ref. 6 at 33729).

Therefore, notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation. A panel of the Ninth Circuit Court of Appeals also recognized the ambiguity of the regulation on this point. *Safer Chemicals* v. *EPA,* 943 F.3d. 397, 413 (9th Cir. 2019) (holding a challenge about ''use-by-use risk evaluations [was] not justiciable because it is not clear, due to the ambiguous text of the Risk Evaluation Rule, whether the Agency will actually conduct risk evaluations in the manner Petitioners fear'').

EPA plans to consider the appropriate approach for each chemical substance risk evaluation on a case-by-case basis, taking into account considerations relevant to the specific chemical substance in light of the Agency's obligations under TSCA. The Agency expects that this case-by-case approach will provide greater flexibility in the Agency's ability to evaluate and manage unreasonable risk from individual chemical substances. EPA believes this is a reasonable approach under TSCA and the Agency's implementing regulations.

With regard to the specific circumstances of HBCD, EPA has determined that a whole chemical approach is appropriate for HBCD in order to protect health and the environment. The whole chemical approach is appropriate for HBCD because there are benchmark exceedances for multiple conditions of use (spanning across most aspects of the chemical lifecycle–from manufacturing (import), processing, commercial use, and disposal) for both health and the environment, HBCD is persistent, bioaccumulative and toxic substance, and the health effects associated with HBCD exposures are irreversible. Because these chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, a substantial amount of the conditions of use drive the unreasonable risk, therefore it is appropriate for the Agency to make a determination for HBCD, EPA has concluded that the whole chemical presents an unreasonable risk.

As explained later in this document, the revisions to the unreasonable risk determination (section 5 of the risk evaluation) follow the issuance of a draft revision to the TSCA HBCD unreasonable risk determination (86 FR 74082, December 29, 2021) and the receipt of public comment. A response to comments document is also being issued with this final revised unreasonable risk determination for HBCD. The revisions to the unreasonable risk determination are based on the existing risk characterization section of the risk evaluation (Section 4 of the risk evaluation) and do not involve additional technical or scientific analysis. The discussion of the issues in this **Federal Register** document and in the accompanying final revised risk determination for HBCD supersede any conflicting statements in the prior HBCD risk evaluation and the earlier response to comments document (Ref. 9). EPA views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

For purposes of TSCA section 6(i), EPA is making a risk determination on HBCD as a whole chemical. Under the revised approach, the ''whole chemical'' risk determination for HBCD supersedes the no unreasonable risk determinations for HBCD that were premised on a condition-of-use-specific approach to determining unreasonable risk and also contains an order withdrawing the TSCA section 6(i)(1) order in section 5.4.1 of the September 2020 HBCD risk evaluation.

C. What revision is EPA now making final about the use of PPE for the HBCD risk evaluation?

In the risk evaluations for the first ten chemical substances, as part of the unreasonable risk determination, EPA assumed for several conditions of use that all workers were provided and always used PPE in a manner that achieves the stated assigned protection factor (APF) for respiratory protection, or used impervious gloves for dermal protection. In support of this assumption, EPA used reasonably available information such as public comments indicating that some employers, particularly in the industrial setting, provide PPE to their employees and follow established worker protection standards (*e.g.,* Occupational Safety and Health Administration (OSHA) requirements for protection of workers).

For the September 2020 HBCD risk evaluation, EPA assumed that workers used PPE for six of the twelve conditions of use:

- Manufacturing—Import;
- Processing: Incorporating into formulation, mixture, or reaction products;
- Processing: Incorporation into article;
- Processing: Recycling (of XPS and EPS foam, resin, panels containing HBCD);
- Processing: Recycling (of electronics waste containing high impact polystyrene (HIPS) that contains HBCD); and
- Commercial/Consumer Use: Other—Formulated Products and Articles

EPA is revising the assumption for HBCD that workers always or properly use PPE, although it does not question the public comments received regarding the occupational safety practices often followed by industry respondents. When characterizing the risk to human health from occupational exposures during risk evaluation under TSCA, EPA believes it is appropriate to evaluate the levels of risk present in baseline scenarios where PPE is not assumed to be used by workers. It should be noted that, in some cases, baseline conditions may reflect certain mitigation measures, such as engineering controls, in instances where exposure estimates are based on monitoring data at facilities that have engineering controls in place. This approach considers the risk to potentially exposed or susceptible subpopulations of workers who may not be covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan.

In addition, EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements (*e.g.,* chemical-specific permissible exposure limits (PELs) and/or chemical-specific PELs with additional substance-specific standards), as well as scenarios considering industry or sector best practices for industrial hygiene that are clearly articulated to the Agency. Consistent with this approach, the September 2020 HBCD risk evaluation characterized risk to workers both with and without the use of PPE. By characterizing risks using scenarios that reflect different levels of mitigation,

EPA risk evaluations can help inform potential risk management actions by providing information that could be used during risk management to tailor risk mitigation appropriately to address any unreasonable risk identified, or to ensure that applicable OSHA requirements or industry or best sector practices that address the unreasonable risk are required for all potentially exposed and susceptible subpopulations of workers (including self-employed individuals and public sector workers who are not covered by an OSHA State Plan).

When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice is consistently and always properly applied. Mitigation scenarios included in the EPA risk evaluation (*e.g.,* scenarios considering use of various PPE) likely represent what is happening already in some facilities. However, the Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination.

Therefore, EPA is making a determination of unreasonable risk for HBCD from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. Making unreasonable risk determinations based on the baseline scenario should not be viewed as an indication that EPA believes there are no occupational safety protections in place at any location, or that there is widespread non-compliance with applicable OSHA standards. Rather, it reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, such as self-employed individuals and public sector workers who are not covered by a State Plan, or because their employer is out of compliance with OSHA standards, or because EPA finds unreasonable risk for purposes of TSCA notwithstanding OSHA requirements.

In accordance with this approach, EPA is finalizing the revision to the HBCD risk determination without relying on assumptions regarding the occupational use of PPE in making the unreasonable risk determination under TSCA section 6; rather, information on the use of PPE as a means of mitigating risk (including public comments received from industry respondents about occupational safety practices in use) will be considered during the risk management phase, as appropriate. This represents a change from the approach taken in the 2020 risk evaluation for HBCD. As a general matter, when undertaking risk management actions, EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, to the extent that applying those measures would address the identified unreasonable risk, including unreasonable risk to potentially exposed or susceptible subpopulations. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may be already common practice in many or most facilities. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

By removing the assumption of PPE use in making the whole chemical risk determination for HBCD, the same six conditions of use would continue to drive the proposed unreasonable risk determination. However, the impact of removing the assumption of PPE use would cause four of the six conditions of use that drive the unreasonable risk determination based on only risks to the environment to also drive unreasonable risk based on health risks to workers. The four conditions of use affected by this change are:

- Manufacturing—Import;
- Processing: Incorporation into formulation, mixture, or reaction products;
- Processing: Incorporation into article; and
- Processing: Recycling (of XPS and EPS foam, resin, panels containing HBCD).

D. What is HBCD?

HBCD is a white odorless non-volatile solid that is used as a flame retardant and wetting agent. Domestic manufacture of HBCD ceased in 2017 and was therefore not considered as a condition of use for the risk evaluation. U.S. manufacturers have indicated complete replacement of HBCD in their product lines and that depletion of stockpiles and cessation of export was completed in 2017 based on communications with manufacturers. HBCD has also not been imported by any major importers since 2017; however, it is reasonably foreseen that small imports under the TSCA Chemical Data Reporting threshold may have continued from countries that were not parties to the Stockholm Convention ban. About 95% of HBCD was historically used in insulation boards, primarily in construction materials, which may include structural insulated panels (SIPS). The category ''Building/Construction Materials'' includes products containing HBCD as a flame retardant primarily in XPS and EPS rigid foam insulation products that are used for the construction of residential, public, commercial, or other structures. HBCD is added to XPS and EPS foam in the form of a resin. EPS foam prevents freezing, provides a stable fill material, and creates high-strength composites in construction applications. XPS foam board is used mainly for roofing applications and architectural molding. Minor uses of HBCD include replacement car parts (polystyrene headliners and solder) and solder paste for electronics (circuit boards). Historically, HBCD was also manufactured (including import) and processed for additional articles that may still exist, including adhesives, coatings, sealants, textiles, and electronics.

E. What conclusions is EPA finalizing today in the revised TSCA risk evaluation based on the whole chemical approach and not assuming the use of PPE?

EPA determined that HBCD presents an unreasonable risk to health and the environment under the conditions of use. EPA's unreasonable risk determination for HBCD is driven by risks associated with the following conditions of use, considered singularly or in combination with other exposures:

- Manufacturing—Import;
- Processing: Incorporation into a Formulation, Mixture, or Reaction Products;
- Processing: Incorporation into Article;
- Processing: Recycling (of XPS and EPS foam, resin, and panels containing HBCD);
- Commercial/Consumer Use: Building/Construction Materials (Installation); and
- Disposal (Demolition).

Note: While commercial and consumer use was assessed as part of the same exposure

scenario for the ''Commercial/Consumer Use: Building/Construction Materials (Installation)'' condition of use, risks were quantified separately, and consumer use was not found to drive the HBCD unreasonable risk.

III. Summary of Public Comments

EPA received a total of 25 public comments on the December 29, 2021, draft revised risk determination for HBCD during the initial and extended comment period from December 29, 2021 to March 4, 2022. Commenters included trade organizations, trade unions, industry stakeholders, environmental groups, a Tribal organization, and non-governmental and health advocacy organizations. A separate document that summarizes all comments submitted and EPA's responses to those comments has been prepared and is available in the docket for this notice (Ref. 7).

A. General Comments in Support of and Opposed to the Revised Risk Determination

Several commenters supported the HBCD revised unreasonable risk determination because the whole chemical approach better aligns with the goals of TSCA and the 2016 Lautenberg amendments. In addition, commenters noted that by removing the assumption that workers always and appropriately wear PPE, EPA can better protect workers and potentially exposed and sensitive subpopulations (PESS). Those commenters who opposed the revised risk determination indicated concerns with unwarranted impacts relating to expected risk management regulatory decisions, including on articles and associated supply chains.

EPA Response: EPA appreciates the support for the revised unreasonable risk determination. With respect to impacts relating to expected risk management regulation of HBCD, EPA will propose a regulatory action with requirements under TSCA section 6(a) to the extent necessary so that HBCD no longer presents unreasonable risk. The proposed risk management rule will be subject to public comments, and EPA will consider such public comments and any additional reasonably available information before finalizing the rulemaking, including information related to potential impacts to supply chains and HBCD-containing articles.

B. General Legal Issues

A commentor indicated that EPA should use its authority under TSCA to research and collect additional occupational exposure data, while other commentors indicated that the revised unreasonable risk determination does not comply with TSCA section 26 scientific requirements and should be updated to reflect EPA's 2021 Draft Systematic Review protocol.

The second major topic of legal concern raised was whether EPA can revise the HBCD risk determination prior to undertaking a notice and comment rulemaking to revise the final Risk Evaluation Rule (*Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act* (82 FR 33726, July 20, 2017). In the view of commenters, the final Risk Evaluation Rule, allows EPA to assess risk and promulgate rules that would apply only to the conditions of use that present unreasonable risk. Several commenters took issue with EPA's new interpretation of the final Risk Evaluation Rule, stating that the rule lacks the ambiguity necessary to permit a court to grant *Auer* deference to the EPA's regulatory interpretation. In other words, the commenters claim the final Risk Evaluation Rule unequivocally requires EPA to make determinations for each condition of use and those conditions of use which do not present unreasonable risk would not be subject to risk management. Commenters indicated that EPA should not be permitted *Auer* deference with respect to its regulatory interpretation but rather must engage in a separate rulemaking with notice and comment to revise that regulation before engaging in the whole chemical approach to risk determination.

A third point raised was by a commenter that indicated that EPA did not fix existing legal flaws in the final risk evaluation, since EPA did not evaluate risk to all relevant subpopulations, including Alaska Indigenous Peoples, firefighters, and infants.

EPA Response: EPA identified and reviewed occupational exposure information through the systematic review process and from public commenters to inform the HBCD risk evaluation. EPA considers that information relied on in the risk evaluation, as reflected in the hazard and exposure assessments and risk characterization in the September 2020 risk evaluation, to be sufficient on occupational exposure to make the unreasonable risk determination and inform risk management. While EPA is undertaking efforts to refine its 2018 approach to systematic review, the draft protocol is not yet final. EPA expects to apply that protocol, when final, prospectively and not retroactively; retroactive application would lead to further delays in completing the risk evaluations for the first ten substances and associated risk management activities, contrary to Congressional intent. Thus, EPA maintains that the 2020 HBCD risk evaluation meets TSCA section 26(h) requirements. EPA welcomes any additional information from stakeholders during the development of the HBCD risk management rule; however, EPA expects to be able to complete a proposed and final risk management rule without additional information regarding occupational exposures to HBCD.

EPA has inherent authority to reconsider previous decisions and to revise, replace, or repeal a decision to the to the extent permitted by law and supported by reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); see also *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mutual Auto. Ins. Co.,* 463 U.S. 29, 42 (1983). As to the final Risk Evaluation Rule, EPA acknowledges a lack of specificity in the statute and inconsistency in the regulations with respect to the presentation of risk determinations in TSCA section 6 risk evaluations. Notwithstanding EPA's choice to issue condition-of-use-specific risk determinations to date, EPA interprets its risk evaluation regulation to also allow the Agency to issue whole-chemical risk determinations. Either approach is permissible under the regulation, and the Agency's interpretation is entitled to *Auer* deference when using the multifactor test set forth in *Kisor* (See Ref. 7). As such, notice and comment rulemaking is not necessary before revising the HBCD risk determination.

As a general matter, EPA must apply one or more requirements in TSCA section 6(a) to the extent necessary to address the unreasonable risk determined to be presented through a TSCA section 6(b) risk evaluation. Under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management options related to manufacture, processing, distribution in commerce, commercial use, and disposal in order to address the unreasonable risk. For instance, EPA may regulate upstream activities (*e.g.,* processing, distribution in commerce) in order to address downstream activities driving unreasonable risk (*e.g.,* consumer use) even if the upstream activities do not themselves drive the unreasonable risk.

As explained in Ref. 9, EPA incorporated aggregate exposures covering all potential exposure routes

for the general population and consumers in the final risk evaluation and the revised unreasonable risk determination. In addition, infants and subsistence fishers are identified as potentially exposed or susceptible subpopulations (PESS) and risks are reflected in the final risk evaluation. Finally, EPA explained how exposures to firefighters were considered and acknowledges that firefighter exposure to HBCD is an uncertainty in the risk evaluation (see Section 2.4.1.15.5 of the Risk Evaluation).

C. Revisions to the Risk Determination—Whole Chemical Approach vs. Individual Conditions of Use

As mentioned previously, several commenters supported the whole chemical approach on the basis that TSCA requires EPA to identify the full risk posed by a chemical substance. One commenter believes TSCA requires whole chemical determinations of unreasonable risk to satisfy the mandate to integrate and assess available information on hazards and exposures from the condition of use, especially in cases of potentially exposed or susceptible subpopulations, multiple routes of exposure, and combined risk to exposed populations across the chemical's conditions of use and life-cycle stages. Others questioned whether EPA had the authority to change the risk determination to a whole chemical approach and whether this change was appropriate for HBCD. Some commenters opposed the whole chemical approach because the scope of the risk evaluation was based on conditions of use. In addition, some commenters indicated that EPA does not provide support for a whole chemical unreasonable risk determination given that certain conditions of use pose no unreasonable risk and a whole chemical approach would lump together uses that do not present unreasonable risk with those that do. Furthermore, the commenter noted that EPA has not explained why a majority of conditions of use should trigger a whole chemical unreasonable risk determination, EPA has not provided criteria for when to take a whole chemical approach, and manufacturers will no longer have incentives to request risk evaluations. In addition, some commenters requested that EPA review the whole chemical approach in the context of the risk management rules, how this approach would affect risk management, the need to clarify the intended practical and legal implications of this new approach, and how the implementation of the whole chemical approach is consistent with the best available science and the weight of the scientific evidence.

EPA Response: The whole chemical approach is appropriate for HBCD because there are benchmark exceedances for multiple conditions of use (spanning across most aspects of the chemical lifecycle–from manufacturing (import), processing, commercial use, and disposal) for both health and the environment, HBCD is a persistent, bioaccumulative and toxic substance, and the health effects associated with HBCD exposures are irreversible. Because these chemical-specific properties cut across the conditions of use within the scope of the risk evaluation, a substantial amount of the conditions of use drive the unreasonable risk, therefore it is appropriate for the Agency to make a determination that the whole chemical presents an unreasonable risk. The revised unreasonable risk determination for HBCD reflects EPA's objective of conducting a technically sound, manageable evaluation to determine whether the chemical substance—not just individual uses or activities—presents an unreasonable risk.

Responding to comments about conditions of use which previously were found to not present unreasonable risk for HBCD, in the final revised risk determination, EPA identifies the conditions of use that drive the unreasonable risk of HBCD. Consistent with the statutory requirements of TSCA section 6(a), EPA will propose risk management regulatory actions to the extent necessary so that HBCD no longer presents an unreasonable risk. Therefore, it is expected that EPA's risk management action likely will focus on the conditions of use that drive the unreasonable risk. However, it should be noted that, under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management requirements in section 6(a) related to manufacture (including import), processing, distribution in commerce, commercial use, and disposal as part of its regulatory options to address the unreasonable risk. For example, EPA may regulate upstream activities (*e.g.,* processing, distribution in commerce) in order to address downstream activities driving unreasonable risk (*e.g.,* consumer use) even if the upstream activities are do not drive the unreasonable risk. The public will have an opportunity to provide comments and any additional information during the comment period for the proposed risk management rule. In the case of manufacturer-request risk evaluation (MRRE), EPA has the ability to add conditions of use to the MRRE and it is possible that only some conditions of use will drive the unreasonable risk. EPA is mindful of this reality and intends to continue to be transparent during the risk evaluation and when making an unreasonable risk determination for the chemical substance as a whole to articulate which conditions of use drive the unreasonable risk and which do not. Also, EPA will continue to carry out analysis of the conditions of use within the scope of the risk evaluation and conduct risk management rulemaking to address any identified unreasonable risk.

EPA considers the risk characterization, including hazard and exposure to HBCD, included in the September 2020 risk evaluation to account for reasonably available information for HBCD, and does not intend to amend the underlying scientific analysis in the risk characterization section of the risk evaluation. EPA also views the peer reviewed hazard and exposure assessments and associated risk characterization as robust and upholding the standards of best available science and weight of the scientific evidence per TSCA sections 26(h) and (i).

D. Revisions to the Risk Determination—Assumptions of Use of Personal Protective Equipment (PPE)

Some commenters supported EPA's decision to no longer rely on the assumption that workers always and properly use PPE when evaluating exposures in a risk evaluation. In their view, EPA needs to evaluate industry practices and EPA cannot assume that OSHA regulations will effectively require that workers always and appropriately use PPE. A commenter noted that the assumption of the use of PPE is not sufficiently supported by the practical realities of many workplaces. A commentor indicated that industry best practices are not relevant in determining whether regulations are needed to protect workers, and voluntary efforts can disappear in an instant, in a workplace or across a whole industry, and that regulation is thus needed to protect employees. Other commenters expressed opposition to EPA's intention not to assume PPE is always and properly used when conducting risk evaluations. For example, several commenters stated that EPA's decision not to assume the use of PPE is inconsistent with the definition of conditions of use under TSCA and contravenes TSCA's explicit requirement under TSCA section 26(k)

to take into consideration information relating to a chemical substance or mixture, including hazard and exposure information, under the conditions of use, that is reasonably available to the Administrator. Some commentors stated that EPA's proposed approach would artificially increase the calculated human health risk for particular uses of a chemical and create a false and misleading perception of worker risk. A couple of commentors suggested that EPA continue the approach of presenting both scenarios—HBCD use with and without PPE—to provide the appropriate bounding scenarios for HBCD risk exposures in the workplace. Another commentor added that it would also be appropriate for EPA to review and revise its modeling assumptions to ensure they reflect the state-of-the-art facilities and current industry practices. A commenter indicated that the discussion regarding industrial hygiene was imprecise and it is not clear if EPA intents to make unreasonable risk determinations from a baseline scenario that does not assume compliance with OSHA standards or the entire industrial hygiene hierarchy of controls. Several commentors encouraged EPA to coordinate and engage with OSHA. Finally, there were several comments regarding EPA's use of the OSHA particulates not otherwise regulated (PNOR) permissible exposure limit (PEL) to HBCD as an exposure limit reference to workers engaged in demolition and disposal of XPS and EPS foam insulation. A commenter provided specific examples of the controls that are utilized on jobsites to comply with OSHA requirements and minimize worker exposure to dust and other particulate matter.

EPA Response: EPA believes it is appropriate to evaluate the levels of risk present in scenarios considering applicable OSHA requirements as well as scenarios considering industry or sector best practices for industrial hygiene because such evaluation can help inform potential risk management actions (*i.e.,* by informing EPA's assessment of the feasibility and efficacy of different risk management options). However, EPA cannot reasonably assume that all facilities will have adopted these practices. Therefore, EPA is making its determination of unreasonable risk from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE. This reflects EPA's recognition that unreasonable risk may exist for subpopulations of workers that may be highly exposed because they are not covered by OSHA standards, or because their employer is out of compliance with OSHA standards, or because EPA finds unreasonable risk for purposes of TSCA notwithstanding existing OSHA requirements. In accordance with TSCA section 26(k), EPA considers reasonably available information, including information on occupational controls and PPE usage, when conducting TSCA section 6 risk evaluations and risk management rules.

Under TSCA section 6(a), EPA must apply one or more risk management requirements to the extent necessary so that a chemical substance no longer presents unreasonable risk. Those requirements may include restrictions on the manufacture, processing, distribution in commerce, commercial use, or disposal of a chemical substance. Because the requirements and application of TSCA and OSHA regulatory analyses differ, it is appropriate that EPA conduct risk evaluations and, where it finds unreasonable risk to workers, develop risk management requirements for chemical substances that OSHA also regulates, and it is expected that EPA's findings and requirements may sometimes diverge from OSHA's. However, it is also appropriate that EPA consider the standards that OSHA has already developed, so as to limit the compliance burden to employers by aligning management approaches required by the agencies, where alignment will adequately address unreasonable risk to workers. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements. Informed by the mitigation scenarios and information gathered during the risk evaluation and risk management process, the Agency might propose rules that require risk management practices that may already be common practice in many or most facilities, including those mentioned by the commenters regarding controls used in demolition and disposal of XPS and EPS foam insulation. Adopting clear, comprehensive regulatory standards will foster compliance across all facilities (ensuring a level playing field) and assure protections for all affected workers, especially in cases where current OSHA standards may not apply or be sufficient to address the unreasonable risk.

The revised unreasonable risk determination for HBCD is based on the underlying risk assessments and risk characterization, in which EPA evaluated worker risk with and without PPE, and which were peer-reviewed by the Science Advisory Committee on Chemicals (SACC). EPA considers the risk characterization, including hazard and exposure to HBCD, included in the September 2020 risk evaluation to account for reasonably available information for HBCD, including reasonably available information regarding state-of-the-art facilities and current industry practices. Section 4.5.1 and Table 4–27 of the final risk evaluation summarizes the peer reviewed risk estimates without PPE and informed the revised unreasonable risk determination.

As previously addressed by the Agency in Ref. 9, the OSHA PNOR PEL model was used in the absence of relevant data for the Demolition and Disposal of XPS and EPS Foam Insulation in Residential, Public, and Commercial Buildings, and Other Structures.

E. Conditions of Use That Drive the Unreasonable Risk Determination

A commenter expressed concern that in the 2020 Risk Evaluation EPA concluded that the consumer/commercial use of HBCD in articles does not pose an unreasonable risk, but by taking a whole chemical approach, EPA's action may foster public perception that these COUs present an unreasonable risk. Another commenter said that EPA should use a Significant New Use Rule (SNUR) to confirm cessation of current use and prevent new uses of HBCD without review and assent by the EPA. One commenter said that data on the recycling of old EPS building insulation indicates that it is not being recycled in a manner that would result in a finding of unreasonable risk; and another commenter suggested that EPA isolate materials containing HBCD and direct them to proper disposal. A commenter further indicated that the finding of demolition of EPS insulation to present an unreasonable risk is based on inaccurate assumptions and provided similar information to comments received during the risk evaluation. Another commenter cautioned against EPA imposing additional duplicative requirements or regulatory burdens, such as existing stormwater controls. In a similar vein, a commenter said that the models used to support the unreasonable risk determination for demolition of buildings with HBCD era EPS over-estimated the amount of

HBCD; conversely, another commenter stated that EPA ignored the risk caused by the disposal of HBCD, particularly the vast quantities of insulation sent to landfills and incinerators, which resulted in an underestimation of the risk HBCD.

EPA Response: Consistent with the statutory requirements of TSCA section 6(a), EPA will propose risk management requirements to the extent necessary so that HBCD no longer presents an unreasonable risk. Under TSCA section 6(a), EPA is not limited to regulating the specific activities found to drive unreasonable risk and may select from among a suite of risk management options related to manufacture, processing, distribution in commerce, commercial use, and disposal in order to address the unreasonable risk. EPA's authority under TSCA section 6(a) is not affected by the change to a whole chemical risk determination for HBCD. Processing: Incorporation into Articles is one of the conditions of use that drives the HBCD unreasonable risk and will be subject to risk management action. EPA will undertake a separate public notice and comment period as part of the TSCA section 6(a) risk management rulemaking for HBCD, and will consider such public comments and any additional information before finalizing the rulemaking. EPA acknowledges the commenter's suggestions related to storm water control requirements and risk management of HBCD, and encourages the commenter to submit specific comments along these lines during the future public comment period for the HBCD risk management rule.

EPA appreciates the suggestion to promulgate a SNUR to confirm cessation of current uses and prevent new uses of HBCD from commencing without notification to and review by the Agency; however, given international commitments and anticipated impacts of TSCA section 6(a) risk management rulemaking for HBCD, it is unlikely that past practices or new uses of HBCD would be initiated.

With respect to the specific comments regarding recycling and disposal, EPA originally presented the underlying scientific analysis in the draft risk evaluation released in July 2019 (84 FR 31315, July 1, 2019 (FRL–9995–40)). The comment period lasted 60 days from July 1, 2019. Based on public comments and peer review comments received, EPA revised and issued the risk evaluation in September 2020 (85 FR 60456, September 25, 2020 (FRL–10014–87)). Since changing the risk determination to a whole chemical approach does not impact the underlying data and analysis presented in the risk characterization of the risk evaluation, information provided by the commentors that was not provided during the draft risk evaluation and not considered in the risk characterization, will be considered during risk management.

F. Other Comments

Commenters indicated that the risk characterization did not adequately quantify HBCD's potential harm to children, tribal risk for Alaska native and arctic indigenous pregnant women and children, firefighters, disposal, legacy uses, fenceline communities. A commenter indicated that even a full ban on HBCD cannot be considered to be protective of risks from legacy use and associated disposal.

Other comments stated that if EPA did not reassess the conditions of use that do not present unreasonable risk, there is no basis for withdrawal of the associated orders. Others stated that there would be regulatory issues regardless because EPA has yet to finalize an amended risk management rule and resolve potential preemption concerns.

A commenter noted that, due to the highly regulated nature of HBCD on the international level, the chemical has been phased out of new production or manufacture of new replacement parts and additional regulation would be duplicative. One commenter stated that as legacy replacement parts are phased out of the automobile sector, HBCD will be cleared from trade channels and pose very little risk to workers and the general population.

A commenter suggested that EPA conducts another peer-review on the risk characterization section of the risk determination so that the lack of PPE use in the future can be thoroughly reviewed and assessed.

Another commenter said that the **Federal Register** Notice does not clearly identify the chemicals in HBCD which could cause future regulatory confusion when applying the whole chemical risk determination.

EPA Response: As previously explained in Ref. 9, EPA incorporated aggregate exposures covering all potential exposure routes for the general population and consumers in the final risk evaluation and now in the revised unreasonable risk determination. In addition, infants and subsistence fishers are identified as potentially exposed or susceptible subpopulations (PESS) and risks are reflected in the final risk evaluation. Finally, EPA explained how exposures to firefighters were considered and acknowledges that firefighter exposure to HBCD is an uncertainty in the risk evaluation (see Section 2.4.1.15.5 of the Risk Evaluation). Fenceline communities living near disposal sites were included in the final risk evaluation as part of EPA's assessment of potential exposure routes for the general population. EPA added conditions of use for the activities it had initially excluded as legacy uses and associated disposals in the risk evaluation for HBCD. Exposure to HBCD from use, reuse, recycling, or disposal of discontinued products and articles is not excluded from the final risk evaluation.

Because EPA is finding that HBCD, as a whole chemical substance, presents unreasonable risk under the conditions of use, EPA is also withdrawing the TSCA section 6(i)(1) no unreasonable risk order issued in Section 5.4.1 of the 2020 HBCD risk evaluation. TSCA section 18(c)(3) defines the scope of federal preemption with respect to any final rule EPA issues under TSCA section 6(a). That provision provides that federal preemption of statutes, criminal penalties, and administrative actions applies to the hazards, exposures, risks, and uses or conditions of use of such chemical substances included in any final action the Administrator takes pursuant to TSCA section 6(a)] EPA reads this to mean that states are preempted from imposing requirements through statutes, criminal penalties, and administrative actions relating to any hazards, exposures, risks, and uses or conditions of use evaluated in the final risk evaluation and informing the unreasonable risk determination that EPA addresses in the TSCA section 6(a) rulemaking. For example, federal preemption applies even if EPA does not regulate in that final rule a particular COU, but that COU was evaluated in the final risk evaluation.

There is no change in the underlying scientific analysis of the September 2020 risk evaluation with regard to COUs that may relate to replacement parts. The revised risk determination identifies COUs that drive unreasonable risk from HBCD, which may include COUs that relate to replacement parts or articles. Under TSCA section 6(c)(2)(D), the consideration of replacement parts will take place during the risk management rulemaking stage, based on the risk evaluation findings. EPA acknowledges the comment about duplicative regulation of HBCD, and encourages the commenter to submit specific comments along these lines during the future public comment period for the HBCD risk management rule.

The revised unreasonable risk determination for HBCD is based on the underlying risk assessments and risk characterization, in which EPA evaluated worker risk with and without PPE, and which were peer-reviewed by the SACC. No changes have been made to the peer reviewed risk assessments or risk characterization as a result of revisions to the risk determination for HBCD, and therefore EPA does not plan to conduct another round of peer review.

The Executive Summary in the final risk evaluation states that HBCD is often characterized as a mixture of mainly three diastereomers, which differ only in the spatial disposition of the atoms: Hexabromocyclododecane (CASRN 25637–99–4), 1,2,5,6,9,10-hexabromocyclododecane (CASRN 3194–55–6); and, 1,2,5,6-tetrabromocyclooctane (CASRN 3194–57–8). The revised unreasonable risk determination for HBCD applies to the cyclic aliphatic bromide cluster (HBCD) that includes all three chemicals. Any future proposed and final rule to address the unreasonable risk presented by HBCD will be for the HBCD cluster: Hexabromocyclododecane (CASRN 25637–99–4), 1,2,5,6,9,10-hexabromocyclododecane (CASRN 3194–55–6); and, 1,2,5,6-tetrabromocyclooctane (CASRN 3194–57–8).

IV. Revision of the September 2020 Risk Evaluation

A. Why is EPA proposing to revise the risk determination for the HBCD risk evaluation?

EPA is finalizing the revised risk determination for the HBCD risk evaluation pursuant to TSCA section 6(b) and consistent with Executive Order 13990, (Ref 2) and other Administration priorities (Refs. 1, 3, and 4). EPA is revising specific aspects of the first ten TSCA existing chemical risk evaluations in order to ensure that the risk evaluations better align with TSCA's objective of protecting health and the environment. For the HBCD risk evaluation, this includes: (1) making the risk determination in this instance based on the whole chemical approach instead of by individual conditions of use; and (2) emphasizing that EPA does not rely on the assumed use of PPE when making the risk determination.

B. What are the revisions?

EPA is now finalizing the revised risk determination for the HBCD Risk Evaluation pursuant to TSCA section 6(b). Under the revised determination, EPA concludes that HBCD, as evaluated in the risk evaluation as a whole, presents an unreasonable risk of injury to health and environment under its conditions of use. This revision replaces the previous unreasonable risk determinations made for HBCD by individual conditions of use, supersedes the determinations (and withdraws the associated order) of no unreasonable risk for the conditions of use identified in the TSCA section 6(i)(1) no unreasonable risk order, and clarifies the lack of reliance on assumed use of PPE as part of the risk determination.

These revisions do not alter any of the underlying technical or scientific information that informs the risk characterization, and as such the hazard, exposure, and risk characterization sections are not changed. The discussion of the issues in this Notice and in the accompanying final revision to the risk determination supersede any conflicting statements in the prior executive summary from the HBCD risk evaluation and the response to comments document (Ref. 9).

In response to public comments, EPA is changing the name of the condition of use previously named *Import* to now be named *Manufacturing—Import* to clarify that manufacture also includes import, as defined by TSCA section 3(9). The revised unreasonable risk determination for HBCD also includes additional explanation of how the risk evaluation characterizes the applicable OSHA requirements, or industry or sector best practices, and also clarifies that no additional analysis was done and the risk determination is based on the risk characterization (Section 4) of the 2020 HBCD risk evaluation.

C. Will the revised risk determination be peer reviewed?

The risk determination (Section 5 of the Risk Evaluation) was not part of the scope of the Science Advisory Committee on Chemicals (SACC) peer review of the HBCD risk evaluation. Thus, consistent with that approach, EPA did not conduct peer review of the final revised unreasonable risk determination for the HBCD risk evaluation because no technical or scientific changes were made to the hazard or exposure assessments or the risk characterization.

V. Order Withdrawing Previous Order Regarding Unreasonable Risk Determinations for Certain Conditions of Use

EPA is also issuing a new order to withdraw the TSCA Section 6(i)(1) no unreasonable risk order issued in Section 5.4.1 of the 2020 HBCD risk evaluation. This final revised risk determination supersedes the condition of use-specific no unreasonable risk determinations in the September 2020 HBCD risk evaluation. The order contained in section 5.5 of the revised risk determination (Ref. 8) withdraws the TSCA section 6(i)(1) order contained in section 5.4.1 of the September 2020 risk evaluation for HBCD. Consistent with the statutory requirements of section 6(a), the Agency will propose risk management actions to address the unreasonable risk determined in the HBCD risk evaluation.

VI. References

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

1. Executive Order 13990. Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. **Federal Register** (86 FR 7037, January 25, 2021).
2. Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. **Federal Register** (86 FR 7009, January 25, 2021).
3. Executive Order 14008. Tackling the Climate Crisis at Home and Abroad. **Federal Register** (86 FR 7619, February 1, 2021).
4. Presidential Memorandum. Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking. **Federal Register** (86 FR 8845, February 10, 2021).
5. EPA. Proposed Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register** (82 FR 7562, January 19, 2017) (FRL–9957–75).
6. EPA. Final Rule; Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act. **Federal Register** (82 FR 33726, July 20, 2017) (FRL–9964–38).
7. EPA. Response to Public Comments to the revised Unreasonable Risk Determination for Cyclic Aliphatic Bromide Cluster (HBCD). June 2022.
8. EPA. Unreasonable Risk Determination for Cyclic Aliphatic Bromide Cluster (HBCD). June 2022.
9. EPA. Summary of External Peer Review and Public Comments and Disposition for Cyclic Aliphatic Bromide Cluster (HBCD), September 2020. Available at: *https://www.regulations.gov/document/EPA-HQ-OPPT-2019-0237-0069.*

Authority: 15 U.S.C. 2601 *et seq.*

Dated: June 23, 2022.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2022–13805 Filed 6–28–22; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Intent To Conduct a Detailed Economic Impact Analysis

AGENCY: Export-Import Bank.

ACTION: Notice.

SUMMARY: Pursuant to the Charter of the Export-Import Bank of the United States, this notice is to inform the public that the Export-Import Bank of the United States has received an application for a $525 million long-term loan guarantee to support the export of approximately $366 million worth of U.S. engineering services, design services, licenses, catalysts, and refining equipment. The U.S. goods and services will be exported to Malaysia and establish production capacity of refined petrochemicals. New capacity from the project is anticipated to produce 718 thousand metric tons per year of jet fuel, 961 thousand metric tons per year of light naphtha, 460 thousand metric tons per year of low sulfur fuel oil, 1.68 million metric tons per year of paraxylene, and 591 thousand metric tons per year of benzene. Production of paraxylene and benzene will primarily be sold to China, while production of jet fuel, light naphtha, low sulfur fuel oil will primarily be sold regionally in Southeast Asia.

DATES: Comments are due 14 days from publication in the **Federal Register**.

ADDRESSES: Interested parties may submit comments on this transaction electronically on *www.regulations.gov,* or by email to *economic.impact@exim.gov.*

Eric Larger,

Office of Policy Analysis and International Relations.

[FR Doc. 2022–13827 Filed 6–28–22; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

Intent To Conduct a Detailed Economic Impact Analysis

AGENCY: Export-Import Bank.

ACTION: Notice.

SUMMARY: Pursuant to the Charter of the Export-Import Bank of the United States, this notice is to inform the public that the Export-Import Bank of the United States has received an application for $39.8 million in medium-term insurance to support the export of approximately $45.7 million worth of U.S. aluminum beverage cans and ends manufacturing equipment to Brazil. The U.S. exports will enable the Brazilian company to expand its existing production by 3 billion aluminum cans per year and 2.8 billion aluminum can ends per year. New production will be sold in Brazil.

DATES: Comments are due 14 days from publication in the **Federal Register**.

ADDRESSES: Interested parties may submit comments on this transaction electronically on *www.regulations.gov,* or by email to *economic.impact@exim.gov.*

Eric Larger,

Office of Policy Analysis and International Relations.

[FR Doc. 2022–13826 Filed 6–28–22; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0799; FR ID 93240]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 29, 2022.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C.

3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–0799.

Title: FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

Form No.: FCC Form 602.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal government.

Number of Respondents and Responses: 4,115 respondents and 4,115 responses.

Estimated Time per Response: 0.5–1.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of this information is contained in Sections 154(i), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended. The statutory authority for this collection of this information is contained in Sections 154(i), 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended.

Total Annual Burden: 5,217 hours.

Total Annual Cost: $762,300.

Needs and Uses: The FCC Form 602 is necessary to obtain the identity of the filer and to elicit information required by Section 1.2112 of the Commission's rules regarding: (1) Persons or entities holding a 10 percent or greater direct or indirect ownership interest or any general partners in a general partnership holding a direct or indirect ownership interest in the applicant (''Disclosable Interest Holders''); and (2) All FCC-regulated entities in which the filer or any of its Disclosable Interest Holders owns a 10 percent or greater interest. The data collected on the FCC Form 602 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires that entities filing with the Commission use an FRN. The FCC Form 602 was designed for, and must be filed electronically by, all licensees that hold licenses in auctionable services.

The FCC Form 602 is comprised of the Main Form containing information regarding the filer and the Schedule A is used to collect ownership data pertaining to the Disclosable Interest Holder(s). Each Disclosable Interest Holder will have a separate Schedule A. Thus, a filer will submit its FCC Form 602 with multiple copies of Schedule A, as necessary, to list each Disclosable Interest Holder and associated information.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–13867 Filed 6–28–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201389.

Agreement Name: Westwood/Swire Shipping Trans Pacific Space Charter Agreement.

Parties: Westwood Shipping Lines, Inc. and Swire Shipping Pte. Ltd.

Filing Party: McLaughlin & Stern, LLP.

Synopsis: The Agreement authorizes the parties to charter space to each other on an ad hoc basis in the trade between the United States and China.

Proposed Effective Date: 6/21/2022.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/65504.

Dated: June 24, 2022.

William Cody,

Secretary.

[FR Doc. 2022–13930 Filed 6–28–22; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than July 14, 2022.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *William C. Martin 2022 Grantor Retained Annuity Trust, William C. Martin as trustee, both of Ann Arbor, Michigan;* to become members of the Martin Family Control Group, a group acting in concert, to acquire voting shares of Arbor Bancorp, Inc., and thereby indirectly acquire voting shares of Bank of Ann Arbor, both of Ann Arbor, Michigan.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–13928 Filed 6–28–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (''Act'') (12 U.S.C. 1817(j)) and of the Board's Regulation LL (12 CFR 238.31) to acquire shares of a savings and loan holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than July 14, 2022.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Scott Smith, New York, New York;* to become trustee or co-trustee of the G. Jeffrey Records Jr. 2008 GST Exempt Family Trust, the G. Jeffrey Records, Jr. 2003 Family Trust (GJR), the G. Jeffrey Records, Jr. 2004 Family Trust (KRR), the G. Jeffrey Records, Jr. 2004 Family Trust (MER), and the George and Nancy Records 1990 Irrevocable Trust, and thereby indirectly acquire control of voting shares of Midland Financial Co. and MidFirst Bank, all of Oklahoma City, Oklahoma.

2. *Todd Dobson, Oklahoma City, Oklahoma;* to become trustee or co-trustee of the Kathryn R. Ryan 2007 GST Exempt Family Trust, the Ryan Family Security Trust, the Martha E. Records 2009 GST Exempt Family Trust, and the Martha Records Family 1997 GST Exempt Trust, and thereby indirectly acquire control of voting shares of Midland Financial Co. and MidFirst Bank, all of Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–13929 Filed 6–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–0488]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Interstate Travel of Persons: Report of Illness or Death (42 CFR part 70) to the Office of Management and budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 1, 2022 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Interstate Travel of Persons: Report of Illness or Death (42 CFR part 70)—Revision—National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 361 of the Public Health Service Act (42 U.S.C. 264) authorizes the Secretary of the Department of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States, or from one State or possession into any other State or possession. Regulations pertaining to preventing the importation and spread of communicable diseases from foreign countries (42 CFR part 71) are administered by the Centers for Disease Control and Prevention (CDC). Regulations pertaining to interstate control of communicable diseases (42 CFR part 70) are also administered by CDC.

Regulations found at 42 CFR part 70.4 require that the master of a vessel or a person in charge of a conveyance engaged in interstate traffic, on which a suspected case of communicable disease develops shall notify the local health authority at the next port of call, station, or stop, and take such measures to prevent the spread of the disease as the local health authority directs. There is no standard form, however CDC posts guidance for airlines related to these regulations on CDC's website: *https://www.cdc.gov/quarantine/air/reporting-deaths-illness/guidance-reporting-onboard-deaths-illnesses.html.*

Section 70.11 Report of death or illness onboard aircraft operated by an airline states:

(a) The pilot in command of an aircraft operated by an airline who is conducting a commercial passenger flight in interstate traffic under a regular schedule shall report as soon as practicable to the Director the occurrence onboard of any deaths or the presence of ill persons among passengers or crew and take such measures as the Director may direct to

prevent the potential spread of the communicable disease, provided that such measures do not affect the airworthiness of the aircraft or the safety of flight operations.

(b) The pilot in command of an aircraft operated by an airline who reports in accordance with paragraph (a) of this section shall be deemed to satisfy the reporting obligation under 42 CFR 70.4.

For the purposes of these regulations, ill person means an individual who:

(1) Has a fever (a measured temperature of 100.4 °F [38 °C] or greater, or feels warm to the touch, or gives a history of feeling feverish) accompanied by one or more of the following: Skin rash, difficulty breathing, persistent cough, decreased consciousness or confusion of recent onset, new unexplained bruising or bleeding (without previous injury), persistent diarrhea, persistent vomiting (other than air sickness), headache with stiff neck, appears obviously unwell; or

(2) Has a fever that has persisted for more than 48 hours; or

(3) Has symptoms or other indications of communicable disease, as the CDC may announce through posting of a notice in the **Federal Register**.

Control of disease transmission within the United States is largely considered to be the province of State and local health authorities, with Federal assistance being sought by those authorities on a cooperative basis, without application of Federal regulations. The regulations at 42 CFR part 70 were developed to facilitate Federal action in the event of large outbreaks requiring a coordinated effort involving several States, or in the event in inadequate local control. While it is not known whether, or to what extent, situations may arise in which these regulations would be invoked, contingency planning for domestic emergency preparedness is not uncommon. If a domestic emergency occurs, the reporting and record keeping requirements contained in the regulations will be used by CDC to carry out quarantine responsibilities as required by law, specifically, to prevent the spread of communicable diseases from one State or possession into any other State or possession.

The data collected under 70.4 and 70.11 is also a critical part of CDC's routine and emergency response operations. It involves the collection of reports of illnesses that occur aboard domestic flights or maritime voyages within the U.S. For routine reports of illness aboard domestic voyages airplane captains will continue to report electronically (*e.g.,* verbally via radio to Air Traffic Control or the airlines' points of contact [*e.g.,* Operations Center, Flight Control, Airline Station Manager]). Masters of maritime vessels engaged in interstate travel may report via email or other electronic method.

The reporting of required and requested signs and symptoms of disease outlined above, as well as any death, is the minimum necessary to meet statutory and regulatory obligations, and is consistent with International Civil Aviation Organization (ICAO) standards for aircraft.

CDC anticipates certain cost burdens to respondents and record keepers due to the requirements. These costs fall into the following categories:

For reports of death or communicable disease made by a pilot in command of an aircraft, or a master of a vessel or person in charge of a conveyance engaged in interstate traffic, the requested burden is approximately 186 hours. This total is estimated from approximately 1,600 domestic reports of death or communicable disease a year, 1,400 being from aircrafts, and approximately 200 from other conveyances (water vessels, buses, or trains) with an average burden of seven minutes per report. There is no standard form for reporting to CDC or the health departments and there is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Pilot in command	42 CFR 70.11 Report of death or illness onboard aircraft operated by airline (No Form).	1,400	1	7/60
Master of vessel or person in charge of conveyance.	42 CFR 70.4 Report by the master of a vessel or person in charge of conveyance of the incidence of a communicable. disease occurring while in interstate travel (No form)	200	1	7/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–13889 Filed 6–28–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10691]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions,

the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 29, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10691 Data Request and Attestation for PDP Sponsors

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title:* Data Request and Attestation for PDP Sponsors; *Use:* Section 50354 of the BBA requires that the Secretary establish a process for PDP sponsors to submit a request for standardized extracts of claims data for their enrollees. In addition, Section 50354 of the BBA provides for a number of purposes and limitation for the use of the claims data and also permits the Secretary to establish other limitations necessary to protect the identity of individuals entitled to or enrolled in Medicare, and to protect the security of personal health information

This information collection request allows a PDP sponsor to submit a request to CMS for claims data for its enrollees and to attest that it will adhere to the permitted uses and limitations on the use of the Medicare claims data that are listed in 42 CFR 423.153(g)(3) and After requesting claims data for its enrollees and attesting to the permitted uses and limitations of Medicare claims data, PDP sponsors are required to complete some basic on-boarding activities before gaining access to Medicare claims data using the Part A and B Claims Data to Part D Sponsors (AB2D) API. *Form Number:* CMS–10691 (OMB Control Number: 0938–1371); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 210*; Number of Responses:* 210 *Total Annual Hours:* 39. (For policy questions regarding this collection contact Gaare, Kari A. at 410–786–8612.)

Dated: June 23, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–13804 Filed 6–28–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–E–0449]

Determination of Regulatory Review Period for Purposes of Patent Extension; DANYELZA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for DANYELZA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by August 29, 2022. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 27, 2022. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 29, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 29, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–E–0449 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; DANYELZA.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product DANYELZA (naxitamab-gqgk). DANYELZA is indicated in combination with granulocyte-macrophage colony-stimulating factor, for the treatment of pediatric patients 1 year of age and older and adult patients with relapsed or refractory high-risk neuroblastoma in the bone or bone marrow who have demonstrated a partial response, minor response, or stable disease to prior therapy. Subsequent to this approval, the USPTO received a patent term restoration application for DANYELZA (U.S. Patent No. 9,315,585) from Memorial Sloan Kettering Cancer Center, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated June 8, 2021, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of DANYELZA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for DANYELZA is 3,423 days. Of this time, 3,183 days occurred during the testing phase of the regulatory review period, while 240 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* July 15, 2011. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 15, 2011.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* March 31, 2020. FDA has verified the applicant's claim that the biologics license application (BLA) for DANYELZA (BLA 761171) was initially submitted on March 31, 2020.

3. *The date the application was approved:* November 25, 2020. FDA has verified the applicant's claim that BLA 761171 was approved on November 25, 2020.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 3,421 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 23, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13860 Filed 6–28–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–E–2249]

Determination of Regulatory Review Period for Purposes of Patent Extension; RUKOBIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for RUKOBIA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by August 29, 2022. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 27, 2022. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 29, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 29, 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–2020–E–2249 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; RUKOBIA.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, RUKOBIA (fostemsavir tromethamine). RUKOBIA, indicated in combination with other antiretrovirals, is indicated for the treatment of HIV–1 infection in heavily treatment-experienced adults with multidrug-resistant HIV–1 infection failing their current antiretroviral regimen due to resistance, intolerance, or safety considerations. Subsequent to this approval, the USPTO received a patent term restoration application for RUKOBIA (U.S. Patent No. 8,168,615) from ViiV Healthcare UK, and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 1, 2021, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of RUKOBIA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for RUKOBIA is 5,322 days. Of this time, 5,110 days occurred during the testing phase of the regulatory review period, while 212 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* December 8, 2005. The applicant claims November 8, 2005, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 8, 2005, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* December 4, 2019. FDA has verified the applicant's claim that the new drug application (NDA) for RUKOBIA (NDA 212950) was initially submitted on December 4, 2019.

3. *The date the application was approved:* July 2, 2020. FDA has verified the applicant's claim that NDA 212950 was approved on July 2, 2020.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,597 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 23, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–13856 Filed 6–28–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, June 27, 2022, 08:00 a.m. to June 28, 2022, 03:00 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on June 07, 2022, FR Doc 2022–12174, 87 FR 34694.

This notice is being amended to change the dates of this meeting from June 27–28, 2022, to July 11–12, 2022. The meeting time remains the same. The meeting is closed to the public.

Dated: June 23, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13798 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13 Clinical Trial Not Allowed).

Date: July 25–27, 2022.

Time: 7:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21B, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Maryam Feili-Hariri, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21B, Rockville, MD 20852, (240) 669–5026, *haririmf@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 23, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13797 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; The Clinical Trials Reporting Program (CTRP) Database (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Gisele Sarosy, MD, Coordinating Center for Clinical Trials (CCCT), National Cancer Institute, 9609 Medical Center Drive, 6W134, Rockville, MD 20852 or call non-toll-free number 240–276–6172 or Email your request, including your address to: *gisele.sarosy@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: The Clinical Trials Reporting Program (CTRP) Database, 0925–0600, Expiration Date 10/31/2022–EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Clinical Trials Reporting Program (CTRP) Database is an electronic resource that serves as a single, definitive source of information about all NCI-supported clinical research. This resource allows the NCI to consolidate reporting, aggregate information and reduce redundant submissions. Information is submitted by clinical research administrators as designees of clinical investigators who conduct NCI-supported clinical research. The designees can electronically access the CTRP website to complete the initial trial registration. Subsequent to registration, four amendments and four study subject accrual updates occur per trial annually.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The estimated annualized burden hours are 18,000.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Initial Registration	Clinical Trials	3,000	1	1	3,000
Amendment		1,500	4	1	6,000
Update		1,500	4	1	6,000
Accrual Updates		3,000	4	15/60	3,000
Totals		9,000	27,000		18,000

Dated: June 24, 2022.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2022–13847 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Development of Radiation/Nuclear Medical Countermeasures (MCMs) and Biodosimetry Devices.

Date: July 28–29, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Sandip Bhattacharyya, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42, Rockville, MD 20852, (240) 292–0189, *sandip.bhattacharyya@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 23, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13801 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the NIH Clinical Center Research Hospital Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify one of the Contact Persons listed below in advance of the meeting. The meeting can be accessed from the NIH videocast *https://videocast.nih.gov/* and the CCRHB website *https://ccrhb.od.nih.gov/meetings.html.*

Name of Committee: NIH Clinical Center Research Hospital Board.

Date: July 15, 2022.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: NIH and Clinical Center Leadership Announcements, Clinical Center (CC) CEO Update and CEO Status Report on 2019 CC Strategic Plan, Role of the CC Patient Representative, Patient Survey Data, Magnet Journey Updates, and other Business of the Board.

Place: National Institutes of Health, Building 31, Conference Room 6C02A/C602B, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Persons: Patricia Piringer, RN, MSN (C), National Institutes of Health Clinical Center, 10 Center Drive, Bethesda, MD 20892, *ppiringer@cc.nih.gov*, 301–402–2435, 202–460–7542 (direct).

Natascha Pointer, Management Analyst, Executive Assistant to Dr. Gilman, Office of the Chief Executive Officer, National Institutes of Health Clinical Center, Bethesda, MD 20892, *npointer@cc.nih.gov*, 301–496–4114, 301–402–2434 (direct).

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Persons listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. In regards to COVID 19, please check community level guidelines (*https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/Pages/default.aspx*) and the Safer Federal Workforce for Visitors (*https://www.saferfederalworkforce.gov/faq/visitors/*) websites before attending a meeting on NIH Main campus and any testing requirements. Please continue checking these websites, in addition to the committee website (*https://ccrhb.od.nih.gov/meetings.html*), for the most up to date guidance as the meeting date approaches.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: June 24, 2022.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13935 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Stimulating Access to Research in Residency (StARR) (R38 Independent Clinical Trial Not Allowed).

Date: July 19, 2022.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Vanitha S. Raman, Ph.D., Scientific Review Officer, Scientific Review

Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20852, 301–761–7949, *vanitha.raman@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 23, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13799 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Charter Renewal

In accordance with title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the Charter for the National Institutes of Health Clinical Center Research Hospital Board was renewed for an additional two-year period on June 15, 2022.

It is determined that the National Institutes of Health Clinical Center Research Hospital Board is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail code 4875), Telephone (301) 496–2123, or *harriscl@mail.nih.gov.*

Dated: June 24, 2022.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13931 Filed 6–28–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

Project: Protection and Advocacy for Individuals with Mental Illness (PAIMI) Final Rule, 42 CFR Part 51 (OMB No. 0930–0172)—Extension

These regulations meet the directive under 42 U.S.C. 10826 (b) requiring the Secretary to promulgate final regulations to carry out the PAIMI Act (42 U.S.C. 10801 *et seq.*). The regulations contain information collection requirements. The Act authorizes funds to support activities on behalf of individuals with significant (severe) mental illness (adults) or significant (severe) emotional impairment (children/youth) as defined by the Act at 42 U.S.C. 10802 (4) and 10804 (d). Only entities designated by the governor of each state, including the American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, U.S. Virgin Islands, District of Columbia (Mayor), and the tribal councils of the American Indian Consortium (the Hopi Tribe and the Navajo Nation located in the Four Corners region of the Southwest), to protect and advocate the rights of persons with developmental disabilities are eligible to receive PAIMI Program grants [ibid at 42 U.S.C. at 10802 (2)]. These grants are based on a formula prescribed by the Secretary [ibid at 42 U.S.C. at 10822 (a) (1) (A)].

On January 1, each eligible state protection and advocacy (P&A) system is required to prepare an annual PAIMI Program Performance Report (PPR). Each annual PPR describes a P&A system's activities, accomplishments and expenditures to protect the rights of individuals with mental illness supported with payments from PAIMI program allotments during the most recently completed fiscal year. Each P&A system transmit a copy of its annual report to the Secretary (via SAMHSA) and to the State Mental Health Agency where the system is located per the PAIMI Act at 42 U.S.C. 10824 (a). Each annual PPR must provide the Secretary with the following information:

- The number of (PAIMI-eligible) individuals with mental illness served;
- A description of the types of activities undertaken;
- A description of the types of facilities providing care or treatment to which such activities are undertaken;
- A description of the manner in which the activities are initiated;
- A description of the accomplishments resulting from such activities;
- A description of systems to protect and advocate the rights of individuals with mental illness supported with payments from PAIMI Program allotments;
- A description of activities conducted by States to protect and advocate such rights;
- A description of mechanisms established by residential facilities for individuals with mental illness to protect such rights;
- A description of the coordination among such systems, activities and mechanisms;
- Specification of the number of public and nonprofit P&A systems established with PAIMI Program allotments; and
- Recommendations for activities and services to improve the protection and advocacy of the rights of individuals with mental illness and a description of the need for such activities and services that were not met by the state P&A systems established under the PAIMI Act due to resource or annual program priority limitations.

Each PAIMI grantee's annual PPR must include a separate section, prepared by its PAIMI Advisory Council (PAC), that describes the council's activities and its assessment of the state P&A system's operations per the PAIMI Act at 42 U.S.C. 10805 (7).

In 2017, SAMHSA included the annual PAIMI PPR in the Web-based Block Grant Application System (WebBGAS). WebBGAS, SAMHSAs electronic data system, is used to collect grantee information for the following reasons:

(1) To meet the OMB requirements for data collection for mandatory (formula) grant programs;

(2) To comply with the annual program reporting requirements of the PAIMI Act 42 U.S.C. 10801 *et seq.* and the PAIMI Rules 42 CFR part 51;

(3) To simplify the submission of PAIMI program data by the state P&A systems;

(4) To meet the Government Performance Results Act (GPRA) requirements;

(5) To comply with the Government Accountability Office (GAO) evaluation recommendations that SAMHSA obtain information that closely measures the actual outcomes of the programs it funds;

(6) To reduce the grantee data collection burden by removing information that did not facilitate evaluation of a PAIMI grantee's programmatic and financial management systems;

(7) To provide immediate access to the PAIMI program data used to prepare a section of the Secretary's biennial report to the President, Congress, and National Council on Disability in accordance with the *Developmental Disabilities Assistance Act of 2000* at 42 U.S.C. 15005. Reports of the Secretary;

(8) To improve SAMHSA's ability to create reports, analyze trends and provide timely feedback to the P&A grantees when PPR revisions are needed.

On June 12, 2020, OMB approved SAMHSA's PPR and Advisory Council Report (Control No. 0930–0169, Expiration Date June 30, 2023). The burden estimate for the annual State P&A system reporting requirements for these regulations is as follows:

42 CFR citation	Number of respondents	Responses per respondent	Burden per response (hrs.)	Total annual burden
51.8(a)(2) Program Performance Report	57	1	20	[1] 1,140
51.8(a)(8) Advisory Council Report	57	1	10	[1] 570
51.10 Remedial Actions:				
Corrective Action Plans	5	2	8	80
Implementation Status Report	5	3	2	30
51.23(c) Reports, materials and fiscal data provided to the PAC	57	1	1	57
51.25(b)(2) Grievance Procedures	57	1	.5	28.5
Total	57		41.5	195.5

[1] Burden hours associated with these reports are approved under OMB Control No. 0930–0169.

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.

Carlos Graham,

Reports Clearance Officer.

[FR Doc. 2022–13940 Filed 6–28–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under Office of Management and Budget (OMB) review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Project: Data Resource Toolkit Protocol for the Crisis Counseling Assistance and Training Program (OMB No. 0930–0270)—Reinstatement

The SAMHSA Center for Mental Health Services (CMHS), as part of an interagency agreement with the Federal Emergency Management Agency (FEMA), provides a toolkit to be used for the purposes of collecting data on the Crisis Counseling Assistance and Training Program (CCP). The CCP provides supplemental funding to states, territories, and tribes for individual and community crisis intervention services after a presidentially declared disaster.

The CCP has provided disaster mental health services to millions of disaster survivors since its inception, and, with more than 30 years of accumulated expertise, it has become an important model for federal response to a variety of catastrophic events. Recent CCP grants have been issued for nearly all 50 states, 5 territories, and 1 tribe. These grants have helped survivors of disasters such as the coronavirus disease 2019 (COVID–19) pandemic in 2020 and 2021; Hurricanes Laura and Iota in 2020; and wildfires, severe storms, flooding, and tornadoes in 2019 through 2021. CCPs address the short-term mental health needs of communities primarily through (a) outreach and public education, (b) individual and group counseling, and (c) referral. Outreach and public education serve primarily to normalize disaster reactions and to engage people who may need further care. Crisis counseling assists survivors in coping with current stress and symptoms to return to pre-disaster functioning. Crisis counseling relies largely on ''active listening,'' and crisis counselors also provide psycho-education (especially about the nature of responses to trauma) and help clients build coping skills. Crisis counselors typically work with a single client once or a few times. Because crisis counseling is time-limited, referral is the third important function of CCPs. Counselors are expected to refer a survivor to formal treatment if he or she has developed a mental and/or substance use disorder or is having difficulty in coping with his or her disaster reactions.

Data about services delivered and users of services are collected throughout the program period. The data are collected via the use of a toolkit that relies on standardized forms. At the program level, the data are entered quickly and easily into a cumulative database mainly through mobile data entry or paper forms (depending on resource availability) to yield summary tables for quarterly and final reports for the program. Mobile data entry allows for the data to be uploaded and linked to a national database that houses data collected across CCPs. This database provides SAMHSA CMHS and FEMA with a way of producing summary reports of services provided across all programs funded.

The components of the toolkit are listed and described below:

• *Encounter logs.* These forms document all services provided. The CCP requires crisis counselors to complete these logs. There are three types of encounter logs: (1) Individual/Family Crisis Counseling Services Encounter Log, (2) Group Encounter Log, and (3) Weekly Tally Sheet.

○ *Individual/Family Crisis Counseling Services Encounter Log.* Crisis counseling is defined as an interaction that lasts at least 15 minutes and involves participant disclosure. This form is completed by the crisis counselor for each service recipient, defined as the person or people who actively participated in the session (that is, by participating in conversation), not someone who was merely present. One form may be completed for all family or household members who are actively engaged in the visit. Information collected includes demographics, service characteristics, risk factors, event reactions, and referral data.

○ *Group Encounter Log.* This form is used to collect data on either a group crisis counseling encounter or a group public education encounter. The crisis counselor indicates in a checkbox the class of activities (that is, counseling or education). Information collected includes service characteristics, group identity and characteristics, and group activities.

○ *Weekly Tally Sheet.* This form documents brief educational and supportive encounters not captured on any other form. Information collected includes service characteristics, daily tallies, and weekly totals for brief educational or supportive contacts, material distribution with no or minimal interaction, and social media activity.

• *Assessment and Referral Tools (ARTs).* These tools—one for adults and one for children and youth—provide descriptive information about intensive users of services, defined as all individuals receiving a third or fifth individual crisis counseling visit or those who are continuing to experience severe post-disaster distress that may be affecting their ability to perform daily activities. This tool will typically be used beginning 3 months after the disaster and will be completed by the crisis counselor.

• *Participant Feedback Survey.* These surveys are completed by and collected from a sample of service recipients, not every recipient. Sampling is done on a biannual basis at 6 months and 1 year after the disaster. Information collected includes satisfaction with services, perceived improvements in coping and functioning, types of exposure, and event reactions.

• *Service Provider Feedback Form.* These surveys are completed by and collected from the CCP service providers anonymously at 6 months and 1 year after the disaster. The survey is coded on several program-level as well as worker-level variables. However, the program is only identified and shared with program management if more than 10 individual workers complete the survey.

There are no changes to the Participant Feedback Survey and Service Provider Feedback Form since the last approval. Revisions to the Individual Encounter Log include rewording the category ''adult (18–39 years)'' to ''young adult (18–29 years)'' to clarify age categories; adding a question about recent move from another country to the United States; rewording selections for telephone calls to differentiate between incoming and outgoing calls; adding a location selection for virtual services; rewording risk category selections to incorporate stressors related to impacts of the COVID–19 pandemic (*e.g.,* underemployment, illness, virtual learning for children/youth, and physical distancing/social isolation); and adding risk category selections that address stressors including food insecurity, lack of access to reliable information, and lack of access to reliable transportation. For the Group Encounter Log, changes include adding a location selection for virtual services and adding a question about recent immigration to the United States. For the Weekly Tally Sheet, changes include rewording the category for brief educational contact to include virtual contact, rewording the categories for phone calls to differentiate between incoming and outgoing calls, rewording the electronic interaction category to encompass more channels than just email (*e.g.,* text, chat, direct messages), rewording the materials mailed category to include emailed materials, rewording the social media messages category to clarify that it is only for posts to social media channels, and adding categories to better record reach and engagement achieved by social media efforts. Minor changes to demographics, location of service, and risk categories were submitted for the Adult ART and Child/Youth ART to align the forms with the Individual/Family Crisis Counseling Services Encounter Log. The assessment tool sections of the ARTs were not changed.

The estimates of the annualized burden hours are provided in Table 1.

TABLE 1—ANNUALIZED HOUR BURDEN ESTIMATES

Data collection instrument	Estimated number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Individual/Family Crisis Counseling Services Encounter Log	[1] 1,500	[2] 190	285,000	0.08	22,800
Group Encounter Log	[3] 750	[3] 33	24,750	0.05	1,238
Weekly Tally Sheet	[1] 1,500	[4] 52	78,000	0.15	11,700
Assessment and Referral Tools	[1] 1,500	[5] 14	[6] 14,250	0.17	2,423
Participant Feedback Form	2,000	1	2,000	0.25	500
Service Provider Feedback Form	[7] 750	1	750	0.41	308
Total	8,000		404,750		38,969

[1] This value (1,500) is based on an average of 50 full-time equivalent (FTE) crisis counselors per grant with an approximate average of 30 grants per year (*i.e.,* 50 × 30 = 1,500).
[2] On average, each FTE crisis counselor will complete 190 forms over the course of the grant.
[3] On average, a pair of FTE crisis counselors completes one form per week (*i.e.,* two counselors completing one form = 750 crisis counselors) for 33 weeks.
[4] The average length of a CCP grant is 52 weeks.
[5] On average, each FTE crisis counselor will complete 14 Assessment Referral Tool forms over the course of the grant.
[6] On average, 5 percent of the Individual/Family Crisis Counseling Services Encounter Logs completed will result in the use of this tool (*i.e.,* 285,000 logs × 5% = 14,250).
[7] On average, 50 percent of service providers/crisis counselors may complete or use this tool.

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.

Carlos Graham,

Reports Clearance Officer.

[FR Doc. 2022–13938 Filed 6–28–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0392]

National Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard seeks applications to fill two member vacancies on the National Merchant Marine Personnel Advisory Committee (Committee). This Committee advises the Coast Guard on matters relating to personnel in the United States merchant marine, including the training, qualifications, certification, documentation, and fitness of mariners.

DATES: Your completed applications should reach the U.S. Coast Guard on or before July 29, 2022.

ADDRESSES: Applications should include a cover letter expressing interest in an appointment to the National Merchant Marine Personnel Advisory Committee and a resume detailing the applicant's relevant experience for the position applied for, with a brief biography. Incomplete applications will not be considered. Applications should be submitted via email with subject line ''Application for N–MERPAC'' to *megan.c.johns@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: Mrs. Megan Johns Henry, Alternate Designated Federal Officer of the National Merchant Marine Personnel Advisory Committee; telephone 202–372–1255 or email at *megan.c.johns@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Merchant Marine Personnel Advisory Committee is a Federal advisory committee. The Committee must operate under the provisions of the *Federal Advisory Committee Act,* (5 U.S.C. Appendix), and 46 U.S.C. 15109.

The Committee was established on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat 4192), and is codified in 46 U.S.C. 15105. The Committee is required to meet at least once a year in accordance with 46 U.S.C. 15109(a). We expect the Committee will hold meetings at least twice a year. The meetings are held at a location selected by the U.S. Coast Guard.

All members serve at their own expense and receive no salary or other compensation from the Federal Government. Members may be reimbursed for travel and per diem in accordance with Federal Travel Regulations.

Under provisions in 46 U.S.C. 15109(f)(6), if you are appointed as a member of the Committee, your membership term will expire on December 31st of the third full year after the effective date of your appointment. The Secretary of Homeland Security may require an individual to have passed an appropriate security background examination before appointment to the Committee, 46 U.S.C. 15109(f)(4).

In this solicitation for Committee members, we will consider applications for two (2) positions:

- United States citizens holding active licenses or certificates issued under 46 U.S.C. chapter 71 or merchant mariner documents issued under 46 U.S.C. chapter 73, as a deck officer who represents merchant marine deck officers, who currently holds a Merchant Mariner Credential with an endorsement as Master of Towing Vessels.
- One individual who represents the general public.

Each member of the Committee must have particular expertise, knowledge, and experience on matters related to personnel in the United States merchant marine, including the training, qualifications, certification, documentation, and fitness of mariners.

If you are applying for the position who represents the general public, you will be appointed and serve as a Special Government Employee as defined in 18 U.S.C. 202(a). Applicants for appointment as a Special Government Employee are required to complete a Confidential Financial Disclosure Report (OGE Form 450) for new entrants and if appointed as a member must submit a new entrant OGE Form 450 annually. The Coast Guard may not release the reports or the information in them to the public except under an order issued by a Federal Court or as otherwise provided under the Privacy Act (5 U.S.C 552a). Only the Designated Coast Guard Ethics Official or their designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the website of the Office of Government Ethics (*www.oge.gov*), or by calling or emailing the individual listed above in the **FOR FURTHER INFORMATION CONTACT** section. Applications for members drawn from the general public must be accompanied by a completed OGE Form 450.

In order for the Department, to fully leverage broad-ranging experience and education, the National Merchant Marine Personnel Advisory Committee must be diverse with regard to professional and technical expertise. The Department is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people.

If you are interested in applying to become a member of the Committee, email your cover letter and resume along with the brief biography to *megan.c.johns*@uscg.mil via the transmittal method provided in the **ADDRESSES** section by the deadline in the **DATES** section of this notice.

Dated: June 24, 2022.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2022–13836 Filed 6–28–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2022–0014; OMB No. 1660–0073]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Urban Search and Rescue Response System

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30 Day Notice of Revision and Request for Comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork

Reduction Act of 1995. This notice seeks comments concerning the National Urban Search and Rescue Response System to perform work on public or private lands essential to save lives and protect property, including search and rescue and emergency medical care, and other essential needs. FEMA will remove one instrument from this collection.

DATES: Comments must be submitted on or before July 29, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Buddy Ey, Chief, Finance and Administration Section, US&R Branch, FEMA, Response Directorate, Operations Division at *elwood.ey-iii@fema.dhs.gov* or (202) 212–3799.

SUPPLEMENTARY INFORMATION: Section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5144, authorizes the President of the United States to form emergency support teams of Federal personnel to be deployed to an area affected by major disaster or emergency. Section 403(a)(3)(B) of the Stafford Act provides that the President may authorize Federal Departments and Agencies to perform work on public or private lands essential to save lives and protect property, including search and rescue and emergency medical care, and other essential needs. Section 327 of the Stafford Act further authorizes the National Urban Search and Rescue Response System (''the System'') and outlines the Administrator's authorization to designate teams as well as outlines specific protections for System members. The information collection activity is authorized under the Office of Management and Budget circular, 2 CFR part 200, ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.'' The collection contains information from the programmatic and administrative activities of the Urban Search and Rescue Sponsoring Agencies relating to the readiness and response cooperative agreement awards.

FEMA will remove one instrument from this collection: FEMA Form 089–0–15, Task Force Deployment Data.

This proposed information collection previously published in the **Federal Register** on April 22, 2022, at 87 FR 24189 with a 60-day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: National Urban Search and Rescue Response System.

Type of Information Collection: Extension, with change, of a currently approved information collection.

OMB Number: 1660–0073.

FEMA Forms: FEMA Form FF–104–FY–21–174 (formerly 089–0–10), Urban Search Rescue Response System Narrative Statement Workbook; FEMA Form FF–104–FY–21–175 (formerly 089–0–11), Urban Search Rescue Response System Semi-Annual Performance Report; FEMA Form FF–104–FY–21–176 (formerly 089–0–12), Urban Search Rescue Response System Amendment Form; FEMA Form FF–104–FY–21–177 (formerly 089–0–14), Urban Search Rescue Response System Task Force Self-Evaluation Scoresheet; FEMA Form FF–104–FY–21–179 (formerly 089–0–26), Vehicle Support Unit Purchase/Replacement/Disposal Justification.

Abstract: The information collection activity is the collection of program and administrative information from 28 established Urban Search and Rescue Sponsoring Agencies relating to the Readiness and Response Cooperative Agreement awards. This information includes a narrative statement used to evaluate a grantees' proposed use of funds, progress reports to monitor progress on Cooperative Agreements, amendment requests to change scope and period of performance and approval for vehicle purchase.

Affected Public: State, Local, or Tribal Government.

Estimated Number of Respondents: 126.

Estimated Number of Responses: 182.

Estimated Total Annual Burden Hours: 364.

Estimated Total Annual Respondent Cost: $23,277.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $135,866.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Maile Arthur,

Deputy Director for Information Management, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–13874 Filed 6–28–22; 8:45 am]

BILLING CODE 9111–54–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA- FEMA–2021–0029; OMB No. 1660–0072]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Mitigation Grant Programs (Including Mitigation (MT) Grants Management (Formerly Mitigation (MT) Electronic Grants (eGrants) and FEMA GO) for Flood Mitigation Assistance (FMA), Building Resilient Infrastructure and Communities (BRIC) and Pre-Disaster Mitigation (PDM)

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. This notice

seeks comments concerning FEMA's Hazard Mitigation Assistance (HMA) grant programs specifically, the Pre-Disaster Mitigation Program (PDM), the Building Resilient Infrastructure and Communities (BRIC) program, and the Flood Mitigation Assistance (FMA) program. Under FEMA's HMA grant programs, State, local, Tribal, and Territorial governments (SLTTs) seek assistance to support disaster mitigation and provide opportunities to reduce or eliminate potential losses to SLTTs.

DATES: Comments must be submitted on or before July 29, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, at email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Jennie Orenstein, Branch Chief, Policy, Tools and Training Branch, Federal Insurance and Mitigation Administration, FEMA, at *jennie.gallardy@fema.dhs.gov,* and 202–212–4071.

SUPPLEMENTARY INFORMATION: This collection of information is necessary to implement grants for the FMA, PDM, and BRIC programs.

The FMA program is authorized pursuant to Sec. 1366, 42 U.S.C. 4104c of the National Flood Insurance Act of 1968, as amended. FMA was created as part of the National Flood Insurance Reform Act (NFIRA) of 1994, Public Law 103–325. The Biggert-Waters Flood Insurance Reform Act of 2012 (BW–12), Public Law 112–141, consolidated the Repetitive Flood Claims (RFC) and Severe Repetitive Loss grant (SRL) programs into FMA. Under FMA, cost-share requirements were changed to allow more Federal funds for properties with repetitive flood claims. The FMA program, under 44 CFR part 77 (as of October 1, 2021, previously under 44 CFR part 79), provides funding for measures taken to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program (NFIP).

PDM is authorized under Sec. 203, 42 U.S.C. 5133, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Public Law 93–288, as amended by Sec. 102 of the Disaster Mitigation Act of 2000, Public Law 106–390. This 30-day FRN differs from the 60-day FRN because FEMA recently decided to resume providing grants under the PDM Program to administer congressionally directed spending for pre-disaster hazard mitigation. The PDM Program makes federal funds available to state, local, tribal, and territorial governments to plan for and implement sustainable cost-effective measures designed to reduce the risk to individuals and property from future natural hazards, while also reducing reliance on federal funding from future disasters. The purpose of the PDM Program is to administer Congressionally directed spending for pre-disaster hazard mitigation.

On August 4, 2020, FEMA established the BRIC program, implementing Section 1234 of the Disaster Recovery Reform Act (DRRA), Public Law 115–254. BRIC replaced the PDM grant program that was previously authorized under Sec. 203 of the Stafford Act, 42 U.S.C. 5133.

The BRIC program is designed to promote a national culture of preparedness and public safety through encouraging investments to protect our communities and infrastructure and through strengthening national mitigation capabilities to foster resilience. The BRIC program seeks to fund effective and innovative projects that will reduce risk, increase resilience, and serve as a catalyst to encourage the whole community to invest in and adopt policies related to mitigation.

The guiding principles of the BRIC program include: (1) support State and local governments, Tribes, and territories through capability- and capacity-building, to enable them to identify mitigation actions and implement projects that reduce risks posed by natural hazards; (2) encourage and enable innovation while allowing flexibility, consistency, and effectiveness; (3) promote partnerships and enable high-impact investments to reduce risk from natural hazards with a focus on critical services and facilities, public infrastructure, public safety, public health, and communities; (4) provide a significant opportunity to reduce future losses and minimize impacts on the Disaster Relief Fund; (5) promote equity, including by helping members of disadvantaged groups and prioritizing 40 percent of the benefits to disadvantaged communities as referenced in Executive Order (E.O.) 14008 in line with the Administration's Justice40 Initiative; and (6) support the adoption and enforcement of building codes, standards, and policies that will protect the health, safety, and general welfare of the public, taking into account future conditions, prominently including the effects of climate change, and have long-lasting impacts on community risk reduction, including for critical services and facilities and for future disaster costs. The BRIC program distributes funds annually and applies a Federal/Non-Federal cost share.

In accordance with 2 CFR 200.203, FEMA requires that all parties interested in receiving FEMA mitigation grants submit an application package for grant assistance. Applications and subapplications for BRIC, PDM and FMA are submitted via the appropriate system for the respective programs, FEMAGo and eGrants. The FEMA GO and eGrants system have been developed to meet the intent of the e-Government initiative, authorized by Public Law 106–107. This initiative requires that all Government agencies both streamline grant application processes and provide for the means to electronically create, review and submit a grant application via the internet.

In order to ensure the timely closeout of grants, 2 CFR 200.329 requires that Non-Federal Entities ''must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved.'' Therefore, under 2 CFR part 200 (for BRIC and PDM) and 44 CFR 77.3 (FMA), recipients must complete and submit progress report(s) to the FEMA Regional Administrator on a quarterly basis, certifying how the funds are being used and reporting on the progress of activities funded under the subrecipient awards made to the Recipient by FEMA. The Regional Administrator and Recipient negotiate the date for submission of the first report. Quarterly Progress Reports describe the status of those projects on which a final payment of the Federal share has not been made to the Recipient, and outline any problems or circumstances expected to result in noncompliance with the approved award conditions.

This proposed information collection previously published in the **Federal Register** on December 14, 2021, at 86 FR 71073 with a 60-day public comment period. FEMA received two comments during this public comment period. The comments include feedback and substantive recommendations on program policy and implementation. However, the information collection is not designed to directly address changes to policy and implementation

effectiveness. The comments will be reviewed and, as appropriate, considered for general program development. Thank you for the substantive comments. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Mitigation Grant Programs (including Mitigation (MT) Grants Management (formerly Mitigation (MT) Electronic Grants (eGrants) and FEMA GO) for Flood Mitigation Assistance (FMA), Building Resilient Infrastructure and Communities (BRIC) and Pre-Disaster Mitigation (PDM)).

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0072.

FEMA Forms: FEMA Form FF–206–FY–22–151, Quarterly Progress Report (QFR).

Abstract: FEMA's FMA and BRIC programs use an automated grant application and management system called FEMA GO. The PDM program uses an automated grant application and management system called MT e-Grants. These grant programs provide funding for the purpose of reducing or eliminating the risks to life and property from hazards. The FEMA GO and eGrants systems include all the application information needed to apply for funding under these grant programs. FEMA and SLTTs use the BRIC Panel Review Form to solicit volunteers from SLTTs and Other Federal Agencies (OFA) to review sub-applicant project applications. The volunteers will review, and score applications based on a pre-determined scoring criteria. The PDM, FMA, and BRIC programs will use the same QPR Form.

Affected Public: State, Local, Tribal, or Territorial Governments.

Estimated Number of Respondents: 660.

Estimated Number of Responses: 6,596.

Estimated Total Annual Burden Hours: 104,168.

Estimated Total Annual Respondent Cost: $6,228,883.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $7,739,695.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2022–13803 Filed 6–28–22; 8:45 am]

BILLING CODE 9111–BW–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–29; OMB Control No.: 2528–NEW]

30-Day Notice of Proposed Information Collection: Stepped and Tiered Rent Demonstration Evaluation

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 29, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; mail to: *Colette.Pollard@hud.gov*; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 24, 2021, at 86 FR 67076.

A. Overview of Information Collection

Title of Information Collection: Stepped and Tiered Rent Demonstration Evaluation.

OMB Approval Number: 2528–New.

Type of Request: New collection.

Form Number: N/A.

Description of the need for the information and proposed use: HUD has selected 10 Public Housing Agencies (PHAs) to participate in the second cohort of the Moving to Work (MTW) Expansion, Stepped and Tiered Rent Demonstration (STRD). These PHAs will implement an alternative rent policy (a stepped rent or tiered rent) that is intended to reduce PHA administrative burden and increase self-sufficiency of assisted households. Five PHAs will implement a stepped rent and five PHAs will implement a tiered rent. HUD's Office of Policy Development and Research (PD&R) will evaluate the impacts of those alternative rent policies, using a randomized controlled trial. The evaluation will rely on data from a variety of sources, including new information collection efforts proposed in this Notice. HUD has contracted with MDRC to conduct the first phase of the evaluation, including random assignment, baseline data collection, and monitoring PHA implementation.

Within the 10 participating PHAs, eligible households will be randomly assigned to have their rent calculated under the new rules (stepped/tiered rent) or old rules (the Brooke rent, typically 30% of household income). Eligible households will be non-elderly, non-disabled participants in the public housing and housing choice voucher program. Prior to random assignment, each household will be asked to complete a baseline information form (BIF) and provide informed consent to authorize HUD's evaluator to use their data for the evaluation. The BIF will

provide important information not otherwise available from HUD's administrative data, such as whether the household has significant barriers to employment. The BIF will average approximately 7 minutes long.

MDRC will also conduct interviews with staff from participating PHAs, to better understand their experience implementing the new rent policies. For the first phase of the evaluation, MDRC is expected to conduct two rounds of staff interviews with each PHA. This collection request focuses on the first of the two rounds of staff data collection. During the first round, MDRC expects to interview up to ten staff per PHA (reflecting a mix of executive management staff, public housing and HCV directors, and public housing and HCV specialists). The mode will be a mix of one-on-one interviews and group interviews, with small groups of 2–3 staff performing similar roles.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Baseline Information Form (household survey) (Attachment A)	24,000	1	24,000	.12	2,880	$9.43	$27,158.40
Stepped Rent Informed Consent Form (Attachment B.1)	7,000	1	7,000	.18	1,260	9.43	11,881.80
Tiered Rent Informed Consent Form (Attachment B.2)	17,000	1	17,000	.18	3,060	9.43	28,855.80
PHA Executive Director-Senior Leader Interview Guide (Attachment C)	10	1	10	.75	7.5	59.86	448.95
PHA Program Director Interview Guide (Attachment D)	20	1	20	1.5	30	44.24	1,327.20
PHA MTW Coordinator Interview Guide (Attachment E)	10	1	10	.75	7.5	44.24	331.80
PHA Housing Specialist Interview Guide (Attachment F)	60	1	60	1.5	90	25.64	2,307.60
Rent Policy Implementation Data Tracking Tool (Attachment G)	10	1	10	9	90	25.64	2,307.60
Total	48,110				7,425		74,619.15

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Data Officer.

[FR Doc. 2022–13926 Filed 6–28–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–FR–6335–N–01]

Housing Trust Fund Federal Register Allocation Notice

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fiscal year 2022 funding awards.

SUMMARY: The Housing and Economic Recovery Act of 2008 (HERA) established the Housing Trust Fund (HTF) to be administered by HUD. Pursuant to the Federal Housing Enterprises Financial Security and Soundness Act of 1992 (the Act), as amended by HERA, eligible HTF grantees are the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the United States Virgin Islands. This notice announces the formula allocation amount for each eligible HTF grantee.

FOR FURTHER INFORMATION CONTACT: Virginia Sardone, Director, Office of Affordable Housing Programs, Room 7164, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–7000; telephone (202) 708–2684. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 800–877–8339 (Federal Information Relay Service). (This is a toll-free number).

SUPPLEMENTARY INFORMATION: Section 1131 of HERA, Division A amended the Act to add a new section 1337 entitled ''Affordable Housing Allocations'' and a new section 1338 entitled ''Housing Trust Fund.'' Congress authorized the Housing Trust Fund (HTF) with the stated purpose of: (1) Increasing and

preserving the supply of rental housing for extremely low-income families with incomes between 0 and 30 percent of area median income and very low-income families with incomes between 30 and 50 percent of area median income, including homeless families, and (2) increasing homeownership for extremely low-income and very low-income families. Section 1337 of the Act (12 U.S.C. 4567) requires Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) to set-aside 4.2 basis points (.042 percent) of the unpaid principal of their new mortgage purchases annually to fund the HTF and the Capital Magnet Fund. Each year, 65% of the amounts set-aside by Fannie Mae and Freddie Mac are then allocated to the HTF.

Section 1338 of the Act (12 U.S.C. 4568) directs HUD to establish, through regulation, the formula for distribution of amounts made available for the HTF. The provisions in section 1338(c)(3) of the Act (12 U.S.C. 4568(c)(3)) specify the factors to be used for the formula and priority for certain factors. The HTF implementing regulations are at 24 CFR part 93. The factors and methodology HUD uses to allocate HTF funds among eligible grantees are established in the HTF regulation at 24 CFR 93.50, 93.51, and 93.52.

The funding announced for Fiscal Year 2022 through this notice is $748,948,400.71. Appendix A to this notice provides the HTF allocation amount for each grantee.

Jemine Bryon,

Acting General Deputy Assistant Secretary for Community Planning and Development.

Appendix A:

FY 2022 Housing Trust Fund Allocation Amounts

	Grantee	FY 2022 allocation
1	Alabama	$7,451,918
2	Alaska	2,982,433
3	Arizona	11,533,111
4	Arkansas	4,573,938
5	California	132,021,213.71
6	Colorado	10,917,121
7	Connecticut	9,720,275
8	Delaware	2,982,433
9	District of Columbia	2,982,433
10	Florida	37,274,870
11	Georgia	19,218,923
12	Hawaii	3,744,423
13	Idaho	2,982,433
14	Illinois	33,710,562
15	Indiana	11,745,382
16	Iowa	4,884,132
17	Kansas	4,646,916
18	Kentucky	7,560,281
19	Louisiana	8,901,548
20	Maine	2,982,433
21	Maryland	11,215,433
22	Massachusetts	18,648,225
23	Michigan	18,775,197
24	Minnesota	10,497,206
25	Mississippi	4,433,035
26	Missouri	11,468,006
27	Montana	2,982,433
28	Nebraska	3,076,650
29	Nevada	7,462,633
30	New Hampshire	2,982,433
31	New Jersey	26,873,570
32	New Mexico	3,521,165
33	New York	80,290,281
34	North Carolina	19,660,977
35	North Dakota	2,982,433
36	Ohio	23,337,503
37	Oklahoma	5,907,079
38	Oregon	10,567,910
39	Pennsylvania	25,998,644
40	Rhode Island	2,982,433
41	South Carolina	8,590,615
42	South Dakota	2,982,433
43	Tennessee	10,916,268
44	Texas	47,375,117
45	Utah	3,561,979
46	Vermont	2,982,433
47	Virginia	16,038,732
48	Washington	16,889,505
49	West Virginia	2,982,433
50	Wisconsin	12,144,277
51	Wyoming	2,919,921
52	Puerto Rico	4,064,659
53	America Samoa	46,187
54	Guam	373,610
55	Northern Marianas	205,677
56	Virgin Islands	394,529
	Total	748,948,399.71

[FR Doc. 2022–13850 Filed 6–28–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–NWRS–2022–N221; FF06R0ZS00–FXRS12610600000–223]

Intent To Prepare a Comprehensive Conservation Plan for Units of Charles M. Russell Complex, Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to gather information necessary to reinitiate the process of developing a comprehensive conservation plan (CCP) for certain refuge, wetland management district, and waterfowl production area units of the Charles M. Russell Complex in south-central Montana. We are publishing this notice in compliance with Service Refuge Planning policy to advise other Federal and State agencies, Tribes, and the public of our intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: To ensure consideration, we must receive written comments by July 29, 2022.

ADDRESSES: Please submit comments and questions by one of the following methods:

- *Email:* Alice Lee, via email at *alice_lee@fws.gov;* or
- *U.S. mail:* Alice Lee, Conservation Planner, via mail at Branch of Refuge Planning, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

For more information, please see Public Comment Process in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Alice Lee, Conservation Planner, by phone at 720–601–1821 or via email at *alice_lee@fws.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: With this notice, we, the U.S. Fish and Wildlife Service (Service), reinitiate the process of developing a comprehensive conservation plan (CCP) for the following units of the Charles M. Russell Complex in south central Montana: Charles M. Russell Wetland Management District (WMD), Hailstone Waterfowl Production Area (WPA) and National Wildlife Refuge (NWR), Grass Lake NWR, Lake Mason NWR, and War Horse NWR. The headquarters for all units in the complex is located in Lewistown, Montana.

We began scoping activities in 2016 for development of the CCP; however, in 2017, CCP development was placed on hold because of changing agency priorities.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee; Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each unit of the National Wildlife Refuge System (NWRS). The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and

contributing toward the mission of the NWRS, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including, where appropriate, opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCPs at least every 15 years in accordance with the Administration Act.

Each unit of the NWRS was established for specific purposes. We use these purposes as the foundation for developing and prioritizing the management goals and objectives for each unit within the NWRS, and to determine how the public can use each refuge. The planning process is a way for us and the public to evaluate management goals and objectives that will ensure the best possible approach to wildlife, plant, and habitat conservation, while providing for wildlife-dependent recreation opportunities that are compatible with each refuge unit's establishing purposes and the mission of the NWRS.

Our CCP process provides participation opportunities for Tribal, State, and local governments; agencies; organizations; and the public. At this time, we encourage input in the form of issues, concerns, ideas, and suggestions for the future management of the Charles M. Russell WMD, Hailstone WPA and NWR, Grass Lake NWR, Lake Mason NWR, and Warhorse NWR. Only the aforementioned units of the Charles M. Russell Complex are covered by this CCP process. The CCP for the Charles M. Russell NWR has been completed, and we are not seeking public input for the management of Charles M. Russell NWR at this time.

National Environmental Policy Act

We will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.;* NEPA); NEPA regulations (40 CFR parts 1500–1508 and 43 CFR part 46); other appropriate Federal laws and regulations; and our policies and procedures for compliance with those laws and regulations.

Units Under Scoping

Charles M. Russell Wetland Management District (WMD)

The Charles M. Russell WMD is located in south-central Montana and includes parts of five counties: Golden Valley, Musselshell, Petroleum, Stillwater, and Yellowstone. The WMD includes three WPAs and several types of easements. The Clark's Fork WPA is a 271-acre (ac) tract of land located along the Clarks Fork of the Yellowstone River. Spidel WPA is a 1,246-ac tract of land located nearly 3 miles northeast of Broadview, Montana. The Tew WPA is 692 ac, and is located 15 miles northeast of Broadview in Musselshell County. Additional information about these WPAs is available at *https://www.fws.gov/refuge/charles-m-russell-wetland-management-district.*

Hailstone Waterfowl Production Area and National Wildlife Refuge

Hailstone WPA and NWR were established primarily as breeding grounds for waterfowl and other wildlife. The Service purchased 1,988 ac of easement in 1979 to create the Hailstone WPA. Hailstone WPA and NWR are part of the Lake Basin area and are managed as a flowage and refuge easement. The current size of the flowage easement at Hailstone is 760 ac.

Grass Lake National Wildlife Refuge

Grass Lake NWR is a 4,318-ac refuge that is one of the most productive migratory bird areas in central Montana. This Refuge is currently closed to all public uses.

Lake Mason National Wildlife Refuge

Lake Mason NWR consists of three separate tracts of land in central Montana: the Lake Mason Unit, Willow Creek Unit, and North Unit. With the exception of the northern half of the Lake Mason Unit, the refuge is open to hunting of migratory game birds, upland game birds, and big game, as well as hiking and wildlife observation. The northern half of the Lake Mason Unit is closed to all public access, in order to increase the security and attractiveness of this area to migratory birds.

Warhorse National Wildlife Refuge

War Horse NWR consists of three separate land units: Wild Horse, 440 ac; War Horse, 1,152 ac; and Yellow Water, 1,640 ac. War Horse NWR was established in 1958 as a ''refuge and breeding ground for migratory birds and other wildlife'' through a transfer of lands by the authority of the Bankhead-Jones Farm Tenant Act. More information on the above NWRs can be found at *https://www.fws.gov/refuge/charles-m-russell.*

Public Comment Process

We have considered comments received in response to our previous scoping activities. With this notice, we respectfully request comments that may contain information not previously provided. You may send comments any time during the planning process by mail or email (see **ADDRESSES**). There will be additional opportunities for the public to provide input once we have prepared a draft CCP.

All information provided voluntarily by mail, by phone, or at public meetings (*e.g.,* names, addresses, letters of comment, input recorded during meetings) becomes part of the official public record. Before submitting comments that include your address or other personal identifying information, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information. 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.

Anna Munoz,

Deputy Regional Director, Mountain-Prairie Region.

[FR Doc. 2022–13848 Filed 6–28–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2022–0076; FXIA16710900000–223–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity

otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by July 29, 2022.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2022–0076.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2022–0076.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2022–0076; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2185 or via email at *DMAFR@fws.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:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, 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 disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Endangered Species

Applicant: Greensboro Science Center, dba Natural Science Center of Greensboro, Greensboro, NC; Permit No. PER0003859

The applicant requests a permit to export one male captive-bred silvery Javan gibbon (*Hylobates moloch*) to the Tasmania Zoo, Riverside, Tasmania, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Robert Wier, Hockley, TX; Permit No. 42192D
Applicant: Roger Bennett, Ardmore, TN; Permit No. 93048C
Applicant: Danny Hendrickson, Abilene, TX; Permit No. 47478C
Applicant: Michael Stein, Francisco, IN; Permit No. 97800C
Applicant: Jorge Vazquez, Homestead, FL; Permit No. 78078C
Applicant: Bernard McMasters, Belton, TX; Permit No. 46595D
Applicant: Arnold Beck, Spring Creek, NV; Permit No. 32317D
Applicant: Ronnie Williams, Highland Village, TX; Permit No. 37469D
Applicant: David Seeno, Concord, CA; Permit No. 72306C
Applicant: Mathew Bell, Midland, TX; Permit No. 03114D
Applicant: Owen Lawrence, Memphis, TN; Permit No. 02698D
Applicant: Stewart Schanzenbach, Grand Forks, ND; Permit No. 73080C
Applicant: Hugh Richardson, Houston, TX; Permit No. 08288D
Applicant: John Maditz, Nokesville, VA; Permit No. 82173D
Applicant: Robert Buker Jr., Moore Haven, FL; Permit No. 41797D
Applicant: Edwin Whitney, San Antonio, TX; Permit No. 60580C
Applicant: Jeremey Hammond, Cody, WY; Permit No. PER0042600

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice

announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Supervisory Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2022–13846 Filed 6–28–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of Big Sandy Rancheria of Western Mono Indians' Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This notice is applicable June 29, 2022.

FOR FURTHER INFORMATION CONTACT: Dena Wynn, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710 (d) (2) (B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal Register**, is sufficient to meet the requirements of 25 U.S.C. 2710 (d) (2) (B). Every ordinance and approval thereof is posted on the Commission's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances within five (5) business days of approval.

On June 22, 2022, the Chairman of the National Indian Gaming Commission approved Big Sandy Rancheria's Class III Gaming Ordinance. A copy of the approval letter is posted with this notice and can be found with the approved ordinance on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Dena Wynn, 1849 C Street NW, MS #1621, Washington, DC 20240 or at *info@nigc.gov.*

National Indian Gaming Commission.

Dated: June 23, 2022.

Michael Hoenig,

General Counsel.

June 22, 2022, Elizabeth D. Kipp, Chairwoman, Big Sandy Rancheria, 37387 Auberry Mission Rd., PO Box 337, Auberry, CA 93602.

Re: Big Sandy Rancheria Site-Specific Tribal Gaming Ordinance 02–01

Dear Chairwoman Kipp:

I am writing with respect to the April 12, 2022, request of the Big Sandy Rancheria of Western Mono Indians of California to the National Indian Gaming Commission to review and approve the Tribe's amended gaming ordinance, Ordinance 02–01. The amended gaming ordinance was adopted by Resolution No. 0122–01 of the Tribal Council.

The amended gaming ordinance contains a site-specific section that describes the original allotment of Mary McCabe (the ''McCabe Allotment'') as land within which the Tribe is authorized to conduct gaming. This section required the NIGC to consider whether the McCabe Allotment would constitute Indian lands on which the Tribe may conduct gaming activities under the Indian Gaming Regulatory Act. On May 13, 2022, the NIGC Office of General Counsel issued a legal opinion concluding that the McCabe Allotment constitutes Indian lands on which the Tribe may conduct such gaming. On May 17, 2022, the Department of the Interior, Office of the Solicitor, issued its concurrence with that opinion. I hereby adopt the attached May 13, 2022 Indian lands opinion, its associated record, and its conclusions.

Thank you for providing the amended gaming ordinance for our review. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions concerning this letter, please contact Senior Attorney Austin Badger at (202) 632–7003.

Sincerely,

E. Sequoyah Simermeyer

Chairman

Memorandum To The Chair

Through: Michael Hoenig, General Counsel, Sharon M. Avery, Associate General Counsel.

From: Austin Badger, Senior Attorney.

Date: May 13, 2022.

Subject: Big Sandy Rancheria of Western Mono Indians of California—(McCabe Allotment) Indian Lands Opinion.

On April 12, 2022, the Big Sandy Rancheria of Western Mono Indians of California submitted to the NIGC a request for approval of an amended gaming ordinance.[1] Amendments to the gaming ordinance include specifying that gaming is authorized on ''the north half of Lot two of the northwest quarter of Section 18, Township 11 South, Range 22 East, Mount Diablo meridian, in Fresno County, California, being the original allotment of Mary McCabe, Sac-120 . . . '' (McCabe Allotment). This Memorandum addresses whether the McCabe Allotment qualifies as Indian lands under the Indian Gaming Regulatory Act on which the Tribe may conduct gaming.

On September 6, 2006, the Office of General Counsel opined that the McCabe Allotment qualified as Indian lands eligible for gaming by the Tribe. At that time, the McCabe Allotment was held in trust by the United States for the benefit of Big Sandy Rancheria tribal member Sherrill Anne Esteves. Ms. Esteves passed away on June 18, 2019,

[1] The Tribe provided additional information concerning the McCabe Allotment on February 21 and 25, 2022. The Tribe's submission included: Declaration of Elizabeth Kipp, Chairperson of the Tribal Council of the Big Sandy Band of Western Mono Indians (February 11, 2022) (''Kipp Declaration''), ''The Public Domain Allotment of Mary McCabe and the Big Sandy Rancheria: A Preliminary Historical Report,'' G. Russell Overton (February 25, 2022) (''Overton Report''), and ''Tribal Jurisdiction over McCabe Allotment,'' Peebles Kidder Bergin & Robinson, LLP (February 25, 2022).

and pursuant to a decision of the Probate Hearings Division of the Department of the Interior's Office of Hearings and Appeals, all of her interest in the land will pass to her daughter Carolyn Lee.[2] The Tribe therefore requests our opinion as to whether the McCabe Allotment continues to qualify as Indian lands eligible for gaming by the Tribe as currently held for the beneficial interest of the estate, as potentially held for the beneficial interest of Big Sandy Rancheria tribal member Carolyn Lee, and as potentially held for the beneficial interest of the Tribe should Carolyn Lee and the Tribe complete a trust-to-trust transfer to the Tribe. After reviewing the status of the McCabe Allotment and the effect of these potential transfers of beneficial interest, we have determined that under each scenario the land continues to qualify as Indian lands under IGRA on which the Tribe may lawfully conduct gaming. The Department of the Interior Solicitor's Office has reviewed this legal opinion and concurs.

Background

The McCabe Allotment was originally allotted out of the public domain to Mary McCabe, a ''Mono Indian,'' in 1920 and immediately placed into trust. The McCabe Allotment is currently held in trust by the United States for the benefit of the estate of tribal member Sherrill Anne Esteves. The original heirs to the estate were Big Sandy Rancheria tribal member Carolyn Lee and Lone Pine Paiute-Shoshone tribal member Edward Esteves. The decision concluding the probate process determined that Edward Esteves renounced his interest in the parcel in favor of Carolyn Lee. The Tribe has further indicated that Carolyn Lee and the Tribe intend to complete a trust-to-trust transfer which would cause the McCabe Allotment to be held in trust by the United States solely for the benefit of the Tribe.

Applicable Law

IGRA defines ''Indian lands'' as:

(A) all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.[3]

NIGC regulations further clarify the definition, providing that:

Indian lands means:

(a) Land within the limits of an Indian reservation; or

(b) Land over which an Indian tribe exercises governmental power and that is either—

(1) Held in trust by the United States for the benefit of any Indian tribe or individual; or

(2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.[4]

Analysis

The McCabe Allotment is not within the Big Sandy Rancheria. It is currently held in trust for the benefit of the estate of tribal member Sherrill Anne Esteves. To conduct gaming on trust lands located outside the exterior boundaries of its reservation, IGRA requires a tribe to exercise governmental power over those trust lands. Therefore, the McCabe Allotment constitutes Indian lands if the Tribe exercises governmental power over it. To exercise governmental power over its trust lands, a tribe must first possess jurisdiction over those lands.[5]

Jurisdiction

Tribes are presumed to possess jurisdiction within ''Indian country.''[6] Trust land, such as the McCabe Allotment, is ''Indian country.''[7] And, in *Opinion of the Solicitor, Sampson Johns Allotment* (September 26, 1996), Interior opined that a tribe would possess jurisdiction over a tribal member's allotment unless the ''land in question is not owned or occupied by tribal members and is far removed from the tribal community.''

Here, the McCabe Allotment is held in trust for the estate of tribal member Sherrill Ann Esteves and is located within 12 miles of the Tribe's reservation.[8] The Tribe, therefore, has jurisdiction over the McCabe Allotment for IGRA gaming purposes.

Our conclusion with respect to jurisdiction would not change should beneficial ownership of the McCabe Allotment transfer to Carolyn Lee or to the Tribe.

Governmental Power

There are many possible ways and circumstances in which a tribe might exercise governmental power over its land. For this reason, the NIGC has not formulated a uniform definition of ''exercise of governmental power,'' but instead decides whether it is present in each case, based upon all the circumstances.[9] As noted by the First Circuit, the exercise of governmental power is ''not the achievement of full-fledged self-governance, but merely movement in that direction.''[10]

Here, the Tribe's Constitution provides that the Tribe has jurisdiction over any allotment of a tribal member. The Tribe provides governmental services to off-reservation Indian allotments owned or occupied by tribal members including the McCabe Allotment and other allotments in the surrounding area.[11] The Tribe requires non-Tribal visitors, such as contractors, surveyors, and others, to obtain a permit before entering off-reservation Indian allotments to conduct work on behalf of the Tribe or a tribal member allottee.[12] The Tribe has therefore demonstrated that it exercises governmental power over the McCabe Allotment.

Our conclusion with respect to governmental power would not change should beneficial ownership of the McCabe Allotment transfer to Carolyn Lee or to the Tribe.

Conclusion

Based upon the foregoing analysis, the statutory language of IGRA, and NIGC and Interior regulations, the McCabe Allotment as currently held by the estate of Sherrill Anne Esteves constitutes Indian lands eligible for gaming by the Tribe under the Indian Gaming Regulatory Act. Our conclusion with respect to such eligibility for gaming by the Tribe would not change should the beneficial ownership of the McCabe Allotment transfer to Carolyn

[2] ''In the Matter of the Estate of: Sherrill Anne Esteves,'' Decision, Probate T000169570 (formerly P0001695701P) (April 22, 2022). The Decision is final unless a petition for rehearing is timely filed within 30 days.

[3] 25 U.S.C. 2703(4).

[4] 25 CFR 502.12.

[5] *Rhode Island* v. *Narragansett Indian Tribe,* 19 F.3d 685 at 701–703 (1st Cir. 1993) (IGRA requires a threshold showing by tribe that it possesses jurisdiction over the lands to satisfy the Act's ''having jurisdiction'' prong).

[6] ''Indian country'' is defined in 18 U.S.C. 1151 as: ''(a) all land within the limits of any Indian reservation . . . ; (b) all dependent Indian communities . . . ; and (c) all Indian allotments, the Indian titles to which have not been extinguished.''

[7] *See United States* v. *Roberts,* 185 F.3d 1125, 1131 (10th Cir. 1999) (''[r]eservation' status is not dispositive and lands owned by the federal government in trust for Indian tribes are Indian Country pursuant to 18 U.S.C. 1151'').

[8] The Tribe has also provided documentation supporting the conclusion that the heirs (Frank McCabe, Lester McCabe, and Sherrill Ann Esteves (nee McCabe)) of the original allottee, Mary McCabe, have ''all identified as Western Mono members of the Big Sandy Rancheria.'' See Overton Report, p. 31.

[9] *National Indian Gaming Commission: Definitions under the Indian Gaming Regulatory Act,* 57 FR 12382, 12388 (1992).

[10] *Massachusetts* v. *Wampanoag Tribe of Gay Head (Aquinnah),* 853 F.3d 618, 626 (1st Cir. 2017).

[11] Kipp Declaration, p. 8.

[12] Kipp Declaration, p. 3.

Lee or to the Tribe. The Department of the Interior, Office of the Solicitor concurs with this opinion.

[FR Doc. 2022–13866 Filed 6–28–22; 8:45 am]

BILLING CODE 7565–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–825–826 (Fourth Review)]

Certain Polyester Staple Fiber From South Korea and Taiwan; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty orders on certain polyester staple fiber from South Korea and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: April 8, 2022.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 8, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 119, January 3, 2022) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings at 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.

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on June 24, 2022. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before July 1, 2022 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by July 1, 2022. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–13830 Filed 6–28–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1306 (Review)]

Large Residential Washers from China; Scheduling of Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on large residential washers from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: April 8, 2022.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

[1] A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's website. Commissioner Johanson determined that, in light of the time that has transpired since the Commission last conducted full reviews of these orders, conducting full reviews was warranted.

[2] The Commission has found the joint response to its notice of institution filed on behalf of Auriga Polymers, Inc., Fiber Industries LLC, and Nan Ya Plastics Corp., America, domestic producers of certain polyester staple fiber, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background—On April 8, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 115, January 3, 2022) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings at 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.

Staff report—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on July 14, 2022. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determinations the Commission should reach in the review. Comments are due on or before July 21, 2022 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by July 21, 2022. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 23, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–13832 Filed 6–28–22; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response to its notice of institution filed on behalf of Whirlpool Corporation, a domestic producer of large residential washers, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Disclosure of Medical Evidence

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 29, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates 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.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.,* may require parties to exchange all medical information about the miner they develop in connection with a claim for benefits, including information parties do not intent to submit as evidence in the claim. See 20 CFR 725.413. BLBA regulations help protect a miner's health, assist unrepresented parties, and promote accurate benefit determinations. The potential parties to a BLBA claim include the benefits claimant, the responsible coal mine

operator and its insurance carrier, and the Director of OWCP. Under BLBA, a party of a party's agent who receives medical information about the miner must send a copy to all other parties within 30 days after receipt or, if a hearing before an administrative law judge has already been scheduled, at least 20 days before the hearing. The exchanged information is entered into the record of the claim only if a party submits it into evidence. The Department's authority to engage in information collection is specified in BLBA sections 413(b), 422(2) and 426(a). See 30 U.S.C. 923(b), 932(a) and 936(a). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 3, 2022 (87 FR 6203).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Disclosure of Medical Evidence.

OMB Control Number: 1240–0054.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 6,105.

Total Estimated Number of Responses: 6,105.

Total Estimated Annual Time Burden: 1,018 hours.

Total Estimated Annual Other Costs Burden: $10,745.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–13841 Filed 6–28–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Request for Employment Information

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 29, 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.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates 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.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OWCP administers the Federal Employees' Compensation Act. Payment of compensation for partial disability to injured Federal workers is required by 5 U.S.C. 8106 which also requires OWCP to obtain information regarding a claimant's earnings during a period of eligibility to compensation. The CA–1027, Request for Employment Information, is the form used to obtain information for an individual who is employed by a private employer. This information is used to determine the claimant's entitlement to compensation benefits. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 9, 2022 (87 FR 13331).

Agency: DOL–OWCP.

Title of Collection: Request for Employment Information.

OMB Control Number: 1240–0047.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 3 hours.

Total Estimated Annual Other Costs Burden: $6.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–13840 Filed 6–28–22; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for TUV Rheinland of North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on June 29, 2022.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *https://*

www.osha.gov/dts/otpca/nrtl/index.html).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV Rheinland of North America, Inc. (TUVRNA), as a NRTL. TUVRNA's expansion covers the addition of three test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by NRTLs or applicant organizations for initial recognition, as well as for expansion or renewal of recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVRNA, which details that NRTL's scope of recognition. These pages are available from the OSHA website at *https://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA submitted an application, dated May 3, 2021 (OSHA–2007–0042–0057), to expand recognition to include the addition of three test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing TUVRNA's expansion applications in the **Federal Register** on May 27, 2022 (87 FR 32193). The agency requested comments by June 13, 2022, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of TUVRNA's scope of recognition.

To review copies of all public documents pertaining to TUVRNA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor at (202) 693–2350. Docket No. OSHA–2007–0042 contains all materials in the record concerning TUVRNA's recognition. Please note: Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

II. Final Decision and Order

OSHA staff examined TUVRNA's expansion application, their capability to meet the requirements of the test standard, and other pertinent information. Based on its review of this evidence, OSHA finds that TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant TUVRNA's scope of recognition. OSHA limits the expansion of TUVRNA's recognition to testing and certification of products for demonstration of conformance to the test standards shown below in Table 1.

TABLE 1—APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1703	Flat-Rate Photovoltaic Modules and Panels.
UL 61730–1	Photovoltaic (PV) Module Safety Qualification—Part 1: Requirements for Construction.
UL 61730–2	Photovoltaic (PV) Module Safety Qualification—Part 2: Requirements for Testing.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

A. Conditions

Recognition is contingent on continued compliance with 29 CFR 1910.7, including but not limited to, abiding by the following conditions of recognition:

1. TUVRNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. TUVRNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. TUVRNA must continue to meet the requirements for recognition, including all previously published conditions on TUVRNA's scope of recognition, in all areas for which it has recognition.

OSHA hereby expands the scope of recognition of TUVRNA, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on June 21, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13895 Filed 6–28–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0043]

TUV SUD America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for TUV SUD America, Inc. as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on June 29, 2022.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV SUD America, Inc. (TUVAM) as a NRTL. TUVAM's expansion covers the addition of three test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVAM, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVAM submitted an application, dated July 12, 2021, to expand their recognition as a NRTL to include five additional test standards (OSHA–2007–0043–0042). This application was amended on February 12, 2022, to remove two standards from the original application. The expansion will cover the addition of three test standards to TUVAM's NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing TUVAM's expansion application in the **Federal Register** on May 27, 2022 (87 FR 32192). The agency requested comments by June 13, 2022, but it received no comments in response to this notice. OSHA is now proceeding with this final notice to grant expansion of TUVAM's scope of recognition.

To obtain or review copies of all public documents pertaining to TUVAM's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. Docket No. OSHA–2007–0043 contains all materials in the record concerning TUVAM's recognition. Please note: Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350 (TTY (877) 889–5627).

II. Final Decision and Order

OSHA staff examined TUVAM's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that TUVAM meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant TUVAM's scope of recognition. OSHA limits the expansion of TUVAM's recognition to testing and certification of products for demonstration of conformance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVAM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 104	Elevator Door Locking Devices and Contacts.
UL 583	Electric-Battery Powered Industrial Trucks.
UL 61010–031	Electrical Equipment for Measurement, Control and Laboratory Use—Part 031: Safety Requirements for Hand-Held and Hand-Manipulated Probe Assemblies for Electrical Measurement and Test.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, the use of the designation of the standards-developing organization for the standard as opposed to the ANSI designation may occur. Under the NRTL Program's policy (see OSHA Instruction CPL 01–00–004, Chapter 2, Section VIII), only standards determined to be appropriate test standards may be approved for NRTL recognition. Any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, TUVAM must abide by the following conditions of the recognition:

1. TUVAM must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);
2. TUVAM must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and
3. TUVAM must continue to meet the requirements for recognition, including all previously published conditions on TUVAM's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of TUVAM, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on June 21, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–13896 Filed 6–28–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Polar Programs (#1130).

Date and Time: July 25, 2022, 12:00 p.m. to 1:00 p.m. EST.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314 | Virtual via Zoom.

Virtual meeting attendance: A virtual link to access the meeting will be posted on the AC OPP website at: *https://nsf.gov/geo/opp/advisory.jsp.*

Type of Meeting: Open.

Contact Person: Sara Eckert, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Ave., Alexandria, VA 22314; Contact: (703) 292–7899/*seckert@nsf.gov*.

Purpose of Meeting: AC review of Antarctic Research Vessel (ARV) Science Advisory Subcommittee (SASC) report following the ARV's Interim Design Review #1.

Agenda: Review and evaluate the SASC report, and vote on whether the report should be forwarded to the NSF Office of Polar Programs.

Dated: June 24, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–13927 Filed 6–28–22; 8:45 am]

BILLING CODE 7555–01–P

POSTAL SERVICE

Product Change—Parcel Select 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 29, 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 24, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Parcel Select Contract 50 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–76, CP2022–82.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13915 Filed 6–28–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 29, 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 21, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 750 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–75, CP2022–81.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13911 Filed 6–28–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 29, 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 21, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 748 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–73, CP2022–79.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13909 Filed 6–28–22; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal

Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* June 29, 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 21, 2022, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 749 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2022–74, CP2022–80.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2022–13910 Filed 6–28–22; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95143; File No. SR–DTC–2021–017]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Enhance Capital Requirements and Make Other Changes

June 23, 2022.

On December 13, 2021, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2021–017 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 29, 2021,[3] and the Commission received no comment letters regarding the changes proposed in the Proposed Rule Change.

On January 26, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On March 23, 2022, the Commission instituted proceedings, pursuant to Section 19(b)(2)(B) of the Act,[6] to determine whether to approve or disapprove the Proposed Rule Change.[7]

Section 19(b)(2) of the Act [8] provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[9] The 180th day after publication of the Notice in the **Federal Register** is June 27, 2022.

The Commission is extending the period for Commission action on the Proposed Rule Change. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that the Commission has sufficient time to consider the issues raised by the Proposed Rule Change and to take action on the Proposed Rule Change. Accordingly, pursuant to Section 19(b)(2)(B)(ii)(II) of the Act,[10] the Commission designates August 26, 2022, as the date by which the Commission should either approve or disapprove the Proposed Rule Change SR–DTC–2021–017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13812 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 93854 (December 22, 2021), 86 FR 74122 (December 29, 2021) (File No. SR–DTC–2021–017) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 94067 (January 26, 2022), 87 FR 5548 (February 1, 2022) (File No. SR–DTC–2021–017).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Securities Exchange Act Release No. 94495 (March, 23, 2022), 87 FR 18451 (March, 30, 2022) (SR–DTC–2021–017).

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95142; No. SR–NYSEArca–2022–36]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

June 23, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 22, 2022, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (the ''Fee Schedule'') regarding fees for Options Trading Permits (''OTPs'') for NYSE Arca Market Makers.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on May 31, 2022 (SR–NYSEArca–2022–33) and withdrew such filing on June 14, 2022.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to restructure fees relating to OTPs for Market Makers. Specifically, the Exchange proposes to modify the number of option issues a Market Maker may quote per OTP and modify the fees applicable to Market Maker OTPs.

Currently, the number of option issues a Market Maker may quote in their assignment is based on the number of OTPs the Market Maker holds per month. A Market Maker may quote up to 175 issues under its first OTP; up to 350 issues with a second OTP; up to 1,000 issues with a third OTP; and, with a fourth OTP, a Market Maker may quote in all option issues on the Exchange.[5]

The Exchange currently charges monthly fees for Market Maker OTPs as set forth in the table below, and a Market Maker currently would pay $18,000 in monthly OTP fees to quote in all option issues on the Exchange:[6]

Monthly fee per OTP	Number of option issues permitted in market maker's assignment
$6,000 for 1st OTP	Up to 175 option issues.
$5,000 for the 2nd OTP	Up to 350 option issues.
$4,000 for the 3rd OTP	Up to 1,000 option issues.
$3,000 for the 4th OTP	All option issues traded on the Exchange.
$1,000 for the 5th and additional OTPs	All option issues traded on the Exchange.
$175 for Reserve OTP	N/A.

The Exchange proposes to modify the number of option issues ''covered'' by a Market Maker OTP (*i.e.,* the number of issues in which a Market Maker may quote using a given OTP) and the monthly fee per Market Maker OTP, as set forth in the table below. The Exchange notes that its proposed fee structure is identical to the structure used by its affiliated exchange, NYSE American LLC (''NYSE American''), for its analogous Market Maker trading permit, the ATP, and the proposed modifications to the Exchange's Market Maker OTP fees would provide consistency between the permit fees on affiliated exchanges.[7]

Number of OTPs	Monthly fee per OTP	Number of issues permitted in a market maker's quoting assignment
1st OTP	$8,000	60 plus the Bottom 45%.
2nd OTP	6,000	150 plus the Bottom 45%.
3rd OTP	5,000	500 plus the Bottom 45%.
4th OTP	4,000	1,100 plus the Bottom 45%.
5th OTP	3,000	All issues.
6th to 9th OTP	2,000	All issues.
10th or more OTPs	500	All issues.
Reserve Market Maker OTP	175	N/A.

The Exchange proposes to increase both the monthly fee per Market Maker OTP and the number of issues covered by each additional OTP because, among other reasons, the number of issues traded on the Exchange has increased significantly in recent years. At the time of the last revision to the number of issues covered by a Market Maker OTP, the Exchange was trading approximately 2,372 issues. At the beginning of 2019, the Exchange listed 2,450 issues for options trading. As of October 1, 2021, the Exchange listed 3,846 issues for options trading. Thus, a fourth OTP, which currently permits a Market Maker to quote in all issues on the Exchange, now covers over 1,400 more issues than when the Exchange instituted the current fee structure for Market Maker OTPs. Accordingly, the Exchange proposes to modify its Market Maker OTP fee structure, as described in the above table, to reflect the greater number of issues traded on the Exchange and the resulting increase in trading opportunities available to Market Makers.

Specifically, for the first four OTPs held by a Market Maker, the Exchange proposes to allow a Market Maker to quote a certain number of option issues (as set forth in the table above) plus the ''Bottom 45%.'' The Exchange proposes to define the ''Bottom 45%'' in the Fee Schedule as the least actively traded issues on the Exchange in each calendar quarter, as ranked by industry volume reported by the OCC. Each calendar quarter, with a one-month lag, the Exchange will publish on its website a list of the Bottom 45% of issues traded. Any newly listed issues will automatically become part of the Bottom 45% until the next evaluation period, at which time such issues will be evaluated for inclusion in the Bottom 45% based on their trading volumes and resultant rank among all issues traded on the Exchange.[8] As further proposed, with a fifth OTP (or more), a Market Maker would be permitted to quote in all issues on the Exchange. Thus, as proposed, a Market Maker that wishes to quote in all issues on the Exchange would incur monthly permit fees of $26,000.

The Exchange believes that the proposed fee structure would better align its Market Maker OTP fees with

[5] *See* Fee Schedule, NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES, *available at: https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.* A Market Maker may trade any issue on the Exchange but may only submit quotes in issues in its assignment. However, in accordance with NYSE Arca Rule 6.35–O(i), at least 75% of a Market Maker's trading activity must be in the Market Maker's appointment. The terms ''assignment'' and ''appointment,'' as used in this filing, have the same meaning.

[6] *See id.*

[7] *See* NYSE American Options Fee Schedule, Section III.A. Monthly ATP Fees, *available at: https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[8] The Exchange notes that the NYSE American Options Fee Schedule has adopted the same definition of ''Bottom 45%'' with respect to issues traded on NYSE American. *See id.*

the significantly greater number of option issues traded on the Exchange in recent years and the enhanced benefits Market Makers derive from access to those issues. The Exchange also believes that the proposal would continue to incent Market Makers to quote in a broad range of options, including less liquid and active issues, by offering Market Makers access to the Bottom 45% of issues (approximately 1,730 issues, as of the end of the third quarter of 2021) beginning with the first OTP. By promoting increased Market Maker quoting, the proposed change would, in turn, encourage more liquid markets and quote competition, which benefits all market participants.

The Exchange also proposes to charge the same fee for each of the sixth through ninth Market Maker OTPs ($2,000) and to decrease the fee for the tenth Market Maker OTP or more from $1,000 to $500. Market Maker firms that sponsor multiple individual Market Makers may choose to purchase additional OTPs to allow those individual Market Makers to each quote more issues (rather than purchasing one set of OTPs to be shared across the firm).[9] As a result, the Exchange believes that these proposed changes could incent Market Maker firms to have more individual Market Makers quoting on the Exchange if they so choose, which would in turn encourage liquidity and depth of markets (including in the less liquid issues that Market Makers would be able to quote in with the first OTP and beyond). The Exchange also believes that the proposed fees, to the extent they promote increased liquidity, could make the Exchange a more attractive venue for trading and increase trading opportunities for the benefit of all market participants.

The Exchange does not propose any changes to the monthly fee for Reserve Market Maker OTPs.

The Exchange proposes to implement this fee change on the first day of the month following the completion of its migration to the Pillar technology platform.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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.'' [13]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[14] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in March 2022, the Exchange had less than 14% market share of executed volume of multiply-listed equity and ETF options trades.[15]

Accordingly, the Exchange believes that competitive forces constrain options exchange fees, including Market Maker permit fees. Market Makers serve a unique and important function on the Exchange (and other options exchanges) given the quote-driven nature of options markets. Because options exchanges rely on actively quoting Market Makers to facilitate a robust marketplace that attracts order flow, options exchanges must attract and retain Market Makers, including by setting competitive Market Maker permit fees. Stated otherwise, changes to Market Maker permit fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange also believes that the number of options exchanges on which Market Makers can effect option transactions also ensures competition in the marketplace and constrains the ability of exchanges to charge supracompetitive fees for access to its market by Market Makers.

Accordingly, the Exchange believes the proposed fees for Market Maker OTPs are reasonably designed to enable the Exchange to remain competitive with other options exchanges because they are based on the Market Maker trading permit fees assessed by another options exchange and are significantly lower than the Market Maker trading permit fees assessed by at least one other options exchange for the ability to quote in all issues.[16] As noted above, a

[9] For example, a Market Maker firm that has three individual Market Makers may, depending on its business preferences, choose to separate those Market Makers into three distinct trading groups. In that case, for each of those individual Market Makers to be able to submit quotes in all issues traded on the Exchange, the Market Maker firm would need to allot five OTPs to each such individual Market Maker (and would thus need to hold 15 OTPs total).

[10] The Exchange has announced that it will begin migrating Exchange-listed options to the Pillar technology platform on July 11, 2022, *available here: https://www.nyse.com/trader-update/history#110000421498. See also* Securities Exchange Act Release Nos. 93193 (September 29, 2021), 86 FR 55926 (October 7, 2021) (SR–NYSEArca–2021–47) (Notice of Filing of Proposed Rule Change for New Rules 6.1P–O, 6.37AP–O, 6.40P–O, 6.41P–O, 6.62P–O, 6.64P–O, 6.76P–O, and 6.76AP–O and Amendments to Rules 1.1, 6.1–O, 6.1A–O, 6.37–O, 6.65A–O and 6.96–O); 94637 (April 7, 2022), 87 FR 21959 (April 13, 2022) (SR–NYSEArca-2021–68) (Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Adopt New Exchange Rule 6.91P–O).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[14] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[15] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in equity-based options was 10.16% for the month of March 2021 and 13.57% for the month of March 2022.

[16] *See* NYSE American Options Fee Schedule, note 7, *supra;* Cboe Exchange, Inc. (''Cboe'') Options Fee Schedule, Electronic Trading Permit Fees & Market-Maker EAP Appointments Sliding Scale, *available at: https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf.* It is the Exchange's understanding that a Market Maker on Cboe would incur monthly fees of approximately $128,400 to quote in all issues. Based on the Exchange's interpretation of Cboe's fee structure and rules governing Market Maker appointments, a Cboe Market Maker would be subject to a $5,000 fee to secure a trading permit and additional fees based on the Appointment Units corresponding to the symbol(s) in which the Market Maker wishes to quote. *See* Cboe Rule 5.50, Market-Maker Appointments, *available at: https://cdn.cboe.com/resources/regulation/rule_book/C1_Exchange_Rule_Book.pdf* (providing that a Market Maker may select for each of its Trading Permits any combination of class appointments, and that all classes are placed within a specific tier according to trading volume statistics (except for the AA tier) and assigned an ''appointment weight'' depending upon its tier location, and setting forth the appointment weights applicable to each of its Appointment Tiers). Thus, by the Exchange's calculation based on Cboe's published Class Appointment Units effective as of February 1, 2022 (*available at: https://*

Market Maker would pay monthly OTP fees of $26,000 to quote in all issues under the Exchange's proposal, which is the same amount charged by NYSE American for a Market Maker on the NYSE American Options exchange to quote in all issues.[17]

Although the Exchange's proposed restructuring of Market Maker OTP fees would increase the monthly fee for the first through third OTPs, the Exchange believes that the increased cost to Market Makers is reasonable given that a greater number of issues would be covered by an OTP, as proposed. The Exchange also believes the proposal is reasonable in that it offers Market Makers the ability to quote issues in the Bottom 45% with just one OTP, which the Exchange believes would encourage increased quoting in those issues, thereby promoting increased quote competition and liquidity in a greater number of issues (and, in particular, less active issues).

The Exchange also believes that, although the proposal would increase the fee for the fourth OTP while reducing the number of issues that a Market Maker would be permitted to quote with four OTPs, the increased fees are reasonable in the context of the proposed restructuring of OTP fees, as well as in light of the overall increase in issues listed on the Exchange as compared to when the Exchange implemented the current fee structure for OTPs. Similarly, while the proposed fees for the fifth through ninth OTPs would increase while still affording Market Makers the ability to quote in all issues on the Exchange, the Exchange believes that the increase is likewise reasonable in the context of the proposed restructuring of OTP fees and reflects the increased number of issues traded on the Exchange and corresponding enhanced opportunities for trading, as discussed above.

Thus, although the fees for certain of the monthly Market Maker OTPs would increase in relation to the number of issues ''covered'' by such OTP, the Exchange believes that, on balance, the proposed restructuring is reasonably and equitably designed to align its Market Maker OTP fees with the current level of activity on the Exchange, while continuing to incent Market Makers to quote in a broad range of options, thereby promoting more liquid markets and quote competition for the benefit of all market participants. Specifically, the Exchange believes that, to the extent the proposed change increases the monthly fees per Market Maker OTP, such increases reasonably reflect the significantly greater number of issues traded on the Exchange since its last revision of the Market Maker OTP fee structure and the resulting enhancement in trading opportunities for Market Makers, even with the same number of OTPs. Moreover, with respect to the proposed increase in fees for the first through third Market Maker OTPs, the Exchange believes the proposed change is reasonable in light of the significantly increased number of issues that would be covered by those OTPs, which would allow a Market Maker to quote a greater number of issues with the same number of OTPs. The Exchange further believes that the proposed change would continue to incent Market Makers to quote in a broad range of options, including the less active issues in the Bottom 45%, thereby improving market quality for all market participants.

The Exchange also believes that the proposed fees have been reasonably designed in response to significant competitive forces in the market for order flow, which constrain the Exchange's pricing determinations, including with respect to Market Maker permit fees. Courts have long recognized that the market for order flow is competitive; for example, in *NetCoalition* v. *SEC,* the United States Court of Appeals for the D.C. Circuit noted that market participants ''have a wide range of choices of where to route orders for execution'' and that because ''no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow . . . [exchanges] must compete vigorously for order flow to maintain [their] share of trading volume.'' [18] The Commission has historically examined competitive forces to evaluate whether proposed fees are reasonable, equitable, and not unfairly discriminatory, based on the underlying belief that ''the operation of competitive forces 'will work powerfully to constrain unreasonable or unfair pricing behavior, including the level of any fees.' '' [19]

Market Makers are free to choose to access any of the other available options exchanges instead of, or in addition to, the Exchange. A Market Maker's decision to access an exchange or not could be based on several criteria, including, but not limited to, the level of permit fees, and Market Makers may take into consideration transaction fees and other costs and benefits associated with doing business on a given exchange when determining whether to access such market. For example, although Market Makers on the Exchange are subject to OTP fees that other market participants are not assessed, the Exchange's Fee Schedule also offers various incentives to Market Makers based on the important function they serve on the Exchange.[20]

Competitive forces thus constrain the Exchange's ability to set Market Maker OTP fees and militate against any exchange's ability to charge supracompetitive fees for access to its market by Market Makers. Specifically, the Exchange believes that its Market Maker OTP fees are constrained by competitive considerations because unreasonable permit fees could discourage prospective Market Makers from choosing to access the Exchange or cause existing Market Makers to reevaluate their participation on the Exchange. If the Exchange were to set Market Maker OTP fees at a level that would disincentivize Market Makers from quoting and trading on the Exchange or cause Market Makers to disconnect from the Exchange altogether, such attrition would impact the Exchange's ability to compete with other options exchanges for order flow and make the Exchange a less attractive venue for trading.

As noted above, there are currently 16 registered options exchanges that trade options; one such exchange has Market Maker permit fees identical to those proposed by the Exchange, and at least one other has Market Maker permit fees much higher than those proposed by the Exchange.[21] Furthermore, relatively low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market and offer additional substitute platforms that would also compete with the Exchange for Market Maker order flow. For example, four exchanges have been added in the U.S. options markets in the last five years (Cboe EDGX, Inc.; Nasdaq MRX, LLC; MIAX Pearl, LLC; and MIAX Emerald, LLC). Based on publicly

www.cboe.com/us/options/market_statistics/class_appointment/), a Market Maker that wishes to quote in all issues on Cboe would require 39 Appointment Units, which would result in fees of $123,400 in addition to the $5,000 trading permit fee.

[17] *See* NYSE American Options Fee Schedule, note 7, *supra.* The Exchange notes that NYSE American Options' ATP fees have been in effect since 2012, and, presumably, are reasonable as required by the Act. *See* Securities Exchange Act Release No. 67764 (August 31, 2012), 77 FR 55254 (September 7, 2012).

[18] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (internal citations omitted).

[19] *See* U.S. Securities and Exchange Commission, ''Staff Guidance on SRO Rule Filings Relating to Fees'' (May 21, 2019), *available at: https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees.*

[20] *See, e.g.,* Market Maker Incentive for Penny Issues; Market Maker Incentive for Non-Penny Issues; Market Maker Incentives for SPY.

[21] *See* note 16, *supra.*

available information, no single options exchange currently has more than 16% of the market share. The Exchange is also not aware of any evidence that has been offered or demonstrated that a market share of less than 14% provides the Exchange with anti-competitive pricing power. Moreover, the Exchange believes that the fact that its market share changes from month to month demonstrates that the competitive forces to which it is subject. As noted above, while the Exchange's market share as of March 2022 was 13.57%, its market share was 10.16% in March 2021 and fluctuated between 9.07% and 13.99% in the intervening period.[22]

The Exchange further believes that its ability to set Market Maker permit fees is constrained by competitive forces based on the fact that Market Makers can, and have, chosen to terminate their status as a Market Maker if they deem Market Maker permit fees to be unreasonable or excessive. Specifically, the Exchange notes that a BOX participant modified its access to BOX in connection with the implementation of a proposed change to BOX's Market Maker permit fees.[23] The Exchange has also observed that another options exchange group experienced decreases in market share following its proposed modifications of its access fees (including Market Maker trading permit fees), suggesting that market participants (including Market Makers) are sensitive to changes in exchanges' access fees and may respond by shifting their order flow elsewhere if they deem the fees to be unreasonable or excessive.[24]

There is no requirement, regulatory or otherwise, that any Market Maker connect to and access any (or all of) the available options exchanges.[25] The Exchange also is not aware of any reason why a Market Maker could not cease being a permit holder in response to unreasonable price increases. The Exchange does not assess any termination fee for a Market Maker to drop its OTP, nor is the Exchange aware of any other costs that would be incurred by a Market Maker to do so.

For the reasons described above, the Exchange believes that its ability to modify Market Maker OTP fees is constrained by competitive forces and that its proposed modifications to the Market Maker OTP fee structure are reasonably designed in consideration of the competitive environment in which the Exchange operates, by balancing the value of the enhanced benefits available to Market Makers due to the current level of activity on the Exchange with a fee structure that will continue to incent Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees and Is Not Unfairly Discriminatory

The proposed change is equitable and not unfairly discriminatory because it applies to all Market Makers, all of whom are required to have at least one OTP to correlate to the options issues in their assignments. The Exchange further believes that the proposed change is not unfairly discriminatory to Market Makers because only Market Makers are required to submit quotes as part of their obligations to operate on the Exchange. The Exchange also believes that, to the extent the proposal increases fees that only apply to Market Makers, the proposed change is equitable and not unfairly discriminatory given both the benefits to Market Makers derived from the increased number of issues on the Exchange and the function that Market Makers fulfill on the Exchange (which requires the Exchange to allocate more supporting bandwidth and resources, particularly in light of the greater number of issues in which Market Makers can quote).[26]

The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because it is designed to encourage Market Makers to quote additional issues, including less active issues, which would promote more liquid markets and quote competition, to the benefit all market participants. The Exchange further believes that, to the extent the proposed change results in increased monthly fees, such increases represent an equitable allocation of fees in the context of the proposed restructuring of Market Maker OTP fees, as well as in consideration of the increased number of issues traded on the Exchange since its last revision of the Market Maker OTP fee structure, which in turn has increased trading opportunities for Market Makers on the Exchange.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[27] 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. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [28]

Intramarket Competition. The Exchange does not believe that the proposed rule change would impose an undue burden on competition because it impacts all Market Makers, all of whom require at least one OTP to satisfy their quoting obligations on the Exchange. The Exchange also does not believe that the proposed change would impose any burden on competition that is not

[22] *See* note 15, *supra.*

[23] According to BOX, a Market Maker on BOX terminated its status as a Market Maker in response to BOX's proposed modification of Market Maker trading permit fees. *See* Securities Exchange Act Release No. 94894 (May 11, 2022), 87 FR 29987 (May 17, 2022) (SR–BOX–2022–17) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC Facility to Adopt Electronic Market Maker Trading Permit Fees). BOX noted, and the Exchange agrees, that this Market Maker's decision demonstrates that Market Makers can, and do, alter their membership status if they deem permit fees at an exchange to be unsuitable for their business needs, thus demonstrating the competitive environment for Market Maker permit fees and the constraints on options exchanges when setting Market Maker permit fees.

[24] The Exchange observed that exchanges in the MIAX Group introduced multiple access fee increases in July and August 2021. In June 2021, prior to these fee increases, the aggregate MIAX Group share of multi-list options volume was 15.45%. In the months after the introduction of higher access fees, MIAX Group's market share declined: by September 2021, the aggregate MIAX Group market share was 14.50%, and as of March 2022, market share was 13.75%.

[25] The Exchange notes that, according to BOX, of the 62 market making firms that are registered as Market Makers across Cboe, Miami International Securities Exchange, LLC, and BOX, 42 firms access only one of the three exchanges. *See* Securities Exchange Act Release No. 94894 (May 11, 2022), 87 FR 29987 (May 17, 2022) (SR–BOX–2022–17) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Schedule on the BOX Options Market LLC Facility To Adopt Electronic Market Maker Trading Permit Fees). The Exchange believes that BOX's observation demonstrates that market making firms can, and do, select which exchanges they wish to access, and, accordingly, options exchanges must take competitive considerations into account when setting fees for such access.

[26] The Exchange also notes that the Fee Schedule provides for various incentives to Market Makers (that are not available to other market participants). *See* note 20, *supra.*

[27] 15 U.S.C. 78f(b)(8).

[28] *See* Reg NMS Adopting Release, *supra* note 13, at 37499.

necessary or appropriate, as Market Makers fulfill a unique role on the Exchange; only Market Makers are required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, are eligible for certain incentives that are not offered to other market participants.[29] While the proposed change generally increases fees for Market Maker OTPs, the Exchange does not believe that it imposes any burden on competition that is not necessary or appropriate because it would align Market Maker OTP fees with the current level of activity and benefits available to Market Makers on the Exchange and, by continuing to incent Market Makers to quote in a broad range of options, would promote quote competition and trading opportunities on the Exchange. In addition, the Exchange believes that the proposed change, to the extent it expands the number of covered issues per Market Maker OTP, would encourage increased liquidity, quote competition, and trading opportunities on the Exchange, which in turn would benefit all market participants.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing options exchanges if they deem fee levels at a particular venue to be excessive. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades. Therefore, the Exchange believes that no exchange currently possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. The Exchange also believes that the number of options exchanges on which a Market Maker can transact also ensures competition in the marketplace and constrains the ability of exchanges to charge supracompetitive fees to Market Makers for access to its market. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges.

The Exchange does not believe the proposed rule change would impose any undue burden on intermarket competition and instead believes that the proposal would promote competition among options exchanges. Specifically, the Exchange believes that its proposed fee structure for Market Maker OTPs would promote competition because, as discussed above, it would be identical to the Market Maker permit fees assessed by another options exchange and remains significantly lower than the Market Maker permit fees assessed by another options exchange for the ability to quote in all issues.[30] Thus, the Exchange believes that the proposed change would not discourage Market Makers from continuing to quote in a broad range of options, thereby supporting increased liquidity, quote competition, and trading opportunities on the Exchange, which in turn could make the Exchange a more attractive venue for market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[31] of the Act and subparagraph (f)(2) of Rule 19b–4[32] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[33] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2022–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2022–36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2022–36, and should be submitted on or before July 20, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13811 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

[29] *See* note 20, *supra.*

[30] *See* note 16, *supra.*

[31] 15 U.S.C. 78s(b)(3)(A).

[32] 17 CFR 240.19b–4(f)(2).

[33] 15 U.S.C. 78s(b)(2)(B).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95146; File No. SR–NSCC–2021–016]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Enhance Capital Requirements and Make Other Changes

June 23, 2022.

On December 13, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2021–016 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 29, 2021,[3] and the Commission has received comments regarding the changes proposed in the Proposed Rule Change.[4]

On January 26, 2022, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[6] On March 23, 2022, the Commission instituted proceedings, pursuant to Section 19(b)(2)(B) of the Act,[7] to determine whether to approve or disapprove the Proposed Rule Change.[8] The Commission has received additional comment letters on the Proposed Rule Change.[9]

Section 19(b)(2) of the Act [10] provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[11] The 180th day after publication of the Notice in the **Federal Register** is June 27, 2022.

The Commission is extending the period for Commission action on the Proposed Rule Change. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that the Commission has sufficient time to consider the issues raised by the Proposed Rule Change and to take action on the Proposed Rule Change. Accordingly, pursuant to Section 19(b)(2)(B)(ii)(II) of the Act,[12] the Commission designates August 26, 2022, as the date by which the Commission should either approve or disapprove the Proposed Rule Change SR–NSCC–2021–016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13815 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 93856 (December 22, 2021), 86 FR 74185 (December 29, 2021) (File No. SR–NSCC–2021–016) (''Notice'').

[4] Comments are available at *https://www.sec.gov/comments/sr-nscc-2021016/srnscc2021016.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] Securities Exchange Act Release No. 94068 (January 26, 2022), 87 FR 5544 (February 1, 2022) (File No. SR–NSCC–2021–016).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] Securities Exchange Act Release No. 94494 (March, 23, 2022), 87 FR 18444 (March, 30, 2022) (File No. SR–NSCC–2021–016).

[9] *See supra* note 4.

[10] 15 U.S.C. 78s(b)(2).

[11] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–176, OMB Control No. 3235–0311]

Proposed Collection; Comment Request; Extension: Rule 7d–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collection of information to the Office of Management and Budget for extension and approval.

Section 7(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–7(d)) (the ''Act'' or ''Investment Company Act'') requires an investment company (''fund'') organized outside the United States (''foreign fund'') to obtain an order from the Commission allowing the fund to register under the Act before making a public offering of its securities through the United States mail or any means of interstate commerce. The Commission may issue an order only if it finds that it is both legally and practically feasible effectively to enforce the provisions of the Act against the foreign fund, and that the registration of the fund is consistent with the public interest and protection of investors.

Rule 7d–1 (17 CFR 270.7d–1) under the Act, which was adopted in 1954, specifies the conditions under which a Canadian management investment company (''Canadian fund'') may request an order from the Commission permitting it to register under the Act. Although rule 7d–1 by its terms applies only to Canadian funds, other foreign funds generally have agreed to comply with the requirements of rule 7d–1 as a prerequisite to receiving an order permitting those foreign funds' registration under the Act.

The rule requires a Canadian fund that wishes to register to file an application with the Commission that contains various undertakings and agreements by the fund. The requirement of the Canadian fund to file an application is a collection of information under the Paperwork Reduction Act. Certain of the undertakings and agreements, in turn, impose the following additional information collection requirements:

(1) the fund must file with the Commission agreements between the fund and its directors, officers, and service providers requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations relating to the undertakings and agreements in the application;

(2) the fund and each of its directors, officers, and investment advisers that is not a U.S. resident, must file with the Commission an irrevocable designation of the fund's custodian in the United States as agent for service of process;

(3) the fund's charter and bylaws must provide that (a) the fund will comply with certain provisions of the Act applicable to all funds, (b) the fund will maintain originals or copies of its books and records in the United States, and (c) the fund's contracts with its custodian, investment adviser, and principal underwriter, will contain certain terms, including a requirement that the adviser maintain originals or copies of pertinent records in the United States;

(4) the fund's contracts with service providers will require that the provider perform the contract in accordance with the Act, the Securities Act of 1933 (15 U.S.C. 77a), and the Securities Exchange Act of 1934 (15 U.S.C. 78a), as applicable; and

(5) the fund must file, and periodically revise, a list of persons affiliated with the fund or its adviser or underwriter.

As noted above, under section 7(d) of the Act the Commission may issue an

order permitting a foreign fund's registration only if the Commission finds that ''by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of the (Act).'' The information collection requirements are necessary to ensure that the substantive provisions of the Act may be enforced as a matter of contract right in the United States or Canada by the fund's shareholders or by the Commission.

Rule 7d–1 also contains certain information collection requirements that are associated with other provisions of the Act. These requirements are applicable to all registered funds and are outside the scope of this request.

The Commission believes that one foreign fund is registered under rule 7d–1 and currently active. Apart from requirements under the Act applicable to all registered funds, rule 7d–1 imposes ongoing burdens to maintain records in the United States, and to update, as necessary, certain fund agreements, designations of the fund's custodian as service agent, and the fund's list of affiliated persons. The Commission staff estimates that each year under the rule, the active registrant and its directors, officers, and service providers engage in the following collections of information and associated burden hours:

For the fund and its investment adviser to maintain records in the United States: [1]

0 hours: 0 minutes of compliance clerk time.

• For the fund to update its list of affiliated persons:

2 hours: 2 hours of support staff time.

• For new officers, directors, and service providers to enter into and file agreements requiring them to comply with the fund's charter and bylaws, the Act, and certain other obligations:

0.5 hours: 7.5 minutes of director time; 2.5 minutes of officer time; 20 minutes of support staff time.

• For new officers, directors, and investment advisers who are not residents of the United States to file irrevocable designation of the fund's custodian as agent for process of service:

0.25 hours: 5 minutes of director time; 10 minutes of support staff time.

Based on the estimates above, the Commission estimates that the total annual burden of the rule's paperwork requirements is 2.75 hours.[2] If a fund were to file an application under rule 7d–1 to register under the Act, the Commission estimates that the rule would impose initial information collection burdens (for filing an application, preparing the specified charter, bylaw, and contract provisions, designations of agents for service of process, and an initial list of affiliated persons, and establishing a means of keeping records in the United States) of approximately 90 hours for the fund and its associated persons. The Commission is not including these hours in its calculation of the annual burden because no fund has applied to register under the Act pursuant to rule 7d–1 in the last three years.

As noted above, after registration, a Canadian fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. For purposes of this PRA we are assuming one registrant has filed a substantive supplemental application within the past three years. The Commission staff estimates that the rule would impose an additional information collection burden of 5 hours on a fund to comply with the Commission's application process. The staff understands that funds also obtain assistance from outside counsel to comply with the Commission's application process and the cost burden of using outside counsel is discussed below.

Therefore, the Commission staff estimates the aggregate annual burden hours of the collection of information associated with rule 7d–1 is 13.25 hours.[3] Amortized over three years we estimate an hourly annual burden of 4.42 hours.[4] These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of Commission rules.

If a Canadian or other foreign fund in the future applied to register under the Act under rule 7d–1, the fund initially might have capital and start-up costs (not including hourly burdens) of an estimated $20,000 to comply with the rule's initial information collection requirements. These costs include legal and processing-related fees for preparing the required documentation (such as the application, charter, bylaw, and contract provisions, designations for service of process, and the list of affiliated persons). Other related costs would include fees for establishing arrangements with a custodian or other agent for maintaining records in the United States, copying and transportation costs for records, and the costs of purchasing or leasing computer equipment, software, or other record storage equipment for records maintained in electronic or photographic form.

The Commission expects that a fund and its sponsors would incur these costs immediately, and that the annualized cost of the expenditures would be $20,000 in the first year. Some expenditures might involve capital improvements, such as computer equipment, having expected useful lives for which annualized figures beyond the first year would be meaningful.

These annualized figures are not provided, however, because, in most cases, the expenses would be incurred immediately rather than on an annual basis. The Commission is not including these costs in its calculation of the annualized capital/start-up costs because no fund has applied under rule 7d–1 to register under the Act pursuant to rule 7d–1 in the last three years.

As indicated above, a Canadian or fund may file a supplemental application seeking special relief designed for the fund's particular circumstances. Rule 7d–1 does not mandate these applications. The active registrant filed a substantive supplemental application in the past three years. As noted above, the staff understands that funds generally use outside counsel to prepare the application. The staff estimates that outside counsel spends 10 hours preparing a supplemental application, including 8 hours by an associate and 2 hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as $531 per hour, based on information received from funds, intermediaries and their counsel. The Commission staff therefore estimates that the fund would obtain assistance

[1] The rule requires an applicant and its investment adviser to maintain records in the United States (which, without the requirement, might be maintained in Canada or another foreign jurisdiction), which facilitates routine inspections and any special investigations of the fund by Commission staff. The registrant and its investment adviser, however, already maintain the registrant's records in the United States and in no other jurisdiction. Therefore, maintenance of the registrant's records in the United States does not impose an additional burden beyond that imposed by other provisions of the Act. Those provisions are applicable to all registered funds and the compliance burden of those provisions is outside the scope of this request.

[2] This estimate is based on the following calculation: (0 + 2 + 0.5 + 0.25) = 2.75 hours.

[3] This estimate is based on the following calculation: 2.75 hours year 1 + 5 hours year 1 + 2.75 hours year 2 + 2.75 hours year 3 = 13.25 hours.

[4] The estimates are based on the following calculations: 4.42 hours = 13.25 cumulative burden hours/3 years.

from outside counsel at a cost of $5,130.[5]

The estimates of average burden hours and average cost burdens are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study. Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. 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 control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by August 29, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 23, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13808 Filed 6–28–22; 8:45 am]

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[5] This estimate is based on the following calculation: 10 hours × $531 per hour = $5,130.

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–561, OMB Control No. 3235–0747]

Proposed Collection; Comment Request; Extension: Rule 607

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation E (17 CFR 230.601 to 230.610a) exempts from registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') securities issued by a small business investment company (''SBIC'') which is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') or a closed-end investment company that has elected to be regulated as a business development company (''BDC'') under the Investment Company Act, so long as the aggregate offering price of all securities of the issuer that may be sold within a 12-month period does not exceed $5,000,000 and certain other conditions are met. Rule 607 under Regulation E (17 CFR 230.607) entitled, ''Sales material to be filed,'' requires sales material used in connection with securities offerings under Regulation E to be filed with the Commission at least five days (excluding weekends and holidays) prior to its use.[1] Commission staff reviews sales material filed under rule 607 for materially misleading statements and omissions. The requirements of rule 607 are designed to protect investors from the use of false or misleading sales material in connection with Regulation E offerings.

Respondents to this collection of information include SBICs and BDCs making an offering of securities pursuant to Regulation E. No filings were submitted to the Commission under rule 607 in 2019, 2020, or 2021. Accordingly, we estimate no annual responses. Each respondent's reporting burden under rule 607 relates to the internal burden associated with filing its sales material electronically, which is negligible. For administrative purposes, we estimate an annual burden of one hour. The estimate of average burden hours is made solely for purposes of the Paperwork Reduction Act and is not derived from a quantitative, comprehensive, or even representative survey or study of the burdens associated with Commission rules and forms.

[1] Sales material includes advertisements, articles or other communications to be published in newspapers, magazines, or other periodicals; radio and television scripts; and letters, circulars or other written communications proposed to be sent given or otherwise communicated to more than ten persons.

The requirements of this collection of information are mandatory. Responses will not be kept confidential. 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 control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by August 29, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street, NE Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 23, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13809 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–42, OMB Control No. 3235–0047]

Proposed Collection; Comment Request; Extension: Rule 204–3

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection

of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Rule 204–3 (17 CFR 275.204–3) under the Investment Advisers Act of 1940.'' (15 U.S.C. 80b). Rule 204–3, the ''brochure rule,'' requires advisers to deliver their brochures and brochure supplements at the start of an advisory relationship and to deliver annually thereafter the full updated brochure or a summary of material changes to their brochure. The rule also requires that advisers deliver an amended brochure or brochure supplement (or just a statement describing the amendment) to clients only when disciplinary information in the brochure or supplement becomes materially inaccurate. The brochure assists the client in determining whether to retain, or continue employing, the adviser. The information that Rule 204–3 requires to be contained in the brochure is also used by the Commission and staff in its enforcement, regulatory, and examination programs. This collection of information is found at 17 CFR 275.204–3 and is mandatory.

The respondents to this information collection are certain investment advisers registered with the Commission. Our latest data indicate that there were 14,777 advisers registered with the Commission as of March 31, 2022. The Commission has estimated that compliance with Rule 204–3 imposes a burden of approximately 3.9 hours annually based on advisers having a median of 92 clients each. Based on this figure, the Commission estimates a total annual burden of 57,589 hours for this collection of information.

Rule 204–3 does not require recordkeeping or record retention. The collection of information requirements under the rule are mandatory. The information collected pursuant to the rule is not filed with the Commission, but rather takes the form of disclosures to clients and prospective clients. Accordingly, these disclosures are not kept confidential. 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 control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by August 29, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 23, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13810 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 95145; File No. SR–MSRB–2022–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change Consisting of Amendments to MSRB Rule G–19 Regarding Regulation Best Interest for Certain Municipal Securities Activities of Bank Dealers and MSRB Rule G–48 Regarding Quantitative Suitability for Institutional Sophisticated Municipal Market Professionals

June 23, 2022.

I. Introduction

On April 29, 2022, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to consisting of amendments to: (i) MSRB Rule G–19, on suitability of recommendations and transactions, and (ii) MSRB Rule G–48, on transactions with sophisticated municipal market professionals (''SMMPs'') [3] (collectively, the ''proposed rule change'').

The proposed rule change would align MSRB Rule G–19 to the Commission's Rule 15*l*–1 under the Exchange Act (''Regulation Best Interest'') [4] for certain municipal securities activities of bank dealers [5] (the ''Best Interest Amendments''). In addition, the proposed rule change would amend MSRB Rule G–48 to modify the quantitative suitability obligation of brokers, dealers, and municipal securities dealers (collectively, ''dealers'' and, individually, each a ''dealer'') by eliminating the quantitative suitability obligation for recommendations in circumstances where a dealer does not have actual control or de facto control over the account of an Institutional SMMP (the ''Institutional SMMP Amendment'').[6]

The proposed rule change was published for comment in the **Federal Register** on May 10, 2022.[7] The public comment period closed on May 31, 2022, and no comment letters were received on the proposed rule change. As described further below, the Commission is approving the proposed rule change.

II. Description of Proposed Rule Change

As described further below, the proposed rule change consists of the Best Interest Amendments and the Institutional SMMP Amendment.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Under MSRB Rule D–15, on the term sophisticated municipal market professional, ''[t]he term 'sophisticated municipal market professional' or 'SMMP' is generally defined by three essential requirements: the nature of the customer; a determination of sophistication by the broker, dealer or municipal securities dealer []; and an affirmation by the customer; as specified [therein].'' *See* MSRB Rule D–15.

[4] 17 CFR 240.15*l*–1; *see also* Exchange Act Release No. 86031 (June 5, 2019), 84 FR 33318 (July 12, 2019) (File No. S7–07–18) (''Regulation Best Interest Adopting Release'').

[5] Consistent with the definition set forth in MSRB Rule D–8, the term ''bank dealer'' as used herein means ''a municipal securities dealer which is a bank or a separately identifiable department or division of a bank as defined in rule G–1 of the Board.'' Such references in the proposed rule change shall be collectively to ''Bank Dealers'' or individually to a ''Bank Dealer.'' *See also* MSRB Rule D–11, which defines the term associated persons (indicating that the term bank dealer as used in MSRB rules shall generally refer to the associated persons of a bank dealer unless the context otherwise requires or a rule of the Board otherwise specifically provides).

[6] The term ''Institutional SMMP'' is used herein as defined below under the discussion *Background and Purpose of the Institutional SMMP Amendment.* The Institutional SMMP definition used herein would not encompass any natural person customers who qualify as ''retail customers'' under the definitions of Regulation Best Interest, such as certain natural persons with significant total assets, who might otherwise meet the status requirements of an SMMP.

[7] Exchange Act Release No. 88829 (May 4, 2022) (the ''Notice''), 87 FR 28084 (May 12, 2020) (MSRB–2022–02).

A. Background and Purpose of the Best Interest Amendments

The MSRB stated that the proposed Best Interest Amendments would amend MSRB Rule G–19 to extend the obligations of Regulation Best Interest to Bank Dealers when making recommendations to retail customers of municipal securities transactions or investment strategies involving municipal securities (collectively, ''retail municipal recommendations'' and, individually, each a ''retail municipal recommendation'').[8] The MSRB also stated that the Best Interest Amendments are intended to improve investor protection in the municipal securities market by ensuring that retail customers are afforded the investor protections provided by Regulation Best Interest, regardless of whether a retail municipal recommendation received by a retail customer is made by a Broker-Dealer[9] or a Bank Dealer.

B. Background on the Commission's Regulation Best Interest

On June 5, 2019, the SEC adopted Regulation Best Interest, which established a new standard of conduct for broker-dealers, and the natural persons who are associated persons of such broker-dealers (collectively, ''Broker-Dealers'' and, individually, each a ''Broker-Dealer''), when making a recommendation to a retail customer of any securities transaction or investment strategy involving securities.[10] As defined in Regulation Best Interest, the term ''retail customer'' generally refers to any natural person, or the legal representative of such person, who receives and uses a recommendation from a Broker-Dealer primarily for personal, family, or household purposes.[11] Regulation Best Interest enhanced the Broker-Dealer standard of conduct beyond previously existing suitability obligations, such as those then required by MSRB Rule G–19, on suitability, for such retail customers and aligned the applicable standard of conduct with the reasonable expectations of retail customers.[12]

In this regard, Regulation Best Interest imposes the following ''general obligation'' on Broker-Dealers, stating a broker, dealer, or a natural person who is an associated person of a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, shall act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or natural person who is an associated person of a broker or dealer making the recommendation ahead of the interest of the retail customer.[13]

In response to the Commission's adoption of Regulation Best Interest, on May 1, 2020, the MSRB filed a proposed rule change with the Commission to harmonize Regulation Best Interest with certain MSRB rules applicable to related municipal securities activities of Broker-Dealers.[14] The Commission approved these proposed amendments on June 25, 2020.[15]

C. Discussion of Regulation Best Interest's Current Applicability to Bank Dealers

By its terms, Regulation Best Interest does not apply to retail municipal recommendations made by Bank Dealers, because Bank Dealers in exempted securities have an exception from Broker-Dealer status under the Act and Regulation Best Interest applies only to Broker-Dealers.[16] As a result, Bank Dealers presently are not required to comply with Regulation Best Interest and, therefore, retail investors may not benefit from its enhanced standard of conduct when receiving recommendations from Bank Dealers.[17]

D. Application of Regulation Best Interest to Bank Dealers

The MSRB stated that the proposed Best Interest Amendments would amend MSRB Rule G–19 to require a Bank Dealer to comply with Regulation Best Interest to the same extent as if it were a Broker-Dealer when making a retail municipal recommendation.[18] Consequently, a Bank Dealer would have to act in the best interest of the retail customer at the time a retail municipal recommendation is made, without placing the financial or other interests of the Bank Dealer ahead of the interest of the retail customer.[19] Correspondingly, the Bank Dealer would have to comply with the Commission's component obligations of Regulation Best Interest to the same extent as if it were a Broker-Dealer, including Regulation Best Interest's Disclosure Obligation,[20] Care Obligation,[21] Conflict-of-Interest Obligation,[22] and Compliance Obligation.[23]

Under the proposed Best Interest Amendments, the component obligations of Regulation Best Interest would apply to those municipal securities activities associated with a retail municipal recommendation within the overall context of a Bank Dealer business model. The MSRB stated that it believes that any SEC guidance with respect to the understanding and application of Regulation Best Interest would be equally applicable to Bank Dealers.[24]

[8] Notice, 87 FR at 28084.

[9] The term ''Broker-Dealer'' is used here as defined below under the following discussion *Background on the Commission's Regulation Best Interest.*

[10] *See, generally,* Regulation Best Interest Adopting Release.

[11] 17 CFR 240.15*l*–1(b)(1) (''Retail customer means a natural person, or the legal representative of such natural person, who (i) [r]eceives a recommendation of any securities transaction or investment strategy involving securities from a broker, dealer, or a natural person who is an associated person of a broker or dealer; and (ii) [u]ses the recommendation primarily for personal, family, or household purposes.'') For discussion of what it means for a retail customer to ''use'' a recommendation, *see* the SEC staff's *Frequently Asked Questions on Regulation Best Interest,* available at *https://www.sec.gov/tm/faq-regulation-best-interest.*

[12] Regulation Best Interest Adopting Release, 84 FR at 33319.

[13] 17 CFR 240.15*l*–1(a)(1). Regulation Best Interest provides that this general obligation is satisfied only if a Broker-Dealer complies with four component obligations: (i) an obligation to make certain prescribed disclosures, before or at the time of the recommendation, about the recommendation and the relationship between the retail customer and the Broker-Dealer (the ''Disclosure Obligation'') (*see* 17 CFR 240.15*l*–1(a)(2)(i)); (ii) an obligation to exercise reasonable diligence, care, and skill in making a recommendation (the ''Care Obligation'') (*see* 17 CFR 240.15*l*–1(a)(2)(ii)); (iii) an obligation to establish, maintain, and enforce written policies and procedures reasonably designed to address conflicts of interest (the ''Conflict-of-Interest Obligation'') (*see* 17 CFR 240.15*l*–1(a)(2)(iii)); and (iv) an obligation to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest (the ''Compliance Obligation'') (*see* 17 CFR 240.15*l*-1(a)(2)(iv)).

[14] *See* Exchange Act Release No. 88828 (May 6, 2020), 85 FR 28082, File No. SR–MSRB–2020–02 (hereinafter, the ''Broker-Dealer Harmonization Filing''), available at *https://msrb.org/-/media/Files/SEC-Filings/2020/MSRB-2020-02-Notice.ashx*?.

[15] *See* Exchange Act Release No. 89154 (June 25, 2020), 85 FR 39613 (July 1, 2020), File No. SR–MSRB–2020–02, available at *https://msrb.org/-/media/Files/SEC-Filings/2020/MSRB-2020-02-Federal-Register.ashx*?.

[16] Notice, 87 FR at 28085.

[17] *See* Broker-Dealer Harmonization Filing, 85 FR at 28083, n. 5 (discussing how Bank Dealers are not subject to Regulation Best Interest by the terms of the SEC's rules and indicating the Board's intent to issue a request for comment regarding extending the requirements of Regulation Best Interest to Bank Dealers). Notably, all Bank Dealer recommendations, including retail municipal recommendations, are presently subject to the longstanding suitability obligations provided by MSRB rules, including MSRB Rule G–19 and, when applicable, MSRB Rule G–48. Notice, 87 FR at 28085, n. 13.

[18] Notice, 87 FR at 28085.

[19] *Id.*

[20] 17 CFR 240.15*l*–1(a)(2)(i).

[21] 17 CFR 240.15*l*–1(a)(2)(ii).

[22] 17 CFR 240.15*l*–1(a)(2)(iii).

[23] 17 CFR 240.15*l*–1(a)(2)(iv).

[24] Notice, 87 FR at 28085.

E. Application of the Disclosure Obligation to Bank Dealers

Consistent with Regulation Best Interest's Disclosure Obligation, the proposed Best Interest Amendments would require a Bank Dealer, prior to or at the time of the retail municipal recommendation, to provide to its retail customer, in writing, full and fair disclosure of: (a) all material facts relating to the scope and terms of the relationship with the retail customer, including: (i) that the Bank Dealer is acting as a municipal securities dealer with respect to the retail municipal recommendation; (ii) the material fees and costs that apply to the retail customer's transactions, holdings, and accounts; and (iii) the type and scope of services provided to the retail customer, including any material limitations on the securities or investment strategies involving securities that may be recommended to the retail customer; [25] and (b) all material facts relating to conflicts of interest that are associated with the retail municipal recommendation.[26]

F. Application of the Care Obligation to Bank Dealers

Consistent with Regulation Best Interest's Care Obligation, the proposed Best Interest Amendments would require a Bank Dealer to exercise reasonable diligence, care, and skill to: (a) understand the potential risks, rewards, and costs associated with any retail municipal recommendation, and have a reasonable basis to believe that a retail municipal recommendation could be in the best interest of at least some retail customers; (b) have a reasonable basis to believe that the retail municipal recommendation is in the best interest of a particular retail customer, based on that retail customer's investment profile and the potential risks, rewards, and costs associated with the recommendation, and does not place the financial or other interest of the Bank Dealer ahead of the interest of the retail customer; (c) have a reasonable basis to believe that a series of retail municipal recommendations, even if in the retail customer's best interest when viewed in isolation, is not excessive and is in the retail customer's best interest when taken together in light of the retail customer's investment profile and does not place the financial or other interest of the Bank Dealer ahead of the interest of the retail customer.[27]

G. Application of the Conflict-of-Interest Obligation to Bank Dealers

Consistent with Regulation Best Interest's Conflict-of-Interest Obligation, the proposed Best Interest Amendments would require a Bank Dealer to establish, maintain, and enforce written policies and procedures reasonably designed to: (a) identify and at a minimum disclose, in accordance with its Disclosure Obligation, or eliminate, all conflicts of interest associated with such retail municipal recommendations; (b) identify and mitigate any conflicts of interest associated with such retail municipal recommendations that create an incentive for a natural person who is an associated person of the Bank Dealer to place the interests of the Bank Dealer or such associated person ahead of the interest of the retail customer; (c)(i) identify and disclose any material limitations placed on the securities or investment strategies involving securities that may be recommended to a retail customer and any conflicts of interest associated with such limitations, in accordance with its Disclosure Obligation, and (ii) prevent such limitations and associated conflicts of interest from causing the Bank Dealer to make retail municipal recommendations that place the interest of the Bank Dealer ahead of the interest of the retail customer; and (d) identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific municipal securities or specific types of municipal securities within a limited period of time.[28]

H. Application of the Compliance Obligation to Bank Dealers

Consistent with Regulation Best Interest's Compliance Obligation, the proposed Best Interest Amendments would require a Bank Dealer to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Regulation Best Interest.[29]

I. Purpose and Intent of the Best Interest Amendments

The MSRB stated that it proposed the Best Interest Amendments to MSRB Rule G–19 for purposes of enhancing the standard of investor protection in the municipal securities market and enhancing fairness and efficiency in the municipal securities market by promoting regulatory parity among Bank Dealers and Broker-Dealers.[30] Specific to enhancing the standard of investor protection, the MSRB noted that it believes that all retail customers receiving a retail municipal recommendation should benefit from the enhanced investor protections afforded by Regulation Best Interest, regardless of whether such a retail customer is a customer of a Broker-Dealer or a Bank Dealer. [31] Currently, retail customers of Bank Dealers are not afforded the protections of Regulation Best Interest when receiving a retail municipal recommendation from a Bank Dealer.[32] The MSRB also stated that, as the proposed Best Interest Amendments would require a Bank Dealer to comply with the enhanced standard of conduct required by Regulation Best Interest, the MSRB believes that the Best Interest Amendments would improve overall investor protection in the municipal securities market.[33]

Specific to promoting regulatory parity, the MSRB stated that it believed that the proposed Best Interest Amendments would establish a uniform regulatory standard in the municipal securities market by requiring the same standard of conduct for Bank Dealers and Broker-Dealers when making retail municipal recommendations.[34] The MSRB noted that this uniform standard would enhance the fairness and efficiency of the municipal securities market by ensuring Bank Dealers have regulatory obligations and burdens when engaging in retail municipal recommendations that are equivalent to the regulatory obligations and burdens of Broker-Dealers when engaging in the same municipal securities activities.[35] The MSRB stated that this uniformity would better ensure that Bank Dealers do not have a competitive advantage in the municipal securities market by operation of a less burdensome regulatory standard of conduct and, thereby, mitigate the potential for regulatory arbitrage.[36]

[25] The MSRB offered the example that, if the applicable legal charter of a Bank Dealer only permits a Bank Dealer to conduct municipal securities activities or, in fact, a Bank Dealer's business model is limited to municipal securities activities, then the Bank Dealer generally would be required to accurately disclose the fact that it only engages in transactions involving municipal securities and, therefore, will only make recommendations to a retail customer regarding transactions involving municipal securities. Notice, 87 FR at 28085, n. 18.

[26] Notice, 87 FR at 28085.

[27] Notice, 87 FR at 28086.

[28] *Id.*

[29] *Id.*

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.*

J. Background and Purpose of the Institutional SMMP Amendment

The MSRB stated that the proposed Institutional SMMP Amendment would amend MSRB Rule G–48 to modify the current obligation to perform a quantitative suitability analysis for recommendations where the dealer does not have actual control or de facto control over the account of an SMMP who is not a retail customer[37] under Regulation Best Interest (collectively, ''Institutional SMMPs'' and, individually, each an ''Institutional SMMP'').[38]

As is the case with the reduced customer-specific suitability obligations currently afforded to Institutional SMMPs under MSRB Rule G–48(c), the MSRB stated that it believes that dealers transacting with Institutional SMMPs should have similarly reduced quantitative-suitability obligations in instances where the dealer does not have actual control or de facto control over the account of an Institutional SMMP.[39] The MSRB noted that this modification would effectively revert the quantitative suitability standard for Institutional SMMPs back to the previously existing standard that was in place under MSRB rules prior to June 30, 2020.[40] The MSRB stated that the proposed Institutional SMMP Amendment is intended to improve the efficiency of the municipal securities market without eroding investor protection by aligning the compliance burden associated with certain recommendations made by dealers to the reasonable expectations and capabilities of Institutional SMMPs—who by their nature are more sophisticated, non-natural-person customers and must affirmatively indicate their capacity to (i) exercise independent judgment and (ii) access material information.[41]

K. Background on MSRB Rule G–19's Quantitative Suitability Requirements

MSRB Rule G–19 sets the MSRB's baseline investor protection standards regarding the suitability of recommendations made by dealers to their customers of purchases, sales, or exchanges of municipal securities that are not subject to Regulation Best Interest.[42] Among other requirements, Supplementary Material .05 of MSRB Rule G–19 enumerates three components of a dealer's suitability analysis when recommending a transaction or investment strategy involving a municipal security or municipal securities to a non-retail customer (*i.e.,* a recommendation that is not subject to Regulation Best Interest).[43] As further defined in the text of the rule, MSRB Rule G–19 provides that a dealer's suitability obligation is composed of (i) reasonable-basis suitability, (ii) customer-specific suitability, and (iii) quantitative suitability.[44] Most relevant to the proposed Institutional SMMP Amendment of this proposed rule change, quantitative suitability requires a dealer to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile, as delineated in MSRB Rule G–19.[45] No single test defines excessive activity, but factors such as the turnover rate, the cost-equity ratio, and the use of in-and-out trading in a customer's account may provide a basis for a finding that a dealer has violated the quantitative suitability obligation.[46]

Pursuant to the amendments effectuated by the Broker-Dealer Harmonization Filing, discussed above and effective as of June 30, 2020, the quantitative suitability obligation of MSRB Rule G–19 no longer incorporates an element of control in relation to a customer's account.[47] As a result, dealers are currently obligated to conduct a quantitative suitability analysis under MSRB Rule G–19 when making recommendations to Institutional SMMPs, even in instances where the dealer does not have actual control or de facto control over the account.[48] The obligation applies notwithstanding the fact that Institutional SMMPs self-identify under MSRB Rule G–48 and MSRB Rule D–15 as having the willingness and requisite investment sophistication to, for example, independently evaluate the recommendations of a dealer and the quality of a dealer's execution, as further discussed below.[49]

L. Background on MSRB Rule G–48 and Modified Regulatory Obligations

MSRB Rule G–48 provides for modified dealer regulatory obligations under MSRB rules when dealing with certain customers that meet the definition of a Sophisticated Municipal Market Participant (*i.e.,* an SMMP).[50] More specifically, when transacting with an SMMP customer, Rule G–48 modifies aspects of a dealer's baseline regulatory obligations in terms of: (i) time of trade disclosures,[51] (ii) transaction pricing,[52] (iii) bona fide

[37] *See supra* note 11 for the applicable definition of ''retail customer'' and related citation. Any customer meeting such definition of retail customer pursuant to Regulation Best Interest would not be considered an Institutional SMMP for the purposes of the proposed Institutional SMMP Amendment and its modification to MSRB Rule G–48. For purposes of MSRB rules, such a customer meeting the definition of a ''retail customer'' would receive the protections afforded by Regulation Best Interest.

[38] Notice, 87 FR at 28086.

[39] *Id.*

[40] *Id.; see also* Broker-Dealer Harmonization Filing, 85 FR at 28082, n. 4. The MSRB notes that it has had a long held prohibition against ''churning,'' and the MSRB formally ''recast'' this prohibition as quantitative suitability through an amendment to MSRB Rule G–19 approved by the SEC in 2014. *See also* Exchange Act Release No. 71665 (Mar. 7, 2014), 79 FR 2432 (Mar. 13, 2014), File No. SR–MSRB–2013–07 (discussing the then-existing MSRB prohibition on churning and a proposed rule change to recast this prohibition using the phrase ''quantitative suitability''), available at *http://www.msrb.org/~/media/Files/SEC-Filings/2013/MSRB-2013-07-Fed-Reg-Approval.ashx?la=en&hash=AEDA0B5509630E25473E9F6F3A3F9C34.*

[41] Notice, 87 FR at 28086–87. *See also* MSRB Rule G–48(c).

[42] MSRB Rule G–19.

[43] *See* the Broker-Dealer Harmonization Filing, 85 FR at 28084. The Broker-Dealer Harmonization Filing amended MSRB Rule G–19 to provide that the rule does not apply to recommendations subject to Regulation Best Interest. Notice, 87 FR at 28087, n. 23.

[44] Notice, 87 FR at 28087.

[45] MSRB Rule G–19, Supplementary Material .05(c).

[46] *Id.*

[47] Stated differently, as of June 30, 2020, if the obligations of MSRB Rule G–19 attach to a dealer's recommendation, then the investor protections regarding quantitative suitability apply regardless of whether the dealer making the recommendation exercises any actual control or de facto control over the customer's account. Notice, 87 FR at 28087, n. 26. The Broker-Dealer Harmonization Filing amended this language of Supplementary Material .05(c) to eliminate such control requirements, effectively extending the requirements of quantitative suitability to any customer account. *See* Broker-Dealer Harmonization Filing, 85 FR at 28084. June 30, 2020 was the compliance date for the amendments enacted by the Broker-Dealer Harmonization Filing. *See* Broker-Dealer Harmonization Filing, 85 FR at 28082, n. 4. Pursuant to the Broker-Dealer Harmonization Filing, the MSRB also notes that this quantitative suitability obligation applies uniformly to any dealer (*i.e.,* the same regulatory obligations apply to both Broker-Dealers and Bank Dealers). Notice, 87 FR at 28087, n. 26.

[48] Notice, 87 FR at 28087.

[49] *Id. See* MSRB Rule D–15(c) (requiring an Institutional SMMP to ''affirmatively indicate,'' among other things, that it is exercising independent judgment in evaluating (A) the recommendations of the dealer and (B) the quality of execution of the customer's transactions by the dealer).

[50] MSRB Rule G–48.

[51] MSRB Rule G–48(a) (''The broker, dealer, or municipal securities dealer shall not have any obligation under Rule G–47 to ensure disclosure of material information that is reasonably accessible to the market.'')

[52] MSRB Rule G–48(b).

quotations,[53] (iv) best execution,[54] and (vi) suitability.[55] The modified regulatory obligations afforded to SMMPs under MSRB rules are intended to account for the distinct capabilities of certain sophisticated, non-retail customers and the varied types of dealer-customer relationships occurring in the municipal securities market.[56]

Most relevant to the proposed Institutional SMMP Amendment, Rule G–48(c) currently modifies the suitability requirements of MSRB Rule G–19 by eliminating the requirement for dealers to conduct a customer-specific suitability analysis for recommendations made to an Institutional SMMP.[57] The operative provision of MSRB Rule G–48 provides that, ''[w]hen making a recommendation subject to Rule G–19 and not Regulation Best Interest, Rule 15l–1 under the Act, a broker, dealer, or municipal securities dealer shall not have any obligation under Rule G–19 to perform a customer-specific suitability analysis.'' [58] This relaxed customer-specific suitability obligation is generally aligned with the ''independent judgment'' affirmations a customer seeking SMMP status makes under MSRB Rule D–15. The proposed Institutional SMMP Amendment would likewise relax the quantitative suitability obligation for similar reasons, as further described in the following sections.[59]

M. Background on MSRB Rule D–15 and SMMP Affirmation Requirements

MSRB Rule G–48 incorporates the definition of SMMP under MSRB Rule D–15 for purposes of defining which customers do (or do not) qualify as an SMMP for purposes of Rule G–48 and, therefore, MSRB Rule D–15 establishes the scope of potential customers who might qualify for MSRB Rule G–48's modified obligations.[60] The SMMP definition in MSRB Rule D–15 enumerates three components, which separately address: (i) the minimum qualifying traits and characteristics of an SMMP customer; [61] (ii) that a dealer must develop a reasonable basis for determining whether a customer has the requisite level of expertise and sophistication to be deemed an SMMP customer (the ''SMMP Reasonable Basis Determination''); [62] and (iii) the affirmations that a customer must communicate to the dealer regarding its own investment judgment and access to information in order to be appropriately deemed an SMMP customer (the ''SMMP Customer Affirmations'').[63]

With respect to the SMMP Customer Affirmations, MSRB Rule D–15(c) provides that the customer must affirmatively indicate to the dealer that (i) it is exercising independent judgment in evaluating the recommendations of the dealer; the quality of execution of the customer's transactions by the dealer; and the transaction price for non-recommended secondary market agency transactions as to which the dealer's services have been explicitly limited to providing anonymity, communication, order matching and/or clearance functions and the dealer does not exercise discretion as to how or when the transactions are executed; [64] and (ii) it has timely access to material information that is available publicly through established industry sources as defined in MSRB Rule G–47(b)(i) and MSRB Rule G–47(b)(ii) (*i.e.,* ''material information'' from ''established industry sources,'' such as EMMA website information and rating agency reports).[65]

The MSRB noted that an institutional customer who self-identifies as an SMMP has freely affirmed to a dealer its willingness to be treated as a sophisticated customer with the capacity and resources to exercise its own independent judgment.[66] The MSRB stated that, in this way, the SMMP Customer Affirmations are designed to ensure that any customer treated as an SMMP has affirmatively and knowingly provided the grounds on which a dealer may afford such SMMP customer lesser protections under certain MSRB rules.[67] As an additional investor protection safeguard beyond the requirement for SMMP Customer Affirmations, the SMMP Reasonable Basis Determination also requires a dealer to have a reasonable basis to believe that an SMMP customer is capable of evaluating investment risks and market value independently, both in general and with regard to particular transactions and investment strategies in municipal securities.[68] The MSRB noted that, in this way, the SMMP Reasonable Basis Determination further ensures that an Institutional SMMP does in fact possess a more sophisticated understanding of the municipal securities market.[69] The MSRB noted that the proposed Institutional SMMP Amendment would not alter the SMMP Customer Affirmations, the SMMP Reasonable Basis Determination, nor any of the other definitional elements of MSRB Rule D–15 that must be satisfied for a customer to qualify as an SMMP.[70]

[53] MSRB Rule G–48(d) (''The broker, dealer, or municipal securities dealer disseminating an SMMP's 'quotation' as defined in Rule G–13, which is labeled as such, shall apply the same standards regarding quotations described in Rule G–13(b) as if such quotations were made by another broker, dealer, or municipal securities dealer.'')

[54] MSRB Rule G–48(e) (''The broker, dealer, or municipal securities dealer shall not have any obligation under Rule G–18 to use reasonable diligence to ascertain the best market for the subject security and buy or sell in that market so that the resultant price to the SMMP is as favorable as possible under prevailing market conditions.'')

[55] MSRB Rule G–48(c).

[56] *See, e.g.,* Exchange Act Release No. 67064 (May 25, 2012), 77 FR 32704 (June 1, 2012), File No. SR–MSRB–2012–05 (May 25, 2012) (approving an MSRB proposed rule change to relax certain qualifications for a dealer to afford a customer SMMP status in light of market developments regarding the increased availability of municipal securities market information and the desire of certain institutional customers to access alternative trading systems).

[57] *Id.* The amendments to MSRB Rule G–48 enacted by the Broker-Dealer Harmonization Filing carved out recommendations to customers that are subject to Regulation Best Interest from the rule's modified standards. *See* Broker-Dealer Harmonization Filing, 85 FR at 28084–85.

[58] MSRB Rule G–48(c).

[59] *See* Exchange Act Release No. 71665 (Mar. 7, 2014), 79 FR 14321 (Mar. 13, 2014), File No. SR–MSRB–2013–07 (Sept. 17, 2013) (codifying the relaxed customer-specific suitability obligation for recommendations made to SMMPs in MSRB Rule G–48 and the actual control or de facto control requirement, thereafter eliminated in 2020 as described herein, for the applicability of quantitative suitability to recommendations made to customers in MSRB Rule G–19).

[60] MSRB Rule G–48.

[61] MSRB Rule D–15(a) (a customer is only eligible to be treated as an SMMP if the customer is: (i) a bank, savings and loan association, insurance company, or registered investment company, (ii) a registered investment advisor, or (iii) a person or entity with total assets of at least $50 million).

[62] MSRB Rule D–15(b) (a customer is only eligible to be treated as an SMMP if the dealer has developed a reasonable basis to believe that the customer is capable of evaluating investment risks and market value independently, both in general and with regard to particular transactions and investment strategies in municipal securities. In addition, Supplementary Material .01 of MSRB Rule D–15 states that, as part of the reasonable-basis analysis, the dealer should consider the amount and type of municipal securities owned or under management by the customer).

[63] MSRB Rule D–15(c).

[64] *See* MSRB Rule D–15(c)(1) (''The customer must affirmatively indicate that it: (1) is exercising independent judgment in evaluating: (A) the recommendations of the dealer; (B) the quality of execution of the customer's transactions by the dealer; and (C) the transaction price for non-recommended secondary market agency transactions as to which (i) the dealer's services have been explicitly limited to providing anonymity, communication, order matching and/or clearance functions and (ii) the dealer does not exercise discretion as to how or when the transactions are executed . . .'').

[65] *See* MSRB Rule D–15(c)(2) (''The customer must affirmatively indicate that it . . . (2) has timely access to material information that is available publicly through established industry sources as defined in Rule G–47(b)(i) and (ii).'')

[66] Notice, 87 FR at 28088.

[67] *Id.*

[68] *See* MSRB Rule D–15(b) and Rule D–15 Supplementary Material .01.

[69] Notice, 87 FR at 28088

[70] *Id.*

N. Purpose and Intent of the Institutional SMMP Amendment to MSRB Rule G–48

The MSRB stated that the proposed Institutional SMMP Amendment would amend MSRB Rule G–48 to modify the quantitative suitability obligations of dealers when effecting transactions for their Institutional SMMPs.[71] The proposed Institutional SMMP Amendment would require a dealer to conduct a quantitative suitability analysis only in situations where the dealer has actual control or de facto control over an Institutional SMMP's account.[72] As stated above, the proposed amendments to MSRB Rule G–48 would narrowly reinstate the scope of suitability protections afforded to Institutional SMMPs in effect prior to the amendments effectuated by the Broker-Dealer Harmonization Filing, and so should be a familiar regulatory concept to dealers and Institutional SMMPs alike.[73]

More importantly, because each Institutional SMMP must self-identify as an SMMP by making the SMMP Customer Affirmations, as well as fulfill the requirements associated with a dealer's SMMP Reasonable Basis Determination, the MSRB stated that the proposed Institutional SMMP Amendment would ease a regulatory burden on dealers that effectively replicates the sort of analysis an Institutional SMMP is willing and capable of performing itself.[74] As a result, the MSRB noted that the proposed Institutional SMMP Amendment would align the compliance burden associated with certain recommendations made by dealers to the reasonable expectations and capabilities of Institutional SMMPs.[75]

Although the MSRB noted that investor protection benefits associated with requiring dealers to perform a potentially duplicative suitability analysis can be appropriate in other circumstances,[76] the MSRB stated that the compliance burden associated with performing a quantitative suitability analysis on recommendations made to Institutional SMMPs outweighs the potential marginal investor protection benefits.[77] The MSRB noted that the proposed Institutional SMMP Amendment would promote efficiency in the municipal securities market by eliminating a regulatory burden on dealers that potentially provides a duplicative or unneeded analyses in supplement of an Institutional SMMPs' own independent and informed judgment.[78] The MSRB stated that the proposed Institutional SMMP Amendment would allow dealers to redirect the resources associated with this regulatory burden to other more productive market activities.[79]

III. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change. The Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the Commission believes that the proposed rule change is consistent with the provisions of Exchange Act Section 15B(b)(2)(C), which provides, in part, that the MSRB's rules shall 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 municipal securities and municipal financial products, and to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.[80]

A. Commission Findings for the Best Interest Amendments

The Commission finds that the proposed Best Interest Amendments are consistent with Section 15B(b)(2)(C) of the Act[81] because the amendments would: (i) prevent fraudulent and manipulative acts and practices; (ii) promote just and equitable principles of trade; (iii) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products; (iv) remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products; and (v) protect investors, municipal entities, obligated persons, and the public interest.

i. Prevent Fraudulent and Manipulative Acts and Practices

The Commission finds that the proposed Best Interest Amendments would prevent fraudulent and manipulative acts and practices by extending the enhanced standards of conduct required by Regulation Best Interest to the retail municipal recommendations of Bank Dealers. As noted by the Commission in the adopting release for Regulation Best Interest, Regulation Best Interest enhances the broker-dealer standard of conduct beyond existing suitability obligations.[82] Specifically, the proposed Best Interest Amendments would mandate Bank Dealers act in the best interest of the retail customer at the time the recommendation is made (without placing the financial or other interest of the Broker-Dealer ahead of the interest of the retail customer).[83] As such, the Commission finds that the proposed Best Interest Amendments would enhance the quality of Bank Dealer retail municipal recommendations.

The Commission further finds that the proposed Best Interest Amendments would address conflicts of interest in connection with Bank Dealer retail municipal recommendations, by establishing, maintaining, and enforcing policies and procedures reasonably designed to identify and fully and fairly disclose material facts about conflicts of interest (and in instances where it is determined that disclosure is insufficient to reasonably address the conflict, to mitigate, or in certain

[71] *Id.*

[72] Where a dealer exercises actual control or de facto control over an Institutional SMMP's account, the dealer would still be required to perform a quantitative suitability analysis in accordance with Supplementary Material .05 of MSRB Rule G–19. Relatedly, if an Institutional SMMP limitedly provides its customer affirmation on a trade-by-trade basis, then the dealer would be required to comply with all aspects of MSRB Rule G–19, including both the quantitative suitability requirement and the customer-specific suitability requirement, for those recommendations for which the Institutional SMMP did not provide the applicable customer affirmation. *See* Supplementary Material .02 of MSRB Rule D–15 (discussing trade-by-trade affirmations).

[73] Notice, 87 FR at 28088.

[74] *Id.*

[75] *Id.*

[76] Notice, 87 FR at 28088–89. For example, the MSRB believes that the obligation to perform quantitative suitability analyses under MSRB rules remains appropriate, regardless of the potential for such duplication, in circumstances of recommendations made to retail customers; non-retail, institutional customers who fail to meet the characteristics of an SMMP; and/or non-retail customers who have declined to make the affirmations necessary to be appropriately deemed an SMMP. Notice, 87 FR at 28089, n. 46.

[77] Notice, 87 FR at 28089.

[78] *Id.*

[79] *Id.*

[80] 15 U.S.C. 78*o*-4(b)(2)(C).

[81] *Id.*

[82] Regulation Best Interest Adopting Release, 84 FR at 33318.

[83] Notice, 87 FR at 28085.

instances, eliminate the conflict).[84] Therefore, the Commission finds that reducing the potential harm to retail customers that may be caused by conflict of interest in connection with Bank Dealer retail municipal recommendations.

By enhancing the quality of Bank Dealer recommendations to retail customers and mitigating harm to retail customers from potential conflict of interest, the Commission believes that the proposed Best Interest Amendments would prevent potential fraudulent and manipulative acts and practices and promote the protection of the retail customers of Bank Dealers.[85]

ii. Promote Just and Equitable Principles of Trade

The Commission finds that the proposed Best Interest Amendments' mandate of a uniform standard among Broker-Dealers and Bank Dealers when making recommendations to retail customers in municipal securities would promote just and equitable principles of trade within the municipal securities market. Specifically, the proposed Best Interest Amendments would ensure Bank Dealers have regulatory obligations and burdens when engaging in retail municipal recommendations that are generally equivalent to the regulatory obligations and burdens of Broker-Dealers (when engaging in the same municipal securities activities).[86] The Commission notes that this uniformity would better ensure that Bank Dealers do not have a competitive advantage in the municipal securities market by operation of a less burdensome regulatory standard of conduct. Therefore, the Commission finds that the proposed Best Interest Amendments will mitigate the potential for regulatory arbitrage and thereby promote just and equitable principles of trade.

iii. Foster Cooperation and Coordination With Persons Engaged in Regulating, Clearing, Settling, Processing Information With Respect to, and Facilitating Transactions in Municipal Securities and Municipal Financial Products

The Commission finds that the proposed Best Interest Amendments would foster cooperation and coordination between the MSRB, SEC, and other regulators by aligning the suitability obligations of MSRB Rule G–19 with the suitability obligations of Regulation Best Interest. [87] The Commission notes that such alignment would establish a uniform standard of suitability obligations among Broker-Dealers and Bank Dealers when making retail municipal recommendations, creating regulatory clarity regarding retail municipal recommendations. As such, the Commission finds that the proposed Best Interest Amendments will foster greater cooperation and coordination among the authorities that examine Broker-Dealers and Bank Dealers for compliance with MSRB rules, as well as authorities that enforce those rules.

iv. Remove Impediments to and Perfect the Mechanism of a Free and Open Market in Municipal Securities and Municipal Financial Products

The Commission finds that the proposed Best Interest Amendments would remove impediments to, and perfect the mechanism of, a free and open market in municipal securities by creating a uniform regulatory standard for retail municipal recommendations. By establishing one standard for retail municipal recommendations, the Commission finds that the proposed Best Interest Amendments would eliminate confusion about duties Bank Dealers (with retail customers and non-retail customers) owe to retail customers regarding municipal securities recommendations.[88] The Commission further notes that having one standard of retail municipal recommendations would also eliminate confusion about the duties retail customers (who have accounts with both Bank Dealers and Broker-Dealers) can expect from Bank Dealers and Broker-Dealers regarding municipal securities recommendations. The Commission finds that the Best Interest Amendments would reduce Bank Dealers' and retail customers' confusion regarding the duties associated with providing retail municipal recommendation. As such, the Commission holds that the proposed Best Interest Amendments remove impediments to the municipal security market, removing uncertainty surrounding retail municipal recommendations.

v. Protect Investors, Municipal Entities, Obligated Persons, and the Public Interest

The Commission believes that the proposed Best Interest Amendments' revision to MSRB Rule G–19 will protect investors by ensuring Bank Dealers comply with the heightened regulatory requirements of the Commission's Regulation Best Interest rather than current MSRB G–19.[89] By uniformly applying the investor protections provided by Regulation Best Interest, the proposed Best Interest Amendments would ensure that a retail customer will receive the enhanced investor protections of Regulation Best Interest, regardless of whether a Broker-Dealer or a Bank Dealer makes retail municipal recommendation. In doing so, the Commission finds that the proposed Best Interest Amendments thereby protect investors, municipal entities, obligated persons, and the public interest.

B. Commission Findings for the Institutional SMMP Amendment

The Commission finds that the proposed Institutional SMMP Amendment is consistent with Section 15B(b)(2)(C) [90] of the Act in that such amendment would remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, without materially diminishing the prevention of fraudulent and manipulative acts and practices; or the protect investors, municipal entities, obligated persons, and the public interest.

Specifically, the Commissions finds that the proposed Institutional SMMP Amendment would remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial product by eliminating the current requirement to perform a quantitative suitability analysis for recommendations in circumstances where the dealer does not have actual control or de facto control over an Institutional SMMP's account.[91] The Commission notes that ending this requirement could eliminate potentially duplicative analyses undertaken by dealers on behalf of Institutional SMMPs. In particular, the Commission notes that Institutional SMMPs have already affirmed their capacity and expertise to conduct such analyses for themselves, and presumably, the Institutional SMMPs presumably have taken upon themselves to perform such analyses.

Therefore, the Commission believes that the proposed Institutional SMMP Amendment would facilitate transactions in municipal securities and remove impediments to and perfect the mechanism of a free and open market in

[84] Notice, 87 FR at 28086.

[85] Regulation Best Interest Adopting Release, 84 FR at 33318.

[86] Notice, 87 FR at 28086.

[87] Notice, 87 FR at 28085.

[88] *Id.*

[89] *Id.*

[90] 15 U.S.C. 78*o*–4(b)(2)(C).

[91] Notice, 87 FR at 28088.

municipal securities by reducing a compliance burden.

The Commission further believes that proposed Institutional SMMP Amendment would not materially diminish the prevention of fraudulent and manipulative acts and practices under MSRB Rule G–19, as amended by the proposed Best Interest Amendments, by incorporating the concepts of actual control or de facto control.[92] Specifically, the Commission believes that reinstating control elements would help address potential scenarios in which the ability of an Institutional SMMP to exercise independent judgment is undermined or circumvented. Such a situation may occur when a dealer may not have formal discretionary authority over an Institutional SMMP's account, but nevertheless exercises de facto control over the account (to, for example, engage in churning activity in clear contravention of an Institutional SMMP's investment interests). The Commission further finds that the proposed Institutional SMMP Amendment's incorporating the actual control or de facto control elements maintains baseline investor protections for Institutional SMMPs in such scenarios of greater dealer impropriety or intentional wrongdoing.

Similarly, the Commission believes that the proposed Institutional SMMP Amendment will not materially diminish the protection of investors, municipal entities, and obligated person, and the public interest provided by MSRB Rule G–19, as amended by the proposed Best Interest Amendments. Specifically, under the proposed Institutional SMMP Amendment, new institutional customers, who otherwise would qualify as SMMPs but desire the additional investor protections afforded by quantitative suitability under MSRB Rule G–19, may decline to provide the required affirmations under MSRB Rule D–15.[93] The Commission notes that, under the proposed rule change, existing Institutional SMMPs could withdraw their SMMP status and obtain the suitability protections afforded by MSRB Rule G–19. The Commission believes this ability to self-identify as an Institutional SMMP will help ensure that those institutional customers who desire additional investor protection can secure them under MSRB rules, which would then require a dealer to undertake a quantitative suitability analysis. Accordingly, the Commission finds that the proposed Institutional SMMP Amendment would not materially diminish essential safeguards for investor protection.

In approving the proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation.[94] Exchange Act Section 15B(b)(2)(C)[95] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission does not believe that the proposed Best Interest Amendments would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act because the proposed rule change would align MSRB rules with the requirements of Regulation Best Interest. As such, the proposed Best Interest Amendments will reduce the potential for regulatory arbitrage and any attendant disruption it could have caused in the competitive landscape between Broker-Dealers and Bank Dealers regarding retail municipal recommendations. Consequently, the proposed Best Interest Amendments will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act, because it establishes a uniform regulatory environment for all retail municipal recommendations.

The Commission further believes that the proposed Institutional SMMP Amendment would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act because the proposed rule change would be equally applicable to all dealers. As such, the Commission finds that any benefits or burdens to competition would be evenly applied to all such firms transacting with institutional customers. Therefore, neither the proposed Best Interest Amendments nor the proposed Institutional SMMP Amendment do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission has also reviewed the record for the proposed rule change and notes that the record does not contain any information to indicate that the proposed rule change would have a negative effect on capital formation. Further, the Commission finds that the possible increased investor protection offered by the proposed Best Interest Amendments and the possible operational efficiency proposed Institutional SMMP Amendments could foster greater faith in the integrity of the municipal security market, increasing participation in this market, thereby increase capital formation.

The Commission also finds that the proposed rule change includes provisions that help promote efficiency. In particular, the Commission believes the proposed Best Interest Amendments may improve Broker Dealers and Bank Dealers' effectiveness in providing retail municipal recommendations by promoting a uniform standard of suitability requirements (for example, increasing compliance efficiency for firms who have both Broker-Dealer and Bank Dealer subsidiaries). The Commission also notes that the proposed Institutional SMMP Amendment may improve the operational efficiency of the municipal securities market. By reintroducing the element of actual control or de facto control with respect to Institutional SMMP accounts that would trigger a dealer's quantitative suitability obligation, the Commission finds that the proposed Institutional SMMP Amendment could eliminate potentially duplicative analyses undertaken by dealers on behalf of Institutional SMMPs.

The Commission received no comment letters on the proposed rule change.

For the reasons noted above, the Commission believes that the proposed rule change is consistent with the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[96] that the proposed rule change (SR–MSRB–2022–02) be, and hereby is, approved.

For the Commission, pursuant to delegated authority.[97]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13814 Filed 6–28–22; 8:45 am]

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[92] Notice, 87 FR at 28088.

[93] Notice, 87 FR at 28090.

[94] 15 U.S.C. 78c(f).

[95] 15 U.S.C. 78*o*–4(b)(2)(C).

[96] 15 U.S.C. 78s(b)(2).

[97] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95147; File No. SR–FINRA–2022–009]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend Certain FINRA Rules To Permit, and in Some Instances Require, Electronic Service and Filing of Documents in Disciplinary and Other Proceedings and Appeals

June 23, 2022.

I. Introduction

On April 6, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rules 1012, 1015, 6490, 9132, 9133, 9135, 9146, 9321, 9341, 9349, 9351, 9522, 9524, 9525, 9559 and 9630 to permit, and in some instances require, electronic service and filing of documents in disciplinary and other proceedings and appeals. The proposed rule change was published for comment in the **Federal Register** on April 14, 2022.[3] On May 25, 2022, FINRA consented to extend until July 13, 2022, the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[4] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

As discussed in the Notice, the FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550, and 9600 Series contain, among other things, rules regarding the method of service and filing of documents in disciplinary and other proceedings and appeals, as well as other procedural requirements.[5] Several of FINRA's rules regarding the method of service and filing have been amended temporarily to permit, and in some instances require, electronic filing and service during the period in which FINRA's operations have been impacted by the COVID–19 pandemic [6] (the ''temporary amendments'').[7] The temporary amendments pertain to disciplinary proceedings before the Office of Hearing Officers (''OHO''), to appeals before the National Adjudicatory Council (''NAC''), as well as to other types of administrative proceedings.[8] FINRA stated that the temporary amendments allowed, and in some cases required, FINRA (in its capacity as an Adjudicator) to serve certain documents on parties by electronic mail (''email'') and required parties to file or serve documents by email, unless the parties agreed to an alternative method of service.[9] FINRA's proposed rule change would make the temporary amendments regarding electronic service and filing permanent, with some modifications.[10] More specifically, the proposed rule change would allow, and in some instances require, electronic service and filing unless another method of service is ordered by the Adjudicator.[11] This approach differs from the temporary amendments, which required email service unless the *parties agreed* to an alternative method of service.[12] As set forth in the Notice, FINRA has observed that it would be more effective to require email service unless the Adjudicator orders otherwise.[13] Nevertheless, the proposed rule change would allow all parties who lack the ability to use or access email to request relief to use an alternative method of service upon a showing of good cause.[14] But, unlike what had been permitted under the temporary amendments, the parties' agreement to use an alternative method of service would be insufficient unless the parties also obtained an order from the Adjudicator permitting use of the alternative method of service.[15]

The temporary amendments also provided extensions of time to FINRA staff, respondents, and other parties in connection with certain adjudicatory and review processes that are not being adopted in this proposed rule change.[16] For example, under the original rules, the time to appeal under FINRA Rule 6490(e) was seven calendar days, and a subcommittee was required to convene once each calendar month to consider all appeals received during the prior month.[17] Under the temporary amendments to FINRA Rule 6490(e), the time to appeal was temporarily extended to 30 calendar days, and the time for the subcommittee to convene was temporarily extended to once every 90 calendar days.[18] As discussed in the Notice, the timing requirements in FINRA Rule 6490(e) that were extended by the temporary amendments are not being adopted permanently by FINRA in this proposed rule change.[19] Therefore, when this proposed rule change becomes effective, the timing requirements in FINRA Rule 6490(e) will revert back to the original rule.[20]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 94654 (April 8, 2022), 87 FR 22264 (April 14, 2022) (File No. SR–FINRA–2022–009) (''Notice''). The Commission received one comment letter in connection with the Notice, which does not relate to the substance of the proposed rule change.

[4] *See* Letter from Ilana Reid, Assistant General Counsel, OGC Regulatory Practice and Policy, FINRA (May 25, 2022) *available at https://www.finra.org/sites/default/files/2022-05/sr-finra-2022-009-extension1.pdf.*

[5] *See* Notice at 22265.

[6] *See id.* at 22264. *See also* Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–015); Securities Exchange Act Release No. 89055 (June 12, 2020), 85 FR 36928 (June 18, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–017); Securities Exchange Act Release No. 89423 (July 29, 2020), 84 FR 47278 (August 4, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–022); Securities Exchange Act Release No. 90619 (December 9, 2020), 85 FR 81250 (December 15, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2020–042); Securities Exchange Act Release No. 91495 (April 7, 2021), 86 FR 19306 (April 13, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2021–006); Securities Exchange Act Release No. 93758 (December 13, 2021), 86 FR 71695 (December 17, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2021–031); and Securities Exchange Act Release No. 94430 (March 16, 2022), 87 FR 16262 (March 22, 2022) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2022–004).

[7] For ease of reference, and to be consistent with the language FINRA used in its filing, the pre-pandemic rules will be referred to herein as the ''original rules'' and, as noted above, the temporary changes to the original rules will be referred to as the ''temporary amendments.'' *See* Notice at 22265 n.7. Some of the original rules were amended while the temporary amendments were in effect. *See, e.g.,* FINRA Rule 9321 (amended by SR–FINRA–2020–011, eff. April 15, 2021). As such, any prior amendments to the original rules have already been incorporated into the rule text of this proposed rule change, which is available on FINRA's website. *See* FINRA website, File No. SR–FINRA–2022–009 (Exhibit 5), *available at https://www.finra.org/rules-guidance/rule-filings/sr-finra-2022-009.*

[8] *See* Notice at 22265.

[9] *See id. See also* note 6 *supra.* As discussed in the Notice, FINRA's temporary amendments did not permit electronic service of an initial complaint on a respondent due to what FINRA viewed as heightened fair process concerns. As such, FINRA states that the proposed rule change would also not permit electronic service of initial complaints. Under FINRA's existing rule, the only permissible methods of serving the initial complaint are by hand, mail, or courier. *See* Notice at 22264–65. *See also* FINRA Rule 9134(a).

[10] *See* Notice at 22265.

[11] *See id.*

[12] *See id. See also* FINRA Rules 6490(e), 9133(b), 9146(l), 9524(a)(3), and 9559(h).

[13] *See* Notice at 22265.

[14] *See id.*

[15] *See id.*

[16] *See id.* at 22264, n.4.

[17] *See id.*

[18] *See id.*

[19] *See id.*

[20] *See id.*

In an effort to support the transition to email service and filing, the proposed rule change also would require parties in OHO proceedings to include their current email address and contact information at the first occurrence of filing a complaint, answer, or other paper, and to file and serve any change in email address or contact information on all other parties during the course of the proceeding as well as file it with the Adjudicator.[21]

B. Proposed Rule Change To Allow or Require Email Filing and Service

FINRA stated that the original rules, with few exceptions, do not provide for service by email.[22] However, in response to the COVID–19 pandemic, FINRA filed temporary amendments to permit, and in some instances require, electronic filing and service during the period in which FINRA's operations have been impacted by the pandemic.[23] FINRA stated that the proposed rule change is intended to make these temporary amendments, with some modifications, permanent considering FINRA's positive experience with operating while the temporary amendments have been in effect, since May of 2020.[24] As detailed more fully below, FINRA stated that technological advancements and their widespread use have made filing and service more efficient under the temporary amendments than under the original rules.[25] The proposed rule change would permit, and in some instances require, FINRA to serve documents,[26] other than an initial complaint,[27] by email and to provide that service by email is deemed complete upon sending.[28] Further, FINRA stated that if it has knowledge that the address used for service is not current or is not functional (*i.e.,* FINRA receives a bounce-back or other message indicating there was a failure to deliver the email), FINRA will use other permissible methods of service until it can verify the party's email address.[29]

As set forth in the Notice, FINRA believes that the proposed rule change will improve and modernize FINRA's operations.[30] Additionally, FINRA stated that, to the extent an applicant, respondent, or other party lacks the ability to use or access technology needed to file, serve, or accept service by email, FINRA intends to provide reasonable accommodations to them.[31] According to FINRA, the process for requesting an alternative method of service or filing will be posted to FINRA's website, as well as explained in the Notice of Complaint and in the Code and Guide letter.[32] If a party shows good cause, the Adjudicator will order that filing or service occur by hard copy.[33] In addition, FINRA stated that electronic methods of service and filing are common practice in the courts and with other regulatory agencies, noting that the Commission also amended its rules in November 2020 to require electronic filing and service of documents in its administrative proceedings.[34]

According to FINRA, the proposed rule change to amend the FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550, and 9600 Series is substantially the same as the temporary amendments currently in effect unless otherwise noted below.

FINRA Rule 1000 Series

The FINRA Rule 1000 Series (Member Application and Associated Person Registration) governs, among other things, the process for (i) applying for FINRA membership; (ii) FINRA members seeking approval of a change in ownership, control, or business operations, and (iii) an applicant requesting that FINRA's appellate body, the NAC, review a FINRA decision rendered under the Rule 1000 Series.[35] As FINRA stated, applicants and FINRA are, in connection with these processes, required under the original rules to file or serve certain documents using the prescribed methods set forth in FINRA Rule 1012(a), which do not include email.[36] The proposed rule change would amend Rule 1012(a)(4) to permit FINRA to serve documents under the Rule 1000 Series by email and amend Rule 1015(f)(1),[37] which requires the NAC to serve a notice of a hearing before the NAC by facsimile or overnight courier, to also allow service of the notice by email.[38] The proposed rule change would amend Rule 1015(a) to eliminate the requirement that the applicant also file, by first-class mail, a copy of the request for review to the district office where the applicant filed its application.[39] FINRA indicated that it was proposing to eliminate this requirement from Rule 1015(a) in an effort to streamline processes and avoid duplication.[40]

The proposed rule change would also amend Rule 1012(a)(3) to require applicants to file an application or any document or information requested under the Rule 1000 Series by email except where FINRA has otherwise prescribed an alternative filing process, or as the FINRA Department of Enforcement and the Applicant otherwise agree.[41]

FINRA Rule 6400 Series

FINRA Rule 6490 sets forth the requirements for issuers of a class of publicly traded securities to provide timely notice to FINRA, pursuant to requirements Exchange Act Rule 10b–

[21] *See id.* at 22265. *See also* proposed Rule 9135(d).

[22] *See* Notice at 22265. FINRA also stated that, prior to the temporary amendments, FINRA permitted service by email under some of its original rules. For example, FINRA Rule 6490(d)(5) (Processing of Company-Related Actions; Procedures for Reviewing Submissions; Notice Issuance) permits a notice under the provision to be issued by facsimile or email, or pursuant to FINRA Rule 9134. As FINRA indicated in the Notice, FINRA Rule 9134 permits service on parties using the following methods: (1) personal service, (2) mail, or (3) courier. *See id.* at 22266.

[23] *See id.* at 22264.

[24] *See id.* at 22267.

[25] *See id.* at 22267.

[26] FINRA stated that it sometimes serves documents in its capacity as the Adjudicator, but FINRA may be a party in other instances, such as in its capacity as the Department of Enforcement. *See id.* at n.12.

[27] *See* note 9 *supra.* As FINRA set forth in the Notice, when the FINRA Department of Enforcement files an initial complaint on a respondent, the Notice of Complaint tells the respondent how to file the answer and other documents with the OHO. *See* Notice at 22265, n.14.

[28] *See* Notice at 22265. In addition to email, FINRA stated that various other methods of service would still be permitted, such as personal service, mail, and courier. *See id.* FINRA also stated that, as indicated in the proposed rule text, FINRA will consider service by email complete upon sending of the relevant document or other information. According to FINRA, this is consistent with the treatment of service by mail under the original rules and service by email under the temporary amendments. FINRA further stated that in most cases, it will already have information regarding the relevant party, or their counsel's, preferred method of service since FINRA and the relevant party, or their counsel, will have already engaged in communications prior to service of documents or other information. *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] *See id.* According to FINRA, once OHO receives an initial complaint, it sends a Code and Guide letter to each respondent to notify them of the complaint, along with instructions on how to file with OHO. *See id.* at n.14.

[33] *See id.*

[34] *See id.* at 22265, 22267. *See also* Amendments to the Commission's Rules of Practice, Securities Exchange Act Release No. 90442 (Nov. 17, 2020), 85 FR 86464 (File No. S7–18–15) (December 30, 2020) (codified at 17 CFR 201 (2020)).

[35] *See* Notice at 22265. *See also* FINRA Rule 1000 Series.

[36] *See* Notice at 22265. *See also* FINRA Rule 1012(a), which governs the filing and service requirements for the Rule 1000 Series. *See* Notice at 22265, n.15.

[37] *See* Notice at 22265. *See also* FINRA Rule 1015(f).

[38] *See* Notice at 22265.

[39] *See id.* at n.17.

[40] *See id.*

[41] *See id.* at 22266. *See also* FINRA Rule 1012(a). FINRA is additionally proposing a non-substantive change to delete the word ''electronic'' from the description of the ''alternative filing process'' because it is superfluous. *See* Notice at 22266, n.18.

17, of certain corporate actions.[42] FINRA stated that it reviews related documentation accompanying such notifications and, under certain circumstances, the documentation may not be processed if it is deemed deficient, with Rule 6490(e) setting forth the process for appealing such a determination.[43] As set forth in the Notice, the proposed rule change would, among other things,[44] require a party appealing a deficiency determination to file the appeal by email unless an alternative method of service is ordered by the Adjudicator.[45]

FINRA Rule 9100 Series

The FINRA Rule 9100 Series is of general applicability to all proceedings set forth in the FINRA Rule 9000 Series,[46] unless a rule specifically provides otherwise.[47] More specifically, the FINRA Rule 9100 Series sets forth, among other things, requirements pertaining to service of orders, notices, and decisions under the FINRA Rule 9000 Series, as well as requirements for filing of various papers, motions, and other related issues.[48] As stated in the Notice, FINRA Rules 9132(b), 9133(b), and 9146(l) provide that the documents and other information governed by those rules must be served pursuant to FINRA Rule 9134, which permits service on the parties using the following methods: (1) personal service, (2) mail, or (3) courier.[49] Since FINRA Rule 9134 does not permit service by email, the proposed rule change would amend FINRA Rule 9132(b) to allow FINRA to serve relevant documents or information by email, and amend FINRA Rules 9133(b) and 9146(l) to require parties to serve documents by email, unless an alternative method of service is ordered by the Adjudicator.[50]

In addition, in an effort to support the transition to email service and filing, the proposed rule change would amend FINRA Rule 9135 to add paragraph (d), which would require parties in OHO proceedings to file and serve the parties with their current email address and contact information at the first occurrence of filing a complaint, answer, or other paper, and to file and serve any changes in email address or contact information on all other parties during the course of the proceeding and file this information with the Adjudicator.[51] This aspect of the proposed rule change was not part of the temporary amendments, but FINRA stated that it should help ensure that all documents are successfully sent from and received at a valid email address, while simultaneously helping to ensure that FINRA, applicants, respondents, and any other parties all have accurate contact information for each other.[52]

FINRA Rule 9300 Series

The FINRA Rule 9300 Series sets forth the procedures for review of disciplinary proceedings by the NAC and FINRA Board and for applications for review of a final disciplinary action by the Commission.[53] As stated in the Notice, FINRA Rules 9321, 9341(c), 9349(c), and 9351(e) require that FINRA serve documents in connection with proceedings under those rules pursuant to FINRA Rule 9134.[54] While FINRA Rule 9134 permits various methods of service,[55] it is silent on email. The proposed rule change would amend FINRA Rule 9321, 9341(c), 9349(c), and 9351(e) to allow for email as a method of service in connection with those specific rules.[56]

FINRA Rule 9520 Series

The FINRA Rule 9520 Series sets forth the procedures for eligibility proceedings and review of those proceedings by the NAC and FINRA Board.[57] As set forth in the Notice, FINRA Rules 9522(a)(4), 9524(a)(3)(A) and (B), 9524(b)(3), and 9525(e) require FINRA to serve documents in connection with those proceedings, but do not allow for email as a method of service.[58] The proposed rule change would amend those rules to allow for email as a method of service, as well as amending FINRA Rule 9524(a)(3)(A) and (B) such that the disqualified member or sponsoring member under those rules would be required to serve documents and any exhibit and witness lists by email unless an alternative method of service is ordered by the Adjudicator.[59]

FINRA Rule 9550 Series

The FINRA Rule 9550 Series sets forth the rules that govern certain expedited actions, and the ability of the NAC to call for review of a proposed decision prepared under the FINRA Rule 9550 Series.[60] As set forth in the Notice, FINRA Rule 9559(h)(2) sets forth the timing and method of service requirements for the parties' exchange of proposed exhibit and witness lists in advance of an expedited proceeding.[61] Even though FINRA Rule 9559(h)(2) allows for email as a method of service, the proposed rule change would amend FINRA Rule 9559(h)(2) to require FINRA to serve its exhibit and witness lists exclusively by email, unless an alternative method of service is ordered by the Adjudicator.[62] The Notice and FINRA's Rulebook also sets forth that FINRA Rule 9559(q)(2) requires the NAC to serve its decision when it issues one under the FINRA Rule 9550 Series, and FINRA Rule 9559(q)(5) requires the NAC to serve that decision on all the parties and all members with which the respondent is associated.[63] Since FINRA Rules 9559(q)(2) and (5) do not allow for email as a method of service, the proposed rule change would amend these rules to allow for email as a method of service.[64]

[42] *See* FINRA Rule 6490. For example, certain corporate actions that would require timely notice under this rule include dividend or other distribution of cash or securities, a stock split or reverse stock split, and rights or subscription offerings. *See* Notice at 22266.

[43] *See* Notice at 22266. *See also* FINRA Rule 6490(e).

[44] *See* Notice at 22266. FINRA has also proposed several non-substantive, technical changes including, for instance, deleting the parenthetical references to the numerals ''3'' and ''7,'' which originally followed the words ''three'' and ''seven'' in FINRA Rule 6490(e). *See id.* at n.20. *See also* FINRA Rule 6490(e). Additionally, the time frames under the proposed rule change are reverting back to their original form, so the time to appeal and for appellate review under the proposed rule change are the same as they were under the original rule. *See* notes 6–7 *supra*. *See also* Notice at 22266 n.20.

[45] *See* Notice at 22266.

[46] The FINRA Rule 9000 Series, among other things, sets forth the procedure for FINRA proceedings for disciplining a member, associated person, or formerly associated person. *See id.*

[47] *See id.*

[48] *See* FINRA Rule 9100 Series.

[49] *See* FINRA Rules 9132(b), 9133(b), and 9146(l).

[50] *See* FINRA Rule 9134. *See also* Notice at 22266.

[51] *See* Notice at 22266.

[52] *See id.*

[53] *See* FINRA Rule 9300 Series. *See also* Notice at 22266.

[54] *See* FINRA Rules 9321, 9341(c), 9349(c), and 9351(e). *See also* Notice at 22266.

[55] *See* FINRA Rule 9134. As FINRA indicated in the Notice, FINRA Rule 9134 permits service on parties using the following methods: (1) personal service, (2) mail, or (3) courier. *See* Notice at 22266.

[56] *See* FINRA Rule 9134. *See also* Notice at 22266.

[57] *See* FINRA Rule 9520 Series. *See also* Notice at 22266.

[58] *See* FINRA Rules 9522(a)(4), 9524(a)(3)(A) and (B), 9524(b)(3), and 9525(e). *See also* Notice at 22266.

[59] *See* Notice at 22266. FINRA is also making a non-substantive, technical change to replace the numeral ''10'' with the word ''ten'' in FINRA Rule 9524(a)(3)(B).

[60] *See* the FINRA Rule 9550 Series. *See also* Notice at 22266.

[61] *See* FINRA Rule 9559(h)(2). *See also* Notice at 22266.

[62] *See* Notice at 22266. As set forth in the Notice, and described above in the context of the proposed rule change to amend FINRA Rule 1015(a), FINRA is also proposing to amend FINRA Rule 9559(h) to eliminate the requirements in 9559(h)(1) and (2) that, if the specified documents are served by facsimile or email, they must also be served by either overnight courier or personal delivery. *See id.* at n.34.

[63] *See* FINRA Rules 9559(q)(2) and (5). *See also* Notice at 22266.

[64] *See* Notice at 22266.

FINRA Rule 9600 Series

The FINRA Rule 9600 Series sets forth the procedures related to exemptive relief from a variety of FINRA rules, including appeals stemming from decisions under FINRA Rule 9620.[65] As stated in the Notice and as set forth in FINRA's Rulebook, FINRA Rules 9630(e)(1) and (2) require the NAC to serve its decision as to an appeal issued under FINRA Rule 9620 pursuant to FINRA Rule 9134.[66] Since FINRA Rule 9134 does not allow for email as a method of service, the proposed rule change would amend FINRA Rule 9630(e) to allow for email as a method of service.[67]

Purpose of the Proposed Rule Change

FINRA stated that the proposed rule change to amend the FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550, and 9600 Series would modernize the rules and make service and filing more efficient and effective.[68] Specifically, FINRA stated that adopting permanent rules on electronic service and filing should, among other things, reduce reliance on paper documents in favor of more efficient electronic formats and may benefit member firms if there are situations where access to physical office locations is limited or otherwise restricted.[69] FINRA also stated that its experience operating under the temporary amendments since May of 2020 has demonstrated that electronic service and filing is beneficial for parties, OHO panelists, and FINRA staff.[70]

C. Effective Date

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published by FINRA. FINRA stated that it intends to avoid or, at least, minimize any gap between the expiration of the temporary amendments on electronic service and filing and the implementation date of this proposed rule change.[71] However, FINRA also stated that if the temporary amendments are set to expire before the effective date, it may seek to extend the temporary amendments so that FINRA can provide continuity and avoid any lapse in the temporary amendments during the period before the effective date of the proposal.

III. Discussion and Commission Findings

After careful review of the proposed rule change, and considering that the Commission did not receive any comments that relate to the substance of the proposed rule change[72] or to the relevant aspects of the temporary amendments that are being made permanent in this proposal, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.[73] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act,[74] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

As discussed in greater detail in the Notice and outlined in Section II above, the FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550, and 9600 Series contain filing, service and other procedural requirements, as described above. Since May of 2020, temporary amendments have been in effect that permit, and in some instances require, electronic filing and service connected to disciplinary proceedings before the OHO, appeal proceedings before the NAC, and other types of administrative proceedings. As noted above, the Commission has not received any comments in response to the notices issued in connection with the temporary amendments, and the extensions of the same, that address electronic service and filing.[75] The proposed rule change would make the electronic service and filing aspects of the temporary amendments permanent, with some modifications, as also described above. As a result, the proposed rule change would permit, and in some instances require, FINRA to serve documents (other than an initial complaint by FINRA) by email and would also provide that service by email is deemed complete upon sending. The proposed rule change would also require parties to file or serve documents by email, unless the parties obtain an order from an Adjudicator permitting the use of an alternative method of service.

The use of widely-available electronic methods of service and filing—like FINRA's proposal to use email to serve and file certain documents—is common practice in the courts and at other regulatory agencies, including the Commission.[76] The proposed rule change, among other things, is reasonably designed to protect investors and the public interest as it should make service and filing of certain documents in disciplinary and other proceedings and appeals more efficient and effective.[77] In turn, the proposed rule change should help facilitate FINRA's important role in sanctioning misconduct and preventing customer harm.[78] Furthermore, the proposed rule change reasonably addresses issues of fairness and notice in connection with FINRA's disciplinary and other proceedings and appeals by providing a mechanism for persons who lack the ability to use or access email or other necessary technology to request relief from their use and by continuing to require service of FINRA's initial complaint by hand, mail, or courier.

For these reasons, the Commission finds the proposed rule change is consistent with the protection of investors and in the public interest.

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act[79] that the proposed rule change (SR–FINRA–2022–009) be, and hereby is, approved.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13816 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

[65] *See* FINRA Rule 9600 Series. *See also* Notice at 22266.

[66] *See* FINRA Rules 9630(e)(1) and (2). *See also* Notice at 22266.

[67] *See* FINRA Rule 9134. *See also* Notice at 22266.

[68] *See* Notice at 22266–67.

[69] *See id.* at 22267–68.

[70] *See id.* at 22265.

[71] *See id.* at 22267, n.38.

[72] *See* note 3 *supra* (explaining that the Commission received one comment letter in connection with the Notice, which does not relate to the substance of the proposed rule change).

[73] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[74] 15 U.S.C. 78o–3(b)(6).

[75] *See* note 6 *supra.*

[76] *See* Notice at 22267. *See also* note 34 *supra* and appended text.

[77] *See* Notice at 22267–68.

[78] *See id.*

[79] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95144; File No. SR–FICC–2021–009]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Enhance Capital Requirements and Make Other Changes

June 23, 2022.

On December 13, 2021, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2021–009 (the ''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on December 29, 2021,[3] and the Commission received no comment letters regarding the changes proposed in the Proposed Rule Change.

On January 26, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On March 23, 2022, the Commission instituted proceedings, pursuant to Section 19(b)(2)(B) of the Act,[6] to determine whether to approve or disapprove the Proposed Rule Change.[7]

Section 19(b)(2) of the Act [8] provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[9] The 180th day after publication of the Notice in the **Federal Register** is June 27, 2022.

The Commission is extending the period for Commission action on the Proposed Rule Change. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that the Commission has sufficient time to consider the issues raised by the Proposed Rule Change and to take action on the Proposed Rule Change. Accordingly, pursuant to Section 19(b)(2)(B)(ii)(II) of the Act,[10] the Commission designates August 26, 2022, as the date by which the Commission should either approve or disapprove the Proposed Rule Change SR–FICC–2021–009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13813 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 93857 (December 22, 2021), 86 FR 74130 (December 29, 2021) (File No. SR–FICC–2021–009) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 94066 (January 26, 2022), 87 FR 5523 (February 1, 2022) (File No. SR–FICC–2021–009).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Securities Exchange Act Release No. 94497 (March, 23, 2022), 87 FR 18409 (March, 30, 2022) (File No. SR–FICC–2021–009).

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C 78s(b)(2)(B)(ii)(II).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–382, OMB Control No. 3235–0435]

Proposed Collection; Comment Request; Extension: Customer Account Statements

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 607 (17 CFR 242.607) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget) (''OMB'') for extension and approval.

Rule 607 requires disclosure on each new account and on a yearly basis thereafter, on the annual statement, the firm's policies regarding receipt of payment for order flow from any market makers, exchanges or exchange members to which it routes customers' order in national market system securities for execution; and information regarding the aggregate amount of monetary payments, discounts, rebates or reduction in fees received by the firm over the past year.

The information collected pursuant to Rule 607 is necessary to facilitate the establishment of a national market system for securities. The purpose of the rule is to ensure that customers are adequately apprised of the broker-dealer's order routing practices with respect to the customer's order, in furtherance of the Commission's statutory mandate to protect investors.

The Commission estimates that approximately 3,643 respondents will make the third-party disclosures required in the collection of information requirements to 183,511,801 customer accounts each year. The Commission estimates that the average number of hours necessary for each respondent to comply with Rule 607 per year is 39.714 hours, which results in an average aggregated annual burden of 144,678.102 hours.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing by August 29, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_*Mailbox@sec.gov.*

Dated: June 23, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13807 Filed 6–28–22; 8:45 am]

BILLING CODE 8011–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 748]

Indexing the Annual Operating Revenues of Railroads

The Surface Transportation Board (the Board) is publishing the annual inflation-adjusted index and deflator factors for 2021. The deflator factors are used by the railroads to adjust their gross annual operating revenues for classification purposes. This indexing methodology ensures that railroads are classified based on real business expansion and not on the effects of inflation. Classification is important because it determines the extent to which individual railroads must comply with the Board's reporting requirements.

The Board's deflator factors are based on the annual average Railroad Freight Price Index developed by the Bureau of Labor Statistics. The Board's deflator factor is used to deflate revenues for comparison with established revenue thresholds.

RAILROAD REVENUE THRESHOLDS [1]

Year	Factor	Class I	Class II
2017	0.5390	463,860,933	37,108,875
2018	0.5103	489,935,956	39,194,876
2019 [2]	0.4952	504,803,294	40,384,263
2020 [3]	1.0000	900,000,000	40,400,000
2021	0.9535	943,898,958	42,370,575

Dates: The inflation-adjusted indexes and deflator factors are effective January 1, 2021.

For Further Information Contact: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Board decisions and notices are available at *www.stb.gov.*

Decided: June 23, 2022.

By the Board, Francis O'Connor, Acting Director, Office of Economics.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2022–13845 Filed 6–28–22; 8:45 am]

BILLING CODE 4915–01–P

[1] In *Montana Rail Link, Inc., & Wisconsin Central Ltd., Joint Petition for Rulemaking with Respect to 49 CFR part 1201,* 8 I.C.C.2d 625 (1992), the Board's predecessor, the Interstate Commerce Commission, raised the revenue classification level for Class I railroads from $50 million (1978 dollars) to $250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from $10 million (1978 dollars) to $20 million (1991 dollars). In *Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers,* EP 763 (STB served Apr. 5, 2021), the revenue classification level for Class I railroads was raised from $250 million (1991 dollars) to $900 million (2019 dollars), and the Class II threshold was converted and rounded from $20 million (1991 dollars) to $40.4 million (2019 dollars), effective for the reporting year beginning January 1, 2020.

[2] The 2019 values reflect those in *Indexing the Annual Operating Revenues of Railroads,* EP 748 (STB served June 10, 2020).

[3] The 2020 and subsequent values are based on the thresholds established in Docket No. EP 763, and the deflator factor is referenced to the new base year of 2019. As the Railroad Freight Price Index remained the same from 2019 to 2020, the annual deflator factor for 2020 was 1.0000.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0535; Summary Notice No. –2022–30]

Petition for Exemption; Summary of Petition Received; Republic Airways, Inc.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 19, 2022.

ADDRESSES: Send comments identified by docket number [FAA–2022–0535] using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiffany Jackson—202–267–3796, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Timothy R. Adams,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–0535.

Petitioner: Republic Airways, Inc.

Section(s) of 14 CFR Affected: § 61.160(a).

Description of Relief Sought: The petitioner is seeking an exemption from Title 14 of the Code of Federal

Regulation § 61.160(a), which permits U.S. military or former military pilots to apply for an airline transport pilot (ATP) certificate with reduced aeronautical experience. The petitioner requests the relief for the purpose of allowing graduates from its pilot training program to apply for an ATP certificate with the same reduced aeronautical experience as military or former military pilots.

[FR Doc. 2022–13800 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2022–31]

Petition for Exemption; Summary of Petition Received; ALOFT AeroArchitects

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

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 19, 2022.

ADDRESSES: Send comments identified by docket number FAA–2022–0549 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *https://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael H. Harrison, AIR–612, Federal Aviation Administration, 2200 S 216th St, Des Moines, WA 98198, phone and fax (206) 231–3368, email *Michael.Harrison@faa.gov.*

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 24, 2022.

Daniel J. Commins,

Manager, Technical Writing Section.

Petition for Exemption

Docket No.: FAA–2022–0549

Petitioner: ALOFT AeroArchitects

Section(s) of 14 CFR Affected: § 25, SFAR No. 109, 2.(b)(2)

Description of Relief Sought: ALOFT AeroArchitects (ALOFT) is seeking relief from 14 CFR 25, Special Federal Aviation Regulation (SFAR) No. 109, § 2.(b)(2) requirement that airplanes outfitted with interior doors have at least one flight attendant, if the airplane model was originally certified for 75 passengers or more. Specifically, ALOFT is proposing that compliance for flight attendant requirements be governed by 14 CFR 91.533, in lieu of 25 SFAR 109 § 2.(b)(2) on their Boeing Model 737–8 airplanes, as modified, with an executive interior, and operated for private, not-for-hire carriage.

[FR Doc. 2022–13932 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0455]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Certification of Airmen for the Operation of Light-Sport Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 6, 2022. The information to be collected is necessary to ensure compliance with regulations governing the training and certification of light-sport pilots and instructors.

DATES: Written comments should be submitted by July 29, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Craig Holmes by email at: *craig.holmes@faa.gov;* phone: 202–267–1607.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0690.

Title: Certification of Airmen for the Operation of Light-Sport Aircraft.

Form Numbers: 8710–11.

Type of Review: Renewal.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following

collection of information was published on June 6, 2022 (87 FR 20497). This information collection requires applicants for certification as sport pilots to complete FAA form 8710–11, log training, take and pass a knowledge test, and requires organizations to develop and maintain training courses for sport pilots. The total of sport pilot applicants is estimated to be 500, with a burden of 734 hours. In addition, applications for certification as sport pilot instructors are required to take and pass a knowledge test, submit to a flight review, and purchase a training course. This affects an estimated 40 applicants, with a total annual burden of 33 hours.

Respondents: Sport Pilots and Certificated Flight Instructors.

Frequency: On occasion.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 767 hours.

Issued in Washington, DC, on June 24, 2022.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2022–13886 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Colorado Air and Space Port, Watkins, Colorado

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Colorado Air and Space Port under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Mr. Michael Matz, Project Manager/Compliance Specialist, Denver Airports District Office, *michael.b.matz@faa.gov,* (303) 342–1251.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Kloska, Director, Colorado Air and Space Port, 5200 Front Range Parkway, Watkins, CO 80137, *JKloska@adcogov.org,* (720) 523–7310; or Michael Matz, Project Manager/Compliance Specialist, Denver Airports District Office, 26805 E. 68th Ave. Suite 224, Denver, CO, 80249, *michael.b.matz@faa.gov,* (303) 342–1251. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Colorado Air and Space Port under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)). The proposal consists of 53,676 square feet of vacant land located on the Southeast side of the airport, shown as Parcel 9F on the Airport Layout Plan. The parcel lies at the boundary of airport property, and will be developed for commercial use. The FAA concurs that the parcel is no longer needed for airport purposes. The proposed use of this property is compatible with existing airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, as published in the **Federal Register** on February 16, 1999.

Issued in Denver, Colorado, on June 23, 2022.

Marc Miller,

Acting Manager, Denver Airports District Office.

[FR Doc. 2022–13829 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Heber Valley Airport, Heber, Utah

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Heber Valley Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Mr. Michael Matz, Project Manager/Compliance Specialist, Denver Airports District Office, *michael.b.matz@faa.gov,* (303) 342–1251.

FOR FURTHER INFORMATION CONTACT: Mr. Travis Biggs, Airport Manager, Heber Valley Airport, 630 West Airport Road, Heber City, UT 84032, *tbiggs@Heberut.gov,* (435) 657–7949; or Michael Matz, Project Manager/Compliance Specialist, Denver Airports District Office, 26805 E. 68th Ave. Suite 224, Denver, CO, 80249, *michael.b.matz@faa.gov,* (303) 342–1251. Documents reflecting this FAA action may be reviewed at the above locations.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Heber Valley Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)). The proposal consists of 1.135 acres of land located on the South side of the airport, shown as Parcel 11 on the Airport Layout Plan. The parcel lies at the boundary of airport property, and is separated by a roadway. The FAA concurs that the parcel is no longer needed for airport purposes. The proposed use of this property is compatible with existing airport operations in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, as published in the **Federal Register** on February 16, 1999.

Issued in Denver, Colorado, on June 23, 2022.

Marc Miller,

Acting Manager, Denver Airports District Office.

[FR Doc. 2022–13833 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2022–0043]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 11 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on June 28, 2022. The exemptions expire on June 28, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2022–0043, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On May 13, 2022, FMCSA published a notice announcing receipt of applications from 11 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (87 FR 29428). The public comment period ended on June 13, 2022, and five comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received five comments in this proceeding. Of the five comments, three comments were in support of Christopher Gilmore and one was in support of James Craw being granted the exemption. The last comment was also in support of an applicant receiving the exemption but did not specify the name of the applicant. Of the three comments in support of Mr. Gilmore being granted the exemption, one comment indicated that Mr. Gilmore has been seizure free for 10 months. However, FMCSA verified with Mr. Gilmore's physician that he has been seizure free since 2012.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the 2007 recommendations of the Agency's Medical Expert Panel. The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the commercial driver's license Information System for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. A summary of each applicant's seizure history was discussed in the May 13, 2022, **Federal Register** notice (87 FR 29428) and will not be repeated in this notice.

These 11 applicants have been seizure-free over a range of one year to 32 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

[1] These criteria may be found in Appendix a to Part 391—Medical Advisory Criteria, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 11 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:

James Craw (ME)
Jeremy Fehrman (MN)
David Funk (OH)
Christopher Gilmore (TX)
John Holland, III (IN)
Sean Moran (MA)
John Picken (UT)
Neil Southern (CO)
Daniel Verduzco (CA)
Charles Vicars (VA)
Karl Wilson, Jr. (GA)

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022–13923 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0120]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: REEL DEAL (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0120 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0120 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0120, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel REEL DEAL is:

—*Intended Commercial Use of Vessel:* ''Recreational charter fishing.''
—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Diego, CA)
—*Vessel Length and Type:* 48′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–xxxx at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2022–0120 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible,

please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13902 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0125]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FIRST LIGHT (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0125 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0125 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0125, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel FIRST LIGHT is:

—*Intended Commercial Use of Vessel:* ''Day/overnight charter.''
—*Geographic Region Including Base of Operations:* ''Puerto Rico.'' (Base of Operations: San Juan, PR)
—*Vessel Length and Type:* 35′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0125 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0125 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13891 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0123]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MAMMA MIA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0123 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0123 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0123, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel MAMMA MIA is:

—*Intended Commercial Use of Vessel:* ''Vessel's intended use will be for limited passenger day charter in New England. Mainly in the coast of Maine and Massachusetts. Never to exceed 12 total passengers.''

—*Geographic Region Including Base of Operations:* ''Maine, Massachusetts.'' (Base of Operations: Harpswell, ME)

—*Vessel Length and Type:* 51′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0123 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0123 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's

compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13899 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Deepwater Port License: Amendment of the Neptune LNG LLC Deepwater Port License and Temporary Suspension of Operations at the Neptune LNG Deepwater Port

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of agency action.

SUMMARY: The Maritime Administration (MARAD) provides notice of its decision to approve the request of Neptune LNG LLC (Neptune) to continue the suspension of port operations at the Neptune Deepwater Port (Neptune Port) by amending the Neptune Deepwater Port License (License).

ADDRESSES: The Docket Management Facility maintains the public docket for this project. The docket may be viewed electronically at *http://www.regulations.gov* under docket number USCG–2005–22611.

FOR FURTHER INFORMATION CONTACT: If you have questions about the Neptune Deepwater Port License Amendment and suspension of port operations, please contact Ms. Yvette M. Fields, Director, Office of Deepwater Ports and Offshore Activities at (202) 366–0926 or *Yvette.Fields@dot.gov.* If you have questions on viewing the Docket, please contact Docket Operations at (202) 493–3024.

SUPPLEMENTARY INFORMATION: On October 19, 2021, MARAD received a written request from Neptune for authorization to temporarily suspend operations at the Neptune Port, located approximately 22 miles northeast of Boston, Massachusetts. In the request, Neptune indicated that conditions within the Northeast region's natural gas market continue to impact the Neptune Port's ability to import liquefied natural gas (LNG). As a result, the Neptune Port has remained inactive over the past several years and will likely remain inactive for the foreseeable future. For these reasons, Neptune requested MARAD's authorization to formally extend the suspension of port operations for a period of three years.

Pursuant 33 U.S.C. 1503(b)(2), the Secretary of Transportation (Secretary) may, on petition of a licensee, amend a deepwater port license issued under the Deepwater Port Act of 1974, as amended. By delegation of the Secretary, MARAD has determined that the amendment of the license is consistent with the requirements of 33 U.S.C. chapter 29 and has authorized amendment of the License to provide an additional three-year suspension of port operations. The amendment is applicable only to Articles 2, 6, and 19 of the License. All other terms, conditions, and obligations of the License will remain in effect during and after the suspension period. The suspension period will become effective June 26, 2022, and will expire on June 26, 2025.

In order to resume operations prior to expiration of the suspension period, Neptune must petition MARAD for approval to resume port operations. The petition must be submitted at least six months prior to the proposed re-start date and certify that Neptune is in receipt of all applicable Federal and State permits, approvals, and authorizations. Should Neptune request an extension of the suspension period, such request must be submitted to MARAD no less than one hundred eighty calendar days prior to the expiration date of the suspension period. Thereafter, MARAD will evaluate, in consultation with the relevant Federal agencies, the appropriateness of such an extension. The final determination on any extension will be rendered by the Maritime Administrator or a designee acting on behalf of the Maritime Administrator.

Additional information pertaining to this public notice may be found in the public docket regarding the Neptune Deepwater Port License online at *www.regulations.gov,* under docket number USCG–2005–22611 (*see* **ADDRESSES**).

(Authority: 49 CFR 1.93)

By Order of the Maritime Administrator.

T. Mitchell Hudson,

Secretary, Maritime Administration.

[FR Doc. 2022–13906 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0128]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: INDULGENCE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0128 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0128 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0128, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit

comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel INDULGENCE is:

—*Intended Commercial Use of Vessel:* ''Pleasure charters.''
—*Geographic Region Including Base of Operations:* ''Connecticut.'' (Base of Operations: Norwalk, CT)
—*Vessel Length and Type:* 47.1′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0128 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0128 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13898 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0122]

Coastwise Endorsement Eligibility Determination for a Foreign-built Vessel: PROTECTOR (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0122 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0122 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0122, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, *Email James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the

intended service of the vessel PROTECTOR is:

—*Intended Commercial Use of Vessel:* ''We operate wildlife viewing and whale watching tours from San Juan Island, Washington. We would like to replace our existing 6 passenger vessel with this vessel. Our tours are day tours between 3 hours and 6 hours in length in the inland waters.''

—*Geographic Region Including Base of Operations:* ''Washington.'' (Base of Operations: Friday Harbor, WA)

—*Vessel Length and Type:* 28′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0122 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0122 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13901 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2022–0119]

Request for Comments on the Renewal of a Previously Approved Information Collection: Mariner Cadet Training-Agreements, Compliance Reporting, and Audits

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval for a currently approved emergency information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collection of information, including extensions and reinstatements of previously approved collections. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 29, 2022. This document described a collection of information for which MARAD intends to seek OMB approval.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0119 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0119 and follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* The Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0119, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Electronic Access and Filing

A copy of the notice may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Chris Wahler, Director of Maritime Labor and Training, (202) 366–5469 or via email at *EMBARC@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Mariner Cadet Training-Agreements, Compliance Reporting, and Audits.

OMB Control Number: 2133–0553.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: In accordance with its delegation of authority at 49 CFR 1.93(a), and pursuant to 46 U.S.C. 50101(a)(4), the Maritime Administration (MARAD) is charged with ensuring that the United States Merchant Marine is manned with trained and efficient citizen personnel. Furthermore, 46 U.S.C. 51322 requires MARAD to protect cadet mariners from sexual assault onboard vessels and in so doing, to set sexual assault policy and to conduct random and targeted unannounced checks of commercial vessels.

MARAD needs to obtain information from commercial vessel operators in order to meet its statutory objective of setting sexual assault policy and monitoring compliance that is essential to meeting its mission of ensuring a well-trained U.S. Merchant Marine.

The Maritime Administration (MARAD) requests comment on MARAD's intention to seek approval from OMB to reinstate without modification a previously approved collection of information concerning vessel operator acceptance of MARAD safety and security tenets, compliance reporting and compliance assessment requirements. MARAD, in consultation with operators of commercial vessels of the United States, established criteria that vessel operators must meet in order to participate in the Sea Year program of the United States Merchant Marine Academy (USMMA) that address sexual harassment, sexual assault, and other inappropriate conduct; and a process for verifying compliance with the criteria. Accordingly, on December 15, 2021, MARAD published on its website agency guidance entitled *Every Mariner Builds a Respectful Culture* (EMBARC). Embedded within EMBARC is a process that MARAD will use to verify compliance. The EMBARC Standards enumerate new sexual assault and sexual harassment (SASH) prevention and response safety measures that MARAD requires commercial vessel operators to meet before they are approved to carry cadets from the USMMA for training purposes. Along with the EMBARC Standards, MARAD also published a self-assessment checklist, and a statement of compliance that vessel operators are required to submit prior to Sea Year participation. The EMBARC Standards include immediate, intermediate and long-term action items that all vessel operators providing training platforms for cadet mariners should implement. The totality of these efforts will help strengthen the maritime industry's efforts to prevent and respond to incidents of sexual violence and sexual harassment and other forms of misconduct and help ensure a safer training environment for all cadets.

The information to be collected will be used by MARAD to confirm the acceptance of MARAD sexual assault policies by commercial vessel operators and it will help establish a process to oversee and monitor continued compliance through reporting and auditing of commercial vessel operators in this initial enrollment and subsequent Sea Years.

Respondents: Vessel Owners and Operators.

Affected Public: Captains, Mates, Chief Operating Officers, Chief Executive Officers, Operations Managers, Clerical and typists.

Estimated Number of Respondents: 35 per collection.*

Estimated Number of Responses: 428.

Estimated Hours per Response: 2–6.

Annual Estimated Total Annual Burden Hours: 1,615.

Frequency of Response: 2 per year.

* Some respondents will have to respond more than once.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.93.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13890 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0127]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WINDWARD'S CAT (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0127 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2022–0127 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0127, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit

comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel WINDWARD'S CAT is:

—*Intended Commercial Use of Vessel:* ''Crewed charters of 6 hour or less duration.''
—*Geographic Region Including Base of Operations:* ''Florida, Georgia.'' (Base of Operations: Amelia Island, FL)
—*Vessel Length and Type:* 37′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0127 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0127 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13905 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0124]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PANDA ROSSO (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0124 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0124 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0124, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel PANDA ROSSO is:

—*Intended Commercial Use of Vessel:* ''Multi-day sailing charters on coastwise and transoceanic routes.''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York (excluding New York Harbor), New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Mississippi, Louisiana, Texas, Puerto Rico.'' (Base of Operations: Cape Canaveral, FL)

—VESSEL LENGTH AND TYPE: 45′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0124 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0124 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13900 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0126]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: STELLA (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0126 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0126 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0126, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel STELLA is:

—*Intended Commercial Use Of Vessel:* ''Recreational charters.''
—*Geographic Region Including Base of Operations:* ''North Carolina, South Carolina, Florida, Delaware, Georgia, New Jersey, New York, Pennsylvania, Virginia, and Maryland.'' (Base of Operations: Coconut Grove, FL)
—*Vessel Length And Type:* 49.2′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0126 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0126 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13904 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0121]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SCOTT FREE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 29, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0121 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0121 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2022–0121, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SCOTT FREE is:

—*Intended Commercial Use of Vessel:* ''Overnight luxury pleasure time charters for weeklong or greater charter periods.''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York (excluding New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Washington, DC, Virginia, North Carolina, South Carolina, Georgia, Florida.'' (Base of Operations: Ft. Lauderdale, FL)

—*Vessel Length and Type:* 107′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0121 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2022–0121 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–13903 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0033]

Agency Information Collection Activities; Notice and Request for Comment; Information Collection Request: Criminal Penalty Safe Harbor Provision

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for reinstatement of a previously approved information collection.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for reinstatement of a previously approved information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval regarding NHTSA's Criminal Penalty Safe Harbor Provision.

DATES: Comments must be submitted on or before August 29, 2022.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2022–0033 through any of the following methods:

- *Electronic Submissions:* Go to the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *https://*

www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Alexandra Cohen, Office of the Chief Counsel, (202) 366–5263, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number (2127–0609).

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Criminal Penalty Safe Harbor Provision.

OMB Control Number: 2127–0609.

Form Number(s): N/A.

Type of Request: Request for reinstatement of a previously approved information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information:

Section 5 of the Transportation Recall Enhancement, Accountability, and Documentation (''TREAD'') Act (Pub. L. 106–414), codified at 49 U.S.C. 30170, notes that 18 U.S.C. 1001 provides for criminal liability in circumstances where a person had the intention of misleading the Secretary of Transportation (Secretary) regarding safety-related defects in motor vehicles or motor vehicle equipment that caused death or serious bodily injury. Section 30170 also contains a ''safe harbor'' that allows a person to avoid criminal penalties if that person lacked knowledge at the time of the violation that the violation would result in an accident causing death or serious bodily injury and if that person corrects any improper reports or failure to report to the Secretary (NHTSA by delegation) within a reasonable time. As required by Section 5 of the TREAD Act, NHTSA published a final rule to implement the safe harbor provision and establish what constitutes a ''reasonable time'' and a sufficient manner of ''correction,'' as they apply to the safe harbor from criminal penalties. 66 FR 38380 (July 24, 2001). The rule is codified at 49 CFR 578.7.

A respondent that seeks safe harbor under § 30170 and 49 CFR 578.7 must sign and submit to NHTSA a dated document identifying (1) each previous improper report, and each failure to report as required under 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder, for which protection is sought, and (2) the specific predicate under which the improper or omitted report should have been provided. Respondents must submit the complete and correct information that was required to be submitted but was improperly submitted or was not previously submitted, including relevant documents that were not previously submitted, or, if the person cannot do so, provide a detailed description of that information and/or the content of those documents and the reason why the individual cannot provide them to NHTSA (*e.g.,* the information or documents are not in the individual's possession or control).

Description of the Need for the Information and Proposed Use of the Information:

Not only is this information collection required by statute, it also helps NHTSA further its mission. Without this information collection, NHTSA would not have a way to accept submissions from persons seeking ''safe harbor.'' This process serves to encourage persons to correct violations and submit corrections of any improper reports or failures to report, thereby increasing the likelihood of NHTSA receiving information about safety related defects.

NHTSA anticipates using the information collection to evaluate a person's request for protection from criminal prosecution and to aid in the identification of potential safety defects in motor vehicles and motor vehicle equipment. However, no information has been collected since NHTSA issued the implementing regulation at 49 CFR 578.7 in an interim final rule on December 26, 2000 (65 FR 81419).

Affected Public: Those affected are motor vehicle and motor vehicle equipment manufacturers, including officers or employees thereof, and other persons who respond to or have a duty to respond to an information collection pursuant to 49 U.S.C. 30166 or a regulation, requirement, request, or order issued thereunder. The information collection applies to persons who seek ''safe harbor'' under § 30170. In order to qualify, a respondent must (1) at the time of the violation, not know that the violation would result in an accident causing death or serious bodily injury; and (2) correct any improper reports or failure to report within a reasonable time.

Estimated Number of Respondents: One.

Frequency: As needed basis.

Estimated Total Annual Burden Hours: Two hours annually.

The agency has received no reports from entities since this information collection was first put into place. However, to account for the possibility of receiving submissions in the future, NHTSA estimates that one person per year will submit a report under this collection of information. NHTSA also estimates that a maximum of two hours would be needed to gather and provide the information. Thus, NHTSA estimates that two burden hours a year would be spent on this collection of information.

To calculate the labor cost associated with submitting the collection of

information, NHTSA looked at wage estimates for the type of personnel involved with compiling and submitting the documents. NHTSA estimates the total labor costs associated with these burden hours by looking at the average wage for Management Occupations. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for Management Occupations (BLS Occupation code 11–0000) in the Management of Companies and Enterprises Industry is $74.96.[1] The Bureau of Labor Statistics estimates that private industry workers' wages represent 70% of total labor compensation costs.[2] Therefore, NHTSA estimates the hourly labor costs to be $106.33 for BLS Occupation code 11–0000. NHTSA likewise estimates the total labor cost associated with the two burden hours to be $212.66. Table 1 provides a summary of the estimated burden hours and labor costs associated with those submissions.

TABLE 1—BURDEN ESTIMATES

Annual responses	Estimated burden per response	Average hourly labor cost	Labor cost per submission	Total burden hours	Total labor costs
1	2 hours	$74.96	$106.33	2	$212.66

Estimated Total Annual Burden Cost: $8.95.

Assuming the respondent uses the U.S. Postal Service, NHTSA estimates that each mailed response is estimated to cost $8.95 (priority flat rate envelope from USPS). Accordingly, NHTSA estimates the total annual costs for this information collection to be $7.95 (1 submission × $8.95). If the respondent emails the report to NHTSA, the cost may be less than $8.95.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Ann E. Carlson,

Chief Counsel.

[FR Doc. 2022–13933 Filed 6–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0016]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Notice and Request for Comment; Countermeasures That Work

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for public comment on a reinstatement with modification of a previously approved collection of information.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden. The ICR is for a reinstatement with modification of a previously approved collection of information to conduct a survey that will inform the development of the 12th edition of *Countermeasures That Work* and structured interviews to populate and update the 2nd edition of *Countermeasures At Work.* A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on April 18, 2022. NHTSA received no responses to the notice.

DATES: Comments must be submitted on or before July 29, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under Review—Open for Public Comment'' or use the search function. Comments may also be sent by mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov,* or fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Kristie Johnson, Ph.D., Office of Behavioral Safety Research (NPD–310), (202) 366–2755, *kristie.johnson@dot.gov,* National Highway Traffic Safety Administration, W46–498, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number 2127–0727.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following

[1] *See* May 2020 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 336100—Motor Vehicle Manufacturing, available at *https://www.bls.gov/oes/2020/may/naics4_336100.htm* (accessed June 2022).

[2] *See* Table 1. Employer Costs for Employee Compensation by ownership (June. 2020), available at *https://www.bls.gov/news.release/ecec.t01.htm* (accessed June 2022).

information collection request will be submitted to OMB.

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on April 18, 2022 (Federal Register/Vol. 87, No. 74/ pp. 23013–23017). NHTSA received no responses to the notice.

Title: Countermeasures That Work.

OMB Control Number: 2127–0727.

Form Numbers: NHTSA Form 1343, NHTSA Form 1344.

Type of Information Collection Request: Reinstatement with modification of a previously approved information collection (OMB Control No. 2127–0727).

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information

NHTSA is seeking approval to (1) collect user feedback on the *Countermeasures That Work* [1] and *Countermeasures At Work* (1st edition to be published later in early 2022) guides, and (2) collect program information from program administrators to develop countermeasure case studies for *Countermeasures At Work.*

End-User Feedback Survey

NHTSA proposes to conduct a web-based feedback survey of up to 120 users of *Countermeasures That Work* and/or *Countermeasures At Work* representing State Highway Safety Offices (SHSOs) and/or local jurisdictions, the Governors Highway Safety Association (GHSA), State Coordinators from across the United States, and other important stakeholders with the intent to reach regular users of the documents to help improve the documents. Survey topics will include how the guides are used, weaknesses/ drawbacks to the current guides, perceived usefulness of the ratings, and other suggestions for improvement.

While previous feedback surveys were conducted via phone, the proposed survey would be administered using an online platform to reduce participant burden, improve data capture, and reduce coding needs. Participation by respondents would be voluntary. There are no record-keeping costs to the respondents. Responses will not be publicly reported, but NHTSA will internally use the aggregated information to revise and improve the *Countermeasures That Work* and *Countermeasures At Work* guides. Specifically, feedback will be used to determine which aspects of the guides should be improved and if there are features or topics that the guides do not currently have that they would like to have included.

Structured Interviews

NHTSA also proposes to conduct up to 60 structured in-person or phone interviews with representatives from jurisdictions that currently administer effective countermeasures. The respondents for the interviews will be selected based on their job position, knowledge of domain, management of effective countermeasure implementations as noted in the literature, and recommendation from NHTSA or GHSA subject matter experts with the intent to reach program administrators of effective countermeasures with the goal of populating and enriching countermeasure descriptions. The findings of interviews conducted for *Countermeasures At Work* will be reported separately for each individual locality so that the reader can get an idea about the size and type of the featured locality and issues specific to that locality. The *Countermeasures At Work* guide will include general contact information about the locality (*i.e.,* State DOT or SHSO office) or the contact information of key individuals (if permission is granted by the interview participant), so that readers of the document can follow-up, if desired, with the locality to obtain more information about the countermeasure.

The *Countermeasures That Work* and *Countermeasures At Work* reports will be shared with SHSOs, local governments, and those who develop traffic safety programs that aim to change behaviors with the goal of reducing crashes and the resulting injuries and fatalities.

Description of the Need for the Information and Proposed Use of the Information

NHTSA was established by the Highway Safety Act of 1970 and its mission is to reduce deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. To further this mission, NHTSA is authorized to conduct research for the development of traffic safety programs. Title 23, United States Code, Section 403 authorizes the Secretary of Transportation (NHTSA by delegation) to use funds appropriated to conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information, with respect to (a) all aspects of highway and traffic safety systems and conditions relating to vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics; accident causation and investigations; and (b) human behavioral factors and their effect on highway and traffic safety.

In 2019, 36,096 people were killed in motor vehicle traffic crashes on U.S. roadways.[2] While the number of people killed has increased slightly since the U.S. hit its lowest number of fatalities in 2014, over the past 40 years there has been a general downward trend. Effective behavioral safety countermeasures such as those described in *Countermeasures That Work* and detailed in the upcoming *Countermeasures At Work* have contributed to these reductions. This project addresses the issue of providing information to traffic safety professionals about countermeasures that have been demonstrated to be effective in addressing certain traffic safety problems.

The public health approach to traffic safety which establishes injuries and fatalities as preventable has resulted in a mix of countermeasures, and the choices among them are driven by research on their effectiveness. Generally, this approach includes some combination of countermeasures aimed at improving safety in terms of improved vehicles, education, improved roads, enhanced road user perception, and behavior and better enforcement of traffic safety laws.

In 2005, the Governors Highway Safety Association and the National Highway Traffic Safety Administration developed a guide, *Countermeasures That Work,* for the State Highway Safety Offices that provides a basic reference to assist in selecting effective, evidence-based countermeasures to address traffic safety problem areas. Given that SHSO's and other State practitioners responsible for implementing these countermeasures use *Countermeasures That Work* as an aid to make decisions, it is important to solicit their opinions about the document and its content. Specifically, it is important to know

[1] Venkatraman, V., Richard, C.M., Magee, K., & Johnson, K. (2021, July). *Countermeasures that work: A highway safety countermeasure guide for State Highway Safety Offices, 10th edition* (Report No. DOT HS 813 097). National Highway Traffic Safety Administration. *www.nhtsa.gov/sites/nhtsa.gov/files/2021-09/15100_Countermeasures10th_080621_v5_tag.pdf.*

[2] National Center for Statistics and Analysis. (2020, December). *Overview of motor vehicle crashes in 2019* (Traffic Safety Facts Research Note. Report No. DOT HS 813 060). National Highway Traffic Safety Administration. *https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813060.*

which aspects of the guide should be improved and if there are features or topics that the guide does not currently have that they would like to have included. The *Countermeasures At Work* guide expands on the most effective countermeasures contained in the *Countermeasures That Work* guide by providing real world examples and details on localities where specific countermeasures were put into place. The descriptions of the effective countermeasures include details about locality size, implementation issues, cost, stakeholders involved, challenges, evaluation, and outcomes to help officials determine which countermeasures may be effective in their own jurisdictions.

Per Section 1300.11 of the Uniform Procedures for State Highway Safety Grant Programs, each fiscal year, as part of the highway safety planning process for a State's Highway Safety Plan, a list of information and data sources consulted must be included in the plan. *Countermeasures That Work* is commonly referenced as a consulted source.

The data from this proposed information collection will provide NHTSA with information that will guide updates to the *Countermeasures That Work* and *Countermeasures At Work* documents. Data collected from the survey and structured interviews will be used primarily to (1) update the content, format, and structure of information provided in *Countermeasures That Work* and *Countermeasures At Work,* and (2) identify the localities/implementation of countermeasures that should be presented as case studies in *Countermeasures At Work.*

Affected Public: Participants will be U.S. adults (18 years old and older) who are members of State Highway Safety Offices (SHSOs) and/or local jurisdictions, the Governors Highway Safety Association (GHSA), State Coordinators from across the United States, or other important stakeholders. Businesses are ineligible for the survey and would not be interviewed.

Estimated Number of Respondents: 180.

Participation in the end user feedback survey will be voluntary with up to 120 participants surveyed from SHSOs and/or local jurisdictions, GHSA, State Coordinators from across the United States, and other important stakeholders. In addition, up to 60 participants will be interviewed about effective countermeasure programs based on their job position, knowledge of domain, management of effective countermeasure implementations as noted in the literature, and recommendation from NHTSA regional specialists or GHSA Office subject matter experts.

Frequency of Collection: This study is part a biennial update of effective countermeasures. Each of the surveys will be collected one time during the three-year period for which NHTSA is requesting approval. The last survey of stakeholders was in 2020.

Estimated Total Annual Burden Hours: 129.

End User Feedback Survey

NHTSA estimates the total burden of this information collection by estimating the burden to those who NHTSA contacts who do not respond and those who are contacted and participate. The estimated time to contact 120 potential participants for the end user feedback survey is one minute per person to read the invitation email. For recruited participants, it is estimated that the survey will take thirty minutes to complete. For recruited participants, participation is estimated to take thirty-one minutes which includes time to read the email invitation (survey introduction) and complete the survey. While up to three email invites (or waves) are included in this estimate, potential respondents would be comprised of a sample hand-selected by the research team thus potentially reducing the number of subsequent contacts as well as the number of non-responders.

Structured Interviews

NHTSA estimates the total burden of this information collection by estimating the burden to those who NHTSA contacts who do not respond and those who are contacted and participate. The estimated time to contact 60 potential traffic safety representative participants for the structured countermeasure program interviews is two minutes per person to read the invitation email. For recruited participants, participation is estimated to take ninety-two minutes per person. The ninety-two minutes estimate includes time to read the email invitation (interview introduction), schedule an interview time, and complete the interview. Again, while up to four email invites are included in this estimate, potential respondents would be comprised of a sample hand-selected by the research team thus potentially reducing the number of subsequent contacts as well as the number of non-responders.

Total Burden Hours for the End User Feedback Survey and the Structured Interviews

The total estimated buxrden for contacting 120 traffic safety representatives for the end user feedback survey, if 75% of solicited participants respond, is approximately 50 hours, rounded up (((assuming 90 completed surveys out of 120 contacted potential participants: 45 hours for completed surveys (90 survey participants × 30 minutes to complete the survey) + ~4.5 hours for reading invitations ((Wave 1 − 120 contacts × 1 minute) + (Wave 2 − 90 contacts × 1 minute) + (Wave 3 − 60 contacts × 1 minute))). The total estimated burden for contacting 60 traffic safety representatives for the program case study structured interviews, if 75% of solicited participants respond, is approximately 79 hours, rounded up each wave (((assuming 48 completed interviews out of 60 contacted potential participants: 72 hours (48 completed interviews × 90 minutes for each interview) + ~5.6 hours ((Wave 1 − 60 contacts × 2 minutes) + (Wave 2 − 48 contacts × 2 minutes) + (Wave 3 − 36 contacts × 2 minutes) + (Wave 4 − 24 contacts × 2 minutes))). Overall, the total estimated burden for the feedback surveys and program case study interviews is 129 hours. This information is presented in the tables below.

TABLE 1—ESTIMATED TOTAL BURDEN FOR END USER FEEDBACK SURVEY

Wave	Number of contacts	Participant type	Estimated time burden per participant (in minutes)	Frequency of burden	Number of participants	Burden hours *	Burden hours per wave *	Average annual total burden
Wave 1 (Initial Email Invitation).	120	Contacted potential participant (read email).	1	1	120	2	17	
		Recruited participant (completed Form 1343).	30	1	30	15		

TABLE 1—ESTIMATED TOTAL BURDEN FOR END USER FEEDBACK SURVEY—Continued

Wave	Number of contacts	Participant type	Estimated time burden per participant (in minutes)	Frequency of burden	Number of participants	Burden hours *	Burden hours per wave *	Average annual total burden
Wave 2 (Reminder Email #1).	90	Contacted potential participant (read email).	1	1	90	2	17	
		Recruited participant (completed Form 1343).	30	1	30	15		
Wave 3 (Reminder Email #2).	60	Contacted potential participant (read email).	1	1	60	1	16	
		Recruited participant (completed Form 1343).	30	1	30	15		
Total							50	16.67

* Rounded up to the nearest hour.

TABLE 2—ESTIMATED TOTAL BURDEN FOR STRUCTURED INTERVIEWS

Wave	Number of contacts	Participant type	Estimated time burden per participant (in minutes)	Frequency of burden	Number of participants	Burden hours *	Burden hours per wave *	Average annual total burden
Wave 1 (Initial Email Invitation).	60	Contacted potential participant (read email).	2	1	60	2	20	
		Recruited participant (completed Form 1344).	90	1	12	18		
Wave 2 (Reminder Email #1).	48	Contacted potential participant (read email).	2	1	48	2	20	
		Recruited participant (completed Form 1344).	90	1	12	18		
Wave 3 (Reminder Email #2).	36	Contacted potential participant (read email).	2	1	36	2	20	
		Recruited participant (completed Form 1344).	90	1	12	18		
Wave 4 (Reminder Email #3).	24	Contacted potential participant (read email).	2	1	24	1	19	
		Recruited participant (completed Form 1344).	90	1	12	18		
Total							79	26.33

* Rounded up to the nearest hour.

TABLE 3—OVERALL ESTIMATED TOTAL BURDEN

Information collection component	Frequency	Number of respondents per assessment	Burden hours per collection	Average annual total (hours)
End User Feedback Survey	1	120	50	16.67
Structured Interviews	1	60	79	26.33
Total		180	129	43

Estimated Total Annual Burden Cost: Participation in this study is voluntary, and there are no costs to respondents beyond the time spent completing the end user feedback survey or structured interviews.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Nanda Narayana Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–13854 Filed 6–28–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Revision; Comment Request; Regulation E—Electronic Fund Transfer Act; Prepaid Account Provisions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites

comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). An agency may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled ''Regulation E—Electronic Fund Transfer Act; Prepaid Card Provisions.''

DATES: Comments must be submitted on or before August 29, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0346, 400 7th Street SW, suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0346'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop down menu and click on ''Information Collection Review.'' From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0346'' or ''Regulation E—Electronic Fund Transfer Act; Prepaid Card Provisions.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or disclose information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing this notice.

Title: Regulation E—Electronic Fund Transfer Act; Prepaid Account Provisions.

OMB Control Nos.: 1557–0346.

Type of Review: Regular review.

Description: The Electronic Fund Transfer Act (EFTA) [1] and Regulation E [2] require disclosure of basic terms, costs, and rights relating to electronic fund transfer services debiting or crediting a consumer's account.

The prepaid accounts final rules issued by the Consumer Financial Protection Bureau (CFPB) [3] require financial institutions to make available to consumers disclosures before a consumer acquires a prepaid account. This notice outlines the requirements of the 2016 rule as amended by the 2017 and 2018 rules. The remainder of Regulation E is approved under OMB Control No. 1557–0176.

Under 12 CFR 1005.18(b), a financial institution is required to make available a short form and a long form disclosure before the consumer acquires a prepaid account, subject to certain exceptions. Section 1005.18(f)(3) generally requires that certain disclosures, including the name of the financial institution and the URL of its website, and a telephone number the consumer may use to contact the financial institution about the prepaid account, be made on the actual prepaid account access device.

Financial institutions offering prepaid accounts that qualify for the retail location exception in § 1005.18(b)(1)(ii) may meet the requirement of providing the long form disclosure after acquisition by allowing the long form disclosure to be delivered electronically, without receiving consumer consent under the E-Sign Act,[4] if the disclosure is not provided inside the prepaid account packaging material and the financial institution is not otherwise mailing or delivering to the consumer written account-related communications within 30 days of obtaining the consumer's contact information. If a financial institution provides pre-acquisition disclosures in writing and a consumer subsequently completes the acquisition process online or by telephone, the financial institution is not required to provide the disclosures again either electronically or orally.

Section 1005.18(b)(9)(i) includes a requirement that a financial institution provide pre-acquisition disclosures in a foreign language if the financial institution provides a means for the consumer to acquire a prepaid account by telephone or electronically principally in that foreign language. That requirement is not applicable to payroll card accounts and government benefit accounts where the foreign language is offered by telephone only via a real-time language interpretation service provided by a third party or directly by an employer or government agency on an informal or ad hoc basis as an accommodation to prospective payroll card account or government benefit account recipients.

Under § 1005.18(c)(1), a financial institution need not furnish periodic statements to the consumer if the provider uses the alternative method of compliance. Under this alternative method, the periodic statements must include: (1) the consumer's account balance, through a readily available phone number; (2) the means by which

[1] 15 U.S.C. 1693 *et seq.*

[2] 12 CFR part 1005.

[3] 81 FR 83934 (November 22, 2016), 82 FR 18975 (April 25, 2017), and 83 FR 6364 (February 13, 2018).

[4] Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 *et seq.*).

the consumer can obtain an electronic account history, such as the address of a website; and (3) a written history of the consumer's account transactions that is provided promptly in response to an oral or written request and that covers at least 24 months preceding the date the financial institution receives the consumer's request. Section 1005.18(c)(5) requires that financial institutions disclose to consumers a summary total of the amount of all fees assessed against the consumer's prepaid account for both the prior month as well as the calendar year to date. This information must be disclosed on any periodic statement and any history of account transactions provided or made available by the financial institution.

For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution is not required to comply with the liability limits and error resolution requirements of Regulation E for any prepaid account for which it has not successfully completed its consumer identification and verification process, provided certain disclosures are given. With regard to accounts where the consumer's identity is later verified, financial institutions must limit the consumer's liability for unauthorized transfers and resolve errors that occur following verification in accordance with relevant Reg. E provisions. For accounts in programs where there is no verification process, financial institutions must either explain in their initial disclosures their error resolution process and limitations on consumers' liability for unauthorized transfers, or explain that there are no such protections, and that such financial institutions comply with the process (if any) that they disclose.[5]

Pursuant to § 1005.18(h)(1), except as provided in § 1005.18(h)(2) and (3), the effective date for the prepaid accounts rules is April 1, 2019. If, as a result of § 1005.18(h)(1), a financial institution changes the terms and conditions of a prepaid account, such that a change-in-terms notice would have been required under § 1005.8(a) or § 1005.18(f)(2) for existing customers, the financial institution must notify consumers with accounts acquired before April 1, 2019 at least 21 days in advance of the change becoming effective, provided the financial institution has the consumer's contact information. If the financial institution obtains the consumer's contact information fewer than 30 days in advance of the change becoming effective or after it has become effective, the financial institution is permitted instead to provide notice of the change within 30 days of obtaining the consumer's contact information.

If a financial institution has not obtained a consumer's consent to provide disclosures in electronic form pursuant to the E-Sign Act, or is not otherwise already mailing or delivering to the consumer written account-related communications, the financial institution may provide to the consumer a notice of a change in terms and conditions or required or voluntary updated initial disclosures under Reg. E taking effect in electronic form without regard to the consumer notice and consent requirements of the E-Sign Act.

Section 1005.18(h)(2)(ii) requires that financial institutions notify any consumer who acquires a prepaid account after the effective date specified in packaging produced prior to the effective date of any changes as a result of § 1005.18(h)(1) taking effect that would have caused a change-in-terms notice to be required under § 1005.8(a) or § 1005.18(f)(2) for existing customers within 30 days of acquiring the customer's contact information. In addition, financial institutions must mail or deliver updated initial disclosures pursuant to §§ 1005.7 and 1005.18(f)(1) within 30 days of obtaining the consumer's contact information. Those financial institutions that are affected should not incur significant costs associated with notifying consumers and providing updated initial disclosures. Consumers who have consented to electronic communication may receive the notices and updated disclosures electronically, at a minimal cost to financial institutions. A financial institution that has not obtained the consumer's contact information is not required to comply with the requirements set forth in § 1005.18(h)(2)(ii) or (iii).

Section 1005.19(b) requires certain issuers to submit to the CFPB, on a rolling basis, prepaid account agreements (including fee schedules) that are offered, amended, or withdrawn. Prepaid account issuers are permitted to delay submitting a change in the list of names of other relevant parties to a particular prepaid account agreement until the earlier of such time as the issuer is otherwise submitting an amended agreement or changes to other identifying information about the issuer and its submitted agreements to the CFPB or May 1 of each year (for updates between the last submission and April 1 of that year). Changes in agreement provisions or fee information may be integrated into the text of the agreement or provided through fee addenda.

[5] 12 CFR 1005.18(e)(3)(ii)(C).

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 1,106.

Estimated Annual Burden: 6,605 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–13942 Filed 6–28–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Testimony or Production of Records in a Court or Other Proceeding.

DATES: Written comments should be received on or before August 29, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue

Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *omb.unit@irs.gov.* Include ''OMB Number 1545–1850-Testimony or Production of Records in a Court or Other Proceeding'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Testimony or Production of Records in a Court or Other Proceeding.

OMB Number: 1545–1850.

Regulation Project Number: TD 9178.

Abstract: Final regulation provide specific instructions and to clarify the circumstances under which more specific procedures take precedence. The final regulation extends the application of the regulation to former IRS officers and employees as well as to persons who are or were under contract to the IRS. The final regulation affects current and former IRS officers, employees and contractors, and persons who make requests or demands for disclosure.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Individuals and households, Not-for-Profit institutions, and Farms.

Estimated Number of Respondents: 1,400.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 22, 2022.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2022–13849 Filed 6–28–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Meeting

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Notice of meeting.

SUMMARY: The Internal Revenue Service Advisory Council will hold a public meeting.

DATES: The meeting will be held Wednesday, July 13, 2022.

ADDRESSES: The meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Burch, Office of National Public Liaison, at 202–317–4219 or send an email to *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1988), that a public meeting of the Internal Revenue Service Advisory Council (IRSAC) will be held on Wednesday, July 13, 2022, to discuss topics that may be recommended for inclusion in a future report of the Council. The meeting will take place 3:00–4:00 p.m. Eastern Daylight Time.

The meeting will be held via conference call. To register, members of the public may contact Ms. Stephanie Burch at 202–317–4219 or send an email to *PublicLiaison@irs.gov.* Attendees are encouraged to join at least 5–10 minutes before the meeting begins.

Time permitting, after the close of this discussion by IRSAC members, interested persons may make oral statements germane to the Council's work. Persons wishing to make oral statements should contact Ms. Stephanie Burch at *PublicLiaison@irs.gov* and include the written text or outline of comments they propose to make orally. Such comments will be limited to five minutes in length. In addition, any interested person may file a written statement for consideration by the IRSAC by sending it to *PublicLiaison@irs.gov.*

Dated: June 22, 2022.

John A. Lipold,

Designated Federal Officer, Internal Revenue Service Advisory Council.

[FR Doc. 2022–13851 Filed 6–28–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labeling and Advertising Requirements Under the Federal Alcohol Administration Act

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202)–622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury

Title: Labeling and Advertising Requirements Under the Federal Alcohol Administration Act.

OMB Number: 1513–0087.

Abstract: As required by the Federal Alcohol Administration Act (FAA Act), the Secretary has issued regulations regarding the labeling and advertising of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. See *27 U.S.C. 205(e)* and *(f).* The implementing regulations are contained in *27 CFR parts 4* (wine), 5 (distilled spirits), and 7 (malt beverages). Under those regulations, alcohol beverage bottlers and importers must provide certain mandatory information on labels and in advertisements of such products, and that information must conform to certain presentation standards. TTB uses those mandatory information requirements and presentation standards to ensure that the provisions of the FAA Act are appropriately applied.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Number of Respondents: 13,000.

Average Responses per Respondent: 1 (one).

Number of Responses: 13,000.

Average Per-Response Burden: 1 hour.

Total Burden: 13,000 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–13924 Filed 6–28–22; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Fiscal Service Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202)-622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

1. Title: Collateral Security Resolution and Collateral Pledge and Security Agreement.

OMB Control Number: 1530–0017.

Type of Review: Extension of a currently approved collection.

Description: These forms are used to give authority to financial institutions to become a depositary of the Federal Government. They also execute an agreement from the financial institutions they are authorized to pledge collateral to secure public funds with Federal Reserve Banks or their designees.

Form: FS 5902 and FS 5903.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 15 (2 forms each).

Estimated Total Number of Annual Responses: 30.

Estimated Time per Response: 30 minutes (15 minutes each form).

Estimated Total Annual Burden Hours: 7.5.

2. Title: ACH Vendor/Miscellaneous Payment Enrollment Form.

OMB Control Number: 1530–0069.

Type of Review: Extension of a currently approved collection.

Description: The form is used by multiple agencies to collect payment data from vendors doing business with the Federal Government. The Treasury Department, Bureau of the Fiscal Service, will use the information to electronically transmit payment to vendors' financial institutions.

Form: SF 3881.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 50,000.

Estimated Total Number of Annual Responses: 50,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 12,500.

Authority: 44 U.S.C. 3501 et seq.

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–13912 Filed 6–28–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service (IRS) Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 29, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. *Title:* Statement by Person(s) Receiving Gambling Winnings.

OMB Number: 1545–0239.

Form Number: Form 5754.

Abstract: Form 5754 is to be completed if you receive gambling winnings either for someone else or as a member of a group of winners on the same winning ticket. The information you provide on the form enables the payer of the winnings to prepare Form W–2G, *Certain Gambling Winnings,* for each winner to show the winnings taxable to each.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 204,000.

Estimated Time per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 40,800.

2. *Title:* Guidance for qualification as an acceptance agent, and execution of an agreement between an acceptance agent and the Internal Revenue Service relating to the issuance of certain taxpayer identifying numbers.

OMB Number: 1545–1499.

Revenue Procedure Number: 2006–10.

Abstract: This revenue procedure describes application procedures for becoming an acceptance agent and the requisite agreement that an agent must execute with the Internal Revenue Service.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, Federal Government, and state, local or tribal governments.

Estimated Number of Respondents: 8,000.

Estimated Time per Respondent: 3 hours, 7 minutes.

Estimated Total Annual Burden Hours: 24,960.

3. *Titles:* Reportable Transaction Disclosure Statement; and Compliance Assurance Process (CAP) Application and (Attachments A, B, C, D).

OMB Number: 1545–1800.

Form Numbers: 8886 and 14234.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form 8886:

Estimated Number of Respondents: 21,353.

Estimated Time per Respondent: 21 hours, 33 minutes.

Estimated Total Annual Burden Hours: 459,944.

Form 14234:

Estimated Number of Respondents: 125.

Estimated Time per Response: 12 hours, 40 minutes.

Estimated Total Annual Burden Hours: 1,584.

4. *Title:* Waiver of Right to Consistent Agreement of Partnership Items and Partnership-Level Determinations as to Penalties, Additions to Tax, and Additional Amounts.

OMB Number: 1545–1969.

Form Number: 13751.

Abstract: The information requested on Form 13751 will be used to determine the eligibility for participation in the settlement initiative of taxpayers related through TEFRA partnerships to ineligible applicants. Such determinations will involve partnership items and partnership-level determinations, as well as the calculation of tax liabilities resolved under this initiative, including penalties and interest.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Business or other for-profit organizations, not-for-profit institutions.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100 hours.

5. *Title:* Reporting of health insurance coverage.

OMB Number: 1545–2252.

Form Number: TD 9660, Form 1094–B, and Form 1095–B.

Abstract: This collection covers final regulations providing guidance to providers of minimum essential health coverage that are subject to the information reporting requirements of section 6055 of the Internal Revenue Code. Section 6055 requires every person who provides minimum essential coverage to file returns reporting information for everyone for whom they provide minimum essential coverage. Form 1095–B, *Health Coverage,* was created for reporting this information. Form 1094–B, *Transmittal of Health Coverage Information Returns,* is used to transmit Form 1095–B.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 125,030,000.

Estimated Time per Respondent: 10 minutes for Form 1094–B and 1 minute for Form 1095–B.

Estimated Total Annual Burden Hours: 2,088,333.

6. *Title:* Relief for Service in Combat Zone and for Presidentially Declared Disaster.

OMB Number: 1545–2286.

Regulation Project Number: TD 8911, TD 9443, Form 15109.

Abstract: This collection covers the final rules to the Regulations on Procedure and Administration (*26 CFR part 301*) under section 7508 of the Internal Revenue Code (Code), relating to postponement of certain acts by reason of service in a combat zone, and section 7508A, relating to postponement of certain tax-related deadlines by reason of a Presidentially declared disaster. Section 7508A was added to the Code by section 911 of the Taxpayer Relief Act of 1997, *Public Law 105–34* (111 Stat. 788 (1997)), effective for any period for performing an act that had not expired before August 5, 1997. Form 15109 was created to help taxpayers, including Civilian taxpayers working with U.S. Armed Forces, qualifying for such combat zone relief, provide the IRS with the appropriates dates.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 6,600.

7. *Title:* User Fee for Employee Plan Determination or Opinion Letter Request.

OMB Control Number: 1545–1772.

Form Number: Form 8717 and Form 8717–A.

Abstract: Internal Revenue Code section 7528 requires the payment of user fees for requests to the IRS for ruling letters, opinion letters, and determination letters. Forms 8717 and 8717–A are used by employee plan providers and sponsors to indicate the type of letter request and pay the appropriate user fee.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Responses: 9,000.

Estimated Time per Respondent: 2 hours, 38 minutes.

Estimated Total Annual Burden Hours: 23,650.

8. *Title:* Patient Protection and Affordable Care Act Patient Protection Notice.

OMB Control Number: 1545–2181.

Type of Review: Extension of a currently approved collection.

Description: The Patient Protection Notice is used by health plan sponsors and issuers to notify certain individuals of their right to (1) choose a primary care provider or a pediatrician when a plan or issuer requires participants or subscribers to designate a primary care physician; or (2) obtain obstetrical or gynecological care without prior authorization.

Form: TD 9951.

Affected Public: Business or other for-profit; not-for profit organizations.

Estimated Number of Respondents: 11,241.

Estimated Total Number of Annual Responses: 148,181.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 2,810 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–13913 Filed 6–28–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

[Docket No.: TREAS–DO–2022–0013]

Agency Information Collection Activities; Proposed Collection; Comment Request; Emergency Capital Investment Program Reporting

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before August 29, 2022.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, by the following method:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Refer to Docket Number TREAS–DO–2022–0013 and the specific Office of Management and Budget (OMB) control number 1505–0275.

FOR FURTHER INFORMATION CONTACT: For questions related to these programs, please contact David Meyer by emailing *ecip@treasury.gov* or calling (202) 819–3127. Additionally, you can view the information collection requests at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Emergency Capital Investment Program Initial Supplemental Report and Quarterly Supplemental Report.

OMB Control Number: 1505–0275.

Type of Review: Revision of a currently approved collection.

Description: Authorized by the Consolidated Appropriations Act, 2021, the Emergency Capital Investment Program (ECIP) was created to encourage low- and moderate-income community financial institutions to augment their efforts to support small businesses and consumers in their communities.

Under the program, Treasury will provide approximately $8.75 billion in capital directly to depository institutions that are certified Community Development Financial Institutions (CDFIs) or minority depository institutions (MDIs) to, among other things, provide loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, especially in low-income and underserved communities, that may be disproportionately impacted by the economic effects of the COVID–19 pandemic.

ECIP capital is eligible for a reduction in the dividend or interest rate payable on the instruments depending on the increase in lending by the recipients of the capital (Recipients) within minority, rural, and urban low-income and underserved communities and to low- and moderate-income borrowers over a baseline amount of lending. Recipients are required to submit an Initial Supplemental Report and quarterly reports to determine their increase in lending to the specified targeted communities over the baseline and therefore their qualification for rate reductions on the dividend or interest rates payable on the ECIP instruments. In addition, these reports will collect data necessary for Treasury and other oversight bodies to evaluate program outcomes over time.

Treasury uses the Initial Supplemental Report to establish a baseline amount of qualified lending. Treasury proposes to continue use of this form to collect additional or restated data on a Recipient's amount of baseline lending, such as in connection with mergers, acquisitions, or other business combinations. Instructions may be modified from time to time to accommodate these uses.

Treasury proposes to use the Quarterly Supplemental Report to collect the information required to establish a Recipient's increase in lending. The Quarterly Supplemental Report has two components: (1) schedules which must be completed each quarter that collect data on activity for the preceding quarter and (2) schedules that collect data on the preceding four quarters of activity that are submitted annually. There are separate schedules and instructions for insured depository institutions, bank holding companies, and savings and loan holding companies; and credit unions.

Quarterly Report Schedules: Recipients of ECIP investments will be required to submit two schedules on a quarterly basis. Schedule A–Summary Qualified Lending is used to collect the Qualified Lending and Deep Impact Lending, as defined in the Glossary in the Instructions to the Quarterly Supplemental Report, of a Recipient for a given quarter. Schedule A is therefore used to establish the growth in a Recipient's Qualified Lending over its baseline Qualified Lending for the purposes of calculating the payment rate on the ECIP preferred shares or subordinated debt issued by the Recipient. Schedule B–Disaggregated Qualified Lending is used to present further detail on the composition of the Participant's Qualified and Deep Impact Lending.

Annual Report Schedules: Annually, Recipients will report on up to ten (10) additional schedules, depending on the origination activity that took place during the prior year. Schedule C–Additional Demographic Data on Qualified Lending collects additional demographic data on certain categories of Qualified Lending and Deep Impact Lending. Schedule D–Additional Place-based Data on Qualified Lending collects additional geographic data on certain categories of Qualified Lending and Deep Impact Lending.

Forms: Initial Supplemental Report and Instructions, Quarterly Supplemental Report Instructions and Schedules.

Affected Public: Recipients of investments through the Emergency Capital Investment Program.

Estimated Number of Respondents: 190 (5 for the Initial Supplemental Report; 185 for the Quarterly Supplemental Report).

Frequency of Response: Initial Supplemental Report—One time annually; Quarterly Supplemental Report—Four times annually for Schedules A and B, Annually for Schedules C and D.

Estimated Total Number of Annual Responses: Initial Supplemental Report—5; Quarterly Supplemental

Report—740 for Schedules A & B and 185 for Schedule C and D.

Estimated Time per Response: 8 hours annually for the Initial Supplemental Report; 40 hours annually for the Quarterly Supplemental Report Schedules A & B + 120 hours for Schedules C & D.

Estimated Total Annual Burden Hours: 29,640.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

In addition, Treasury seeks comments on the following:

1. For the Quarterly Supplemental Report, Treasury is considering updating the datasets used to identify certain place-based targeted communities periodically, based on availability. For example, from time to time, updated Area Median Income data is published by the Census Bureau or other relevant data sources. Recipients would be required to use this new data in order to classify originations going forward. How frequently should Treasury update this data—never, annually, every five years, some other time period? Treasury anticipates that a transition period would be implemented each time such reference data is updated. Would a one-year transition period be sufficient?

2. Treasury welcomes comments on sources of data through which origination data requested by ECIP is already reported to the federal government and for which Treasury may determine that collection of the data by the Quarterly Supplemental Report represents a duplication of reporting.

3. Are there additional data points that Treasury should consider collecting, in addition to those proposed?

4. Treasury seeks comments on the instructions or other guidance that would be helpful to Recipients to better understand their reporting obligations on the Initial Supplemental Report or Quarterly Supplemental Report.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–13862 Filed 6–28–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Prices for 2023 United States Mint Silver Numismatic Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for United States Mint numismatic products in accordance with the table below:

Product	2023 Retail price
Morgan Dollar—Uncirculated	$67.00
Peace Dollar—Uncirculated	67.00
Morgan Dollar—Proof	73.00
Peace Dollar—Proof	73.00
Morgan and Peace Dollar Two-Coin Reverse Proof Set™	175.00

FOR FURTHER INFORMATION CONTACT: Customer Service; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 1–800–USA–MINT.

Authority: Public Law 116–286.

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2022–13861 Filed 6–28–22; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity Veterans Affairs Life Insurance (VALIFE) Policy Maintenance Application

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 29, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–NEW'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Veterans Affairs Life Insurance (VALife) Policy Maintenance Application, VA Form 29–10279.

OMB Control Number: 2900–NEW.

Type of Review: New Collection (Request for a New OMB Control Number).

Abstract: This form is used by the Department of Veterans Affairs to allow authorized agents (Guardian, POA, VA Fiduciary) to update information on a Veteran's VALife policy. The form is authorized by 38 U.S.C., Section 1922.

Affected Public: Individuals and households.

Estimated Annual Burden: 417 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2500.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–13802 Filed 6–28–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee Charter Renewals

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Advisory Committee Charter Renewals

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (FACA) and after consultation with the General Services Administration, the Secretary renewed the charter for the following statutorily authorized Federal advisory committee for a two-year period, beginning on the date listed below:

Committee name	Committee description	Charter renewed on
Geriatrics and Gerontology Advisory Committee.	Provides advice on all matters pertaining to geriatrics and gerontology..	June 1, 2022.

FOR FURTHER INFORMATION CONTACT: Jeffrey Moragne, Committee Management Officer, Department of Veterans Affairs, Advisory Committee Management Office (00AC), 810 Vermont Avenue NW, Washington, DC 20420; telephone (202) 714–1578; or email at *Jeffrey.Moragne@va.gov.* To view a copy of a VA Federal advisory committee charters, please visit *http://www.va.gov/advisory.*

Dated: June 24, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–13865 Filed 6–28–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Social Security Administration

20 CFR Part 404

Revised Medical Criteria for Evaluating Cardiovascular Disorders; Proposed Rule

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2019–0013]

RIN 0960–AI43

Revised Medical Criteria for Evaluating Cardiovascular Disorders

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise some of the criteria in the Listing of Impairments (listings) that we use to evaluate claims involving cardiovascular disorders in adults and children under titles II and XVI of the Social Security Act (Act). The proposed revisions reflect advances in medical knowledge, our adjudicative experience, and comments we received from experts and the public in response to an advance notice of proposed rulemaking (ANPRM), and at an outreach policy conference.

DATES: To ensure that your comments are considered, we must receive them by no later than August 29, 2022.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2019–0013, so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the *search* function to find docket number SSA–2019–0013. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Michael J. Goldstein, Office of Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Background

For adults, the listings describe, for each of the major body systems, impairments that we consider to be severe enough to prevent an individual from doing any gainful activity regardless of his or her age, education, or work experience.[1] For children, the listings describe impairments we consider severe enough to cause marked and severe functional limitations.[2] We use the listings at step 3 of the sequential evaluation process to identify claims in which the individual is clearly disabled under our rules.[3] However, we do not deny any claim solely because a person's medical impairment(s) does not satisfy the criteria of a listing.

Why are we proposing to revise the listings for cardiovascular disorders?

We last published final rules that comprehensively revised the cardiovascular disorders listings on January 13, 2006, and the rules became effective on April 13, 2006.[4] We are now proposing targeted revisions to the cardiovascular disorders listings, as previously mentioned, to reflect advances in medical knowledge, our adjudicative experience, and comments we received from experts and the public in response to an ANPRM, and at an outreach policy conference.

How did we develop this proposed rule?

In developing this proposed rule:

- We published an ANPRM for cardiovascular disorders in the **Federal Register** on April 16, 2008.[5] We invited the public to send us written comments and suggestions about whether and how we should revise the cardiovascular disorders listings. We received five comments on the ANPRM. The commenters made several suggestions that we incorporated into the proposals, such as consideration for people with a single ventricle; clarifying in proposed 4.00D(4)(c)(ii) (*How do we evaluate CHF using 4.02?*) and 4.02B1 (*Chronic heart failure*) that when we evaluate a person's ability to perform activities of daily living, we will also consider the person's ability to perform them effectively;[6] and providing more examples of skin examination findings that might accompany venous insufficiency. Two commenters asked us to base our proposals on the American College of Cardiology/American Heart Association (ACC/AHA) clinical practice guidelines and one suggested we review and incorporate the American Society of Echocardiography (ASE) guidelines. As a result, we tasked a committee of medical experts with reviewing and analyzing the ACC/AHA and ASE guidelines to inform the recommendations in the Institute of Medicine (IOM)[7] report titled, ''*Cardiovascular Disability: Updating the Social Security Listings.*''[8] This report, which is discussed in more detail below, informed some of the proposed changes in this NPRM.
- On September 24 and 25, 2008, we hosted a policy conference titled ''*Cardiovascular Disorders in the Disability Programs*'' in Baltimore, Maryland. At this conference, we received public comments and suggestions from physicians and advocacy groups for updating and revising our criteria for evaluating cardiovascular disorders. Physicians and advocacy groups specifically discussed the evaluation of chronic heart failure, ischemic heart disease, peripheral artery disease, and chronic

[1] 20 CFR 404.1525(a) and 20 CFR 416.925(a).

[2] 20 CFR 416.925(a).

[3] 20 CFR 404.1520, 20 CFR 416.920, and 20 CFR 416.924.

[4] 71 FR 2312 (2006).

[5] 73 FR 20564 (2008).

[6] In current listing 4.02B1 (*Chronic heart failure*), we require persistent symptoms of heart failure ''which very seriously limit the person's ability to independently initiate, sustain or complete activities of daily living.'' Consistent with the commenter's suggestion and how we assess functional limitations in the adult mental disorders listings (*12.00*), in proposed 4.02B1, we require ''a very serious limitation in the ability to perform activities of daily living independently, appropriately, effectively, and on a sustained basis.''

[7] On April 28, 2015, the membership of the National Academy of Sciences voted to change the name of the IOM to the National Academy of Medicine. At that time, reports and studies of the IOM continued as activities of the Health and Medicine Division, a program unit operating under the direction of the National Academies of Sciences, Engineering, and Medicine.

[8] Institute of Medicine (IOM). (2010). *Cardiovascular Disability: Updating the Social Security Listings.* Washington, DC: The National Academies Press.

venous insufficiency. Participants made several suggestions that we researched and incorporated into the proposals, such as distinguishing cardiovascular disorders from pulmonary disorders by using biomarkers such as B-type natriuretic peptide (BNP).

• In 2009, we commissioned a study by an ad hoc committee of medical experts appointed by the Institute of Medicine (IOM). The committee: (1) conducted a comprehensive review of the relevant research literature and current professional practice guidelines developed jointly by the ACC/AHA; (2) assessed the current criteria in light of current research knowledge and evidence-based medical practice; and (3) produced a report with specific recommendations for revision of the criteria based on evidence and professional judgment. The committee provided its recommendations in a 2010 report titled, ''Cardiovascular Disability: Updating the Social Security Listings.'' [9] We recently sought guidance from our cardiologists and other medical experts, reviewed disability claims involving cardiovascular disorders, and reviewed current research to ensure the IOM recommendations are still relevant.

Recommendations we received from the IOM report, responses to the ANPRM, and the ''Cardiovascular Disorders in the Disability Programs'' policy conference informed the proposed changes in this NPRM. As with the IOM report, we have conducted independent medical research, consulted with agency cardiologists, and reviewed disability claims involving cardiovascular disorders to ensure the accuracy and relevance of these stated resources. In developing this proposed rule, we also considered information from several other sources, including:

• Medical experts in cardiology from SSA's Office of Medical Assistance [10] who assist in the development and evaluation of policy and whom we regularly consulted with in drafting these proposals;

• Advocacy groups for people with cardiovascular disorders and individuals with cardiovascular disorders and their families who submitted comments on the ANPRM or participated in the 2008 ''Cardiovascular Disorders in the Disability Program'' policy conference;

• Individuals who make and review disability determinations and decisions for us in State agencies; in our Office of Hearings Operations; and in our Office of Analytics, Review, and Oversight; and

• The published sources of medical literature and research we list in the references section at the end of this preamble.

What revisions are we proposing for cardiovascular disorders?

We propose to:

• Change the name of the body system from ''Cardiovascular System'' to ''Cardiovascular Disorders'' to be consistent with the nomenclature of all body systems in our listings;

• Reorganize and revise the introductory text (section 4.00 for adults and 104.00 for children) to provide guidance for using the revised criteria in the listings;

• Revise the adult and childhood listings for chronic heart failure (4.02 and 104.02), recurrent arrhythmias (4.05 and 104.05), symptomatic congenital heart disease (4.06) and congenital heart disease (104.06), and heart transplant (4.09 and 104.09);

• Revise the adult listings for ischemic heart disease (IHD) (4.04), chronic venous insufficiency (4.11), and peripheral arterial disease (4.12);

• Add adult listings for aortic valvular disease (4.07) and cardiomyopathy (4.08);

• Add adult and childhood listings for cardiac allograft vasculopathy (4.16 and 104.16);

• Remove childhood listing for rheumatic heart disease (104.13) and reserve listing number 104.13; and

• Make minor editorial revisions, including changes to conform to revised rules for evaluating medical evidence,[11] to the introductory text and to the listings for clarity.

Proposed Changes to the Adult Cardiovascular Disorders Introductory Text

The following table shows the heading of the current and proposed sections of the adult introductory text for cardiovascular disorders:

INTRODUCTORY TEXT 4.00

Current Sections of the Adult Introductory Text for Cardiovascular System.	Proposed Sections of the Adult Introductory Text for Cardiovascular Disorders.
4.00 Cardiovascular System	4.00 Cardiovascular Disorders.
A. General	A. How do we define cardiovascular disorders and cardiovascular terms?
B. Documenting Cardiovascular Impairment	B. What documentation do we need to evaluate cardiovascular disorders?
C. Using Cardiovascular Test Results	C. How do we use cardiovascular test results?
D. Evaluating Chronic Heart Failure	D. How do we evaluate chronic heart failure?
E. Evaluating Ischemic Heart Disease	E. How do we evaluate ischemic heart disease?
F. Evaluating Arrhythmias	F. How do we evaluate arrhythmias?
G. Evaluating Peripheral Vascular Disease	G. How do we evaluate peripheral vascular disease?
H. Evaluating Other Cardiovascular Impairments	H. How do we evaluate congenital heart disease?
I. Other Evaluation Issues	I. How do we evaluate other cardiovascular disorders?
	J. How do we evaluate issues that affect the cardiovascular system?
	K. How do we evaluate cardiovascular disorders that do not meet one of these listings?

[9] IOM. (2010).

[10] SSA's Office of Medical Assistance (OMA) provides medical and analytical support to ensure accurate and consistent disability policy and procedure application. In addition to a full complement of subject matter experts who are permanent SSA staff, OMA contracts with medical and psychological consultants to provide medical expertise in the development and evaluation of policy.

[11] 82 FR 5844 (2017).

Proposed 4.00—Introductory Text to the Adult Cardiovascular Disorders Listings

The following is a detailed description of the primary changes we are proposing to the introductory text. In addition to the changes we describe below, we are proposing minor changes to the introductory text to clarify how we use the proposed listings to evaluate cardiovascular disorders, changes to be consistent with current medical terminology, the language we use in other body system listings, and the revised rules for evaluating medical evidence.[12] We repeat much of the introductory text of proposed 4.00 in the introductory text of proposed 104.00 (the introductory text to the childhood cardiovascular disorders listings), making distinctions where needed. This is necessary because the same basic criteria for evaluating cardiovascular disorders apply to both adults and children.

Proposed 4.00A—How do we define cardiovascular disorders and cardiovascular terms?

To improve clarity and promote consistent understanding of the terms we use in these listings, we propose:

- In 4.00A3b (*Persistent*), to clarify that ''exceptions'' means brief periods when the required finding(s) is greatly reduced or gone. These periods are so brief or inconsequential, the required finding(s) remains a factor in the person's condition;
- In 4.00A3c (*Recurrent*), to clarify in our definition of ''recurrent'' that the term ''improvement of sufficient duration'' means the finding is greatly reduced (for example, treatment reduced a grade 3 chronic venous insufficiency (CVI) skin ulcer to a grade 1 CVI skin ulcer) or not present for long enough that the required finding(s) is no longer a factor in the person's condition.
- In 4.00A3f (*Uncontrolled*) we would remove the definition for the term ''uncontrolled'' because we propose to eliminate the term as a descriptor for recurrent episodes of cardiac syncope. The definition of ''uncontrolled'' was redundant after describing reoccurring episodes of cardiac syncope despite treatment.

Proposed 4.00C—How do we use cardiovascular test results?

We propose:

- In 4.00C8d(iv) (*When will we not purchase an exercise test or wait before we purchase an exercise test?*), to include the procedure percutaneous coronary intervention (PCI) to be consistent with medical advancements that indicate a PCI is a nonsurgical procedure to improve blood flow to the heart.[13]
- In 4.00C15 (*How do we evaluate cardiac catheterization evidence?*), to remove 4.00C15b and 4.00C15c and create a new 4.00C15b to simplify our explanation of cardiac catheterization reports and to include information about fractional flow reserve (FFR), which we use in the proposed 4.04D1 (*Ischemic heart disease*).

Proposed 4.00D—How do we evaluate chronic heart failure?

We propose:

- In 4.00D1a (*What is chronic heart failure (CHF)?*), to provide a more descriptive definition of ''ejection fraction'' for clarity;
- In 4.00D1b (*What is chronic heart failure (CHF)?*), to explain that high blood levels of the proteins B-type natriuretic peptide (BNP) and N-terminal pro-BNP (NT-pro-BNP) may help identify chronic heart failure as the cause of a person's symptoms (for example, shortness of breath);§ [14] [15] [16] [17]
- In 4.00D2a(i) (*What evidence of CHF do we need?*) and 4.00D2a(iii) (*What evidence of CHF do we need?*), to explain left atrial volume index (LAVi) and how it is calculated. LAVi is a new measurement used in criterion A2 of proposed listing 4.02 (*Chronic heart failure*) to provide a more precise representation of increased left atrial pressure;
- In 4.00D4c (*How do we evaluate CHF using 4.02?*),to describe in more detail the two-part process we use in criteria B1 of proposed listing 4.02 (*Chronic heart failure*) to evaluate chronic heart failure if a person cannot perform an exercise tolerance test (ETT);[18]; and
- Add 4.00D4e (*How do we evaluate CHF treated with a mechanical circulatory support device?*) to explain mechanical circulatory support devices (MCSD) and clarify how we would evaluate individuals treated for heart failure with a MCSD.[19] We propose to evaluate MCSDs under proposed 4.02D1 (*Chronic heart failure*)to account for cardiac bridge treatment which we currently evaluate under listing 4.09 (*Heart transplantation*).

Proposed 4.00E—How do we evaluate ischemic heart disease?

We propose:

- In 4.00E9b (*How do we evaluate IHD using 4.04?*), to consolidate and revise the guidance that is currently in 4.00E9b, c, d, and e for ease of reference;
- In 4.00E9b (*How do we evaluate IHD using 4.04?*), to explain that we will use an interpretation of electrocardiogram (ECG) findings by an acceptable medical source (AMS) [20] if the interpretation concludes that the ECG findings are positive for IHD. Interpreting ECG results requires a systematic review and analysis of several components, including relevant clinical details and raw data. Relying on an interpretation by an AMS is consistent with our rules for establishing a medically determinable impairment (MDI) and will ensure the accuracy of adjudication for claims involving IHD because interpretation of ECG findings requires medical judgment; [21]
- In 4.00E9c (*How do we evaluate IHD using 4.04?*), to clarify that revascularizations that result from unplanned hospitalizations must be an emergency and unplanned; [22]
- To redesignate current 4.00E9f, g, and h (*How do we evaluate IHD using 4.04?*) as proposed new sections 4.00E9c, d, and f, respectively; and
- In 4.00E9e (*How do we evaluate IHD using 4.04?*), to add a definition for

[12] Id.

[13] IOM. (2010), 109.

[14] Cohen-Solal, A., Laribi, S., Ishihara, S., Vergaro, G., Baudet, M., Logeart, D., . . . Seronde, M.-F. (2015). Prognostic markers of acute decompensated heart failure: The emerging roles of cardiac biomarkers and prognostic scores. *Archives of Cardiovascular Disease,* 108(1), 64–74. doi:10.1016/j.acvd.2014.10.002.

[15] Desai, A.S. (2013). Are serial BNP measurements useful in heart failure management? Serial natriuretic peptide measurements are not useful in heart failure management: The art of medicine remains long. Circulation, 127(4), 509–516. doi:10.1161/CIRCULATIONAHA.112.120493.

[16] Patterson, C.C., Blankenberg, S., Ben-Shlomo, Y., Heslop, L., Bayer, A., Lowe, G., . . . Yarnell, J. (2015). Which biomarkers are predictive specifically for cardiovascular or for non-cardiovascular mortality in men? Evidence from the Caerphilly Prospective Study (CaPS). International Journal of Cardiology, 201, 113–118. doi:10.1016/j.ijcard.2015.07.106.

[17] Uszko-Lencer, N.H., Frankenstein, L., Spruit, M.A., Maeder, M.T., Gutmann, M., Muzzarelli, S., . . . Brunner-La Rocca, H.-P. (2017). Predicting hospitalization and mortality in patients with heart failure: The BARDICHE-index. International Journal of Cardiology, 227, 901–907. doi:10.1016/j.ijcard.2016.11.122.

[18] We define an exercise tolerance test at 4.00C3b (*What are exercise tests and what are they used for?*) as ''a sign-or symptom-limited test in which you exercise while connected to an ECG until you develop a sign or symptom that indicates that you have exercised as much as is considered safe for you.'' This is an existing definition coming from existing regulation.

[19] Ciarka, A., Edwards, L., Nilsson, J., Stehlik, J., & Lund, L.H. (2017). Trends in the use of mechanical circulatory support as a bridge to heart transplantation across different age groups. *International Journal of Cardiology, 231,* 225–227. doi:10.1016/j.ijcard.2016.10.049.

[20] 20 CFR 404.1502(a) and 416.902(a).

[21] 20 CFR 404.1521 and 416.921.

[22] As we explain in 4.00E9c, revascularization means angioplasty (with or without stent placement) or bypass surgery.

the term ''fractional flow reserve (FFR),'' which is an objective measure of flow access across an obstruction that we use in criterion D1 of proposed listing 4.04 (*Ischemic heart disease*).[23]

Proposed 4.00G—How do we evaluate peripheral vascular disease?

In 4.00G6 (*Are there any other studies that are helpful in evaluating PAD?*), as IOM advised, we propose to provide more information about imaging and other tests used to diagnose peripheral arterial disease (PAD) to clearly convey our intent of the listing, which is to tie PAD to mobility.[24]

Proposed 4.00H—How do we evaluate congenital heart disease?

We propose:

- To redesignate and rename some paragraphs for ease of reference;
- In 4.00H (*How do we evaluate congenital heart disease?*), to add a definition for the term ''single ventricle,'' and include more detailed guidance on how we evaluate congenital heart disease as recommended by the IOM; and
- To add 4.00H1 (*What is congenital heart disease?*), 4.00H2 (*What is Eisenmenger syndrome?*), 4.00H3 (*What is single ventricle?*), and 4.004H4 (*How do we evaluate conditions associated with congenital heart disease?*).

Proposed 4.00I—How do we evaluate other cardiovascular disorders?

We propose:

- To rename and rearrange the content of 4.00I (*How do we evaluate other cardiovascular disorders?*), including redesignating some paragraphs, for ease of reference;
- In 4.00I2 (*What is cardiomyopathy and how will we evaluate it?*), to explain how we would evaluate cardiomyopathy under proposed new 4.08 (*Cardiomyopathy*);
- In 4.00I3 (*How do we evaluate valvular heart disease?*), to explain that we would evaluate valvular heart disease under the proposed new 4.07 (*Aortic valvular disease*);
- In 4.00I4 (*What do we consider when we evaluate heart transplant recipients?*), to explain that we would evaluate cardiac allograft vasculopathy under proposed new 4.16 (*Cardiac allograft vasculopathy*); and
- To add 4.00I5 (*What is cardiac allograft vasculopathy and how do we evaluate it?*), to explain proposed new 4.16 (*Cardiac allograft vasculopathy*).

Proposed 4.00J—How do we evaluate issues that affect the cardiovascular system?

We propose:

- To redesignate and rename some paragraphs for ease of reference;
- In 4.00J1 (*How do we consider the effects of obesity when we evaluate your cardiovascular disorder?*), to simplify and refocus our discussion of how we consider the effects of obesity more specifically on cardiovascular disorders;
- To add 4.00J3 (*How do we consider hospitalizations?*) to explain how we would evaluate hospitalizations for repeated exacerbations and complications of cardiovascular disorders under proposed 4.02B3 (*Chronic heart failure*), 4.04E (*Ischemic heart disease*), 4.06E (*Congenital heart disease*), and 4.08D (*Cardiomyopathy*).

Proposed 4.00K—How do we evaluate cardiovascular disorders that do not meet one of these listings?

- We propose to rename and redesignate 4.00I3 (*How do we evaluate impairments that do not meet one of the cardiovascular listings?*) as 4.00K and redesignate 4.00I3a and 4.00I3b as 4.00K1 and 4.00K2 for ease of reference.

Proposed Changes to the Adult Cardiovascular Disorders Listings

The following table shows the heading of the current and proposed sections of the adult listings for cardiovascular disorders:

ADULT CARDIOVASCULAR DISORDERS LISTINGS

Current	Proposed
4.02 Chronic heart failure	4.02 Chronic heart failure.
4.04 Ischemic heart disease	4.03 [Reserved].
4.05 Recurrent arrhythmias	4.04 Ischemic heart disease.
4.06 Symptomatic congenital heart disease	4.05 Recurrent arrhythmias.
4.09 Heart transplant	4.06 Congenital heart disease.
4.10 Aneurysm of aorta or major branches	4.07 Aortic valvular disease.
4.11 Chronic venous insufficiency	4.08 Cardiomyopathy.
4.12 Peripheral arterial disease	4.09 Heart transplantation.
	4.10 Dissecting aneurysm of the aorta or major branches.
	4.11 Chronic venous insufficiency.
	4.12 Peripheral arterial disease.
	4.13 [Reserved].
	4.14 [Reserved].
	4.15 [Reserved].
	4.16 Cardiac allograft vasculopathy.

[23] Fearon, W.F. (2014). Percutaneous coronary intervention should be guided by fractional flow reserve measurement. *Circulation, 129*(18), 1860–1870. doi:10.1161/CIRCULATIONAHA.113.004300.

[24] IOM. (2010), 151.

The following table shows our proposed changes to the adult cardiovascular disorders listings criteria that involve changes to healthcare utilization and condition/episode requirements, the rationale for each change, and supporting resource. Following this table, we discuss all of our proposed changes to the adult cardiovascular disorders listings in more detail.

ADULT CARDIOVASCULAR DISORDERS LISTINGS CRITERIA—CHANGES IN HEALTHCARE UTILIZATION AND CONDITION/EPISODE REQUIREMENTS

Current listing criterion	Proposed listing criterion	Rationale	Resources
Listing 4.02 Chronic heart failure			
4.02 A1—A. Medically documented presence of one of the following: 1. Systolic failure (see 4.00D1a(i)), with left ventricular end diastolic dimensions greater than 6.0 cm or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure); or.	A. Medically documented presence of one of the following: 1. Systolic failure documented by appropriate medically acceptable imaging during a period of stability (not during an episode of exacerbation of heart failure), with left ventricular end diastolic dimension equal to or greater than 7.0 cm; or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure).	Proposed criterion 4.02A1 requires an increased left ventricular end diastolic dimension (LVEDD) equal to or greater than 7.0 centimeters (cm) instead of the current criterion of an LVEDD greater than 6.0 cm. We followed the IOM's recommendation in determining that an increased LVEDD of greater than 6.0 cm but less than 7.0 cm indicates only a moderately enlarged heart, and an increased LVEDD of at least 7.0 cm more clearly establishes an enlarged heart with signs and symptoms indicating listing-level heart failure.	IOM. (2010), 88, 89.
4.02B2—Three or more separate episodes of acute congestive heart failure within a consecutive 12-month period (see 4.00A3e), with evidence of fluid retention (see 4.00D2b(ii)) from clinical and imaging assessments at the time of the episodes, requiring acute extended physician intervention such as hospitalization or emergency room treatment for 12 hours or more, separated by periods of stabilization (see 4.00D4c);	B.3. Exacerbations or complications of chronic heart failure (see 4.00D1b) requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3).	We propose to remove current 4.02B2 "three or more separate episodes of acute congestive heart failure" because we would evaluate these episodes under proposed 4.02B3. As recommended by the IOM, proposed 4.02B3 would evaluate exacerbations or complications of CHF, requiring three hospitalizations within a consecutive 12-month period and at least 30 days apart. An impairment resulting in exacerbations or complications that require this many hospitalizations in 12 months is a very severe impairment. We would require these hospitalizations to be at least 30 days apart to ensure we are evaluating separate episodes of exacerbations or complications.	IOM. (2010), 89, 91.
No current listing criteria	C. Heart failure with left ventricular ejection fraction of 20 percent or less while on a regimen of prescribed therapy, on two evaluations at least 90 days apart within a consecutive 12-month period (see 4.00A3e) during a period of stability (not during an episode of exacerbation of heart failure);	The IOM recommended a criterion for chronic heart failure with an EF on a sustained basis of 20 percent or less. An EF of only 20 percent means the heart's pumping action is less than a third of normal, and critically affects a person's ability to perform gainful activity.	IOM. (2010), 84, 89. Desai, R.V., Guichard, J.L., Mujib, M., Ahmed, M.I., Feller, M.A., Fonarow, G.C., . . . Ahmed, A. (2013). Reduced right ventricular ejection fraction and increased mortality in chronic systolic heart failure patients receiving beta-blockers: Insights from the BEST trial. International Journal of Cardiology, 163(1), 61–67. doi:10.1016/j.ijcard.2011.05.051. Runge, M.S., Patterson, C., Stouffer, G.A., & Netter, F.H. (2010). Netter's Cardiology (2nd ed.). Philadelphia, PA: Saunders Elsevier.

ADULT CARDIOVASCULAR DISORDERS LISTINGS CRITERIA—CHANGES IN HEALTHCARE UTILIZATION AND CONDITION/EPISODE REQUIREMENTS—Continued

Current listing criterion	Proposed listing criterion	Rationale	Resources
No current listing criteria	D. One of the following while hospitalized, at home, or both: 1. Mechanical circulatory support device except extracorporeal membrane oxygenation (ECMO) (see 4.00D4e). Consider under a disability for 1 year from the date of implantation; after that, evaluate any residual impairment(s) under the criteria for the affected body system. 2. Continuous intravenous administration of inotropic medication (for example, milrinone) for at least 30 consecutive days. Consider under a disability for 1 year from the date of initiation of the treatment; after that, evaluate any residual impairment(s) under the criteria for the affected body system.	Implanted MCSDs help the heart pump blood and may be used as a ''bridge'' while a person waits for a heart transplant. We currently use our medical equivalence rules to find someone with heart failure and an implanted MCSD disabled under listing 4.09 (Heart transplantation). Adding this new criterion will ensure that people with heart failure treated with MCSD are consistently identified. People who require continuous intravenous administration of inotropic medication (for example, milrinone) have very serious heart failure, and the length of this treatment can be an accurate predictor of impairment severity. Accordingly, proposed 4.02D2 would find people disabled if they require continuous intravenous inotropic medications for 30 or more consecutive days.	Malotte, K., Saguros, A., & Groninger, H. (2018). Continuous cardiac inotropes in patients with end-stage heart failure: An evolving experience. Journal of Pain Symptom Management, 55(1), 159–163. doi:10.1016/j.jpainsymman.2017.09.026. Bistola, V., Arfaras-Melainis, A., Polyzogopoulou, E., Ikonomidis, I., & Parissis, J. (2019). Inotropes in acute heart failure: From guidelines to practical use: Therapeutic options and clinical practice. Cardiac Failure Review, 5(3), 133–139. doi:10.15420/cfr.2019.11.2.
Listing 4.04 Ischemic heart disease			
4.04B—Three separate ischemic episodes, each requiring revascularization or not amenable to revascularization (see 4.00E9f), within a consecutive 12-month period (see 4.00A3e).	4.04C—Documentation of three separate ischemic episodes (see 4.00E9c) requiring unplanned hospitalization (inpatient or observation status) within a consecutive 12-month period (see 4.00A3e).	We would evaluate unplanned hospitalizations under this section to ensure we are only evaluating urgent ischemic episodes. Individuals who have ischemic episodes that result in unplanned hospitalizations may need intensive care, can have long hospital stays, may require multiple procedures, and can be at high risk for post-discharge morbidity and mortality.	Hua, M., Gong, M.N., Brady, J., & Wunsch, H. (2015). Early and late unplanned rehospitalizations for survivors of critical illness. Critical Care Medicine, 43(2), 430–438. doi:10.1097/CCM.0000000000000717.
No current criterion for repeated exacerbations or complications ischemic heart disease, 4.04B (above) only considers episodes requiring revascularization or that are not amenable to revascularization.	4.04E—Exacerbations or complications of ischemic heart disease (see 4.00E2–4.00E7) requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00E9c).	An impairment resulting in exacerbations or complications that require three or more hospitalizations in 12 months is a very severe impairment. We would require these hospitalizations to be at least 30 days apart to ensure we are evaluating separate episodes of exacerbations or complications of ischemic heart disease.	Hua, M., Gong, M.N., Brady, J., & Wunsch, H. (2015). Early and late unplanned rehospitalizations for survivors of critical illness. Critical Care Medicine, 43(2), 430–438. doi:10.1097/CCM.0000000000000717.

ADULT CARDIOVASCULAR DISORDERS LISTINGS CRITERIA—CHANGES IN HEALTHCARE UTILIZATION AND CONDITION/EPISODE REQUIREMENTS—Continued

Current listing criterion	Proposed listing criterion	Rationale	Resources
Listing 4.06 Congenital heart disease			
4.06A—A. Cyanosis at rest, and: 1. Hematocrit of 55 percent or greater; or. 2. Arterial O2 saturation of less than 90 percent in room air or resting arterial PO2 of 60 Torr or less.	A. Chronic hypoxemia, and 1, 2, or 3: 1. Hematocrit of 55 percent or greater on two evaluations at least 90 days apart within a consecutive 12-month period (see 4.00A3e); or. 2. Arterial blood gas test measurement obtained at rest while breathing room air, as described in either a or b: a. SaO2 (arterial oxygen saturation) less than or equal to 89 percent; or. b. PO2 or PaO2 (partial pressure of oxygen) less than or equal to 60 mmHg; 3. SpO2 (percentage of oxygen saturation of blood hemoglobin) measured by pulse oximetry either at rest, during a 6-minute walk test (6MWT), or after a 6MWT, while breathing room air, less than or equal to 87 percent on three evaluations at least 30 days apart within a consecutive 12-month period (see 4.00A3e).	We propose to revise current 4.06A to require ''hypoxemia'' rather than ''cyanosis or acyanosis''. Cyanosis is a more subjective assessment subject to misinterpretation due to by many factors, including skin complexion. Thus, the term ''hypoxemia'' relates more to the laboratory and pulse oximetry findings than the term ''cyanosis. We would require two hematocrit measurements instead of the current listing's single measurement. Two measurements, at least 90 days apart within a consecutive 12-month period will help ensure the person's hematocrit level is associated with chronic hypoxemia and not the result of a reversible condition. Proposed 4.06A3 would require three SpO2 measurements 30 days apart within a consecutive 12-month period showing hypoxemia. This will document that the condition is chronic and persistent, and the measurements are not related to a reversible condition or an inaccurate reading. We would add a criterion for SpO2 (percentage of oxygen saturation of blood hemoglobin) measured by pulse oximetry, including measurements taken while the person is at rest or while doing a six-minute walk test (6MWT). Pulse oximetry measurements are a non-invasive alternative to invasive testing. A person's medical evidence often provides SpO2 findings, and SpO2 measured by pulse oximetry reflects an advance in medical technology that provides another way to establish listing-level severity.	Stout, K.K., Daniels, C.J., Aboulhosn, J.A., Bozkurt, B., Broberg, C.S., Colman, J.M., . . . Van Hare, G.F. (2019). 2018 AHA/ACC Guideline for the management of adults with congenital heart disease: A report of the American College of Cardiology/American Heart Association Task Force on Clinical Practice Guidelines. Journal of the American College of Cardiology, 73(12), e81–e192. doi:10.1016/j.jacc.2018.08.1029. Stack, S.W, . . . & Berger, S.A. (2009). The effects of high hematocrit arterial flow—A phenomenological study of health risk implications. Chemical Engineering Science, 64(22), 4701–4706. doi:10/1016/j.ces.2009.07.017. IOM. (2010), 178. Oster, M.E, . . . & Kochilas, L.K. (2016). Screening for critical congenital heart disease. Clinics in Perinatology, 43(1), 73–80. doi:10.1016/j.clp.2015.11.005. Mechem, C.C. (2014). Pulse oximetry. In P.E. Parsons (Ed.), UpToDate (Jan. 2014). Retrieved from *https://www.uptodate.com/contents/pulse-oximetry*.
No current criteria	4.06E—Exacerbations or complications of congenital heart disease (see 4.00J3) requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3).	An impairment resulting in exacerbations or complications that require three or more hospitalizations in 12 months is a very severe impairment. We would require these hospitalizations to be at least 30 days apart to ensure we are evaluating separate episodes of exacerbations or complications.	Hua, M., Gong, M.N., Brady, J., & Wunsch, H. (2015). Early and late unplanned rehospitalizations for survivors of critical illness. Critical Care Medicine, 43(2), 430–438. doi:10.1097/CCM.0000000000000717.
Listing 4.08 Cardiomyopathy			
No current listing	4.08D—D. Exacerbations or complications of cardiomyopathy requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3).	Consistent with IOM recommendations, we created this new cardiomyopathy listing to specifically address hypertrophic cardiomyopathy, endomyocardial fibrosis, and cardiac amyloidosis AL type, which are more serious types of cardiomyopathy.	IOM. (2010), 80. In addition, SSA has designated endomyocardial fibrosis and cardiac amyloidosis AL type as Compassionate Allowance (CAL) conditions. See Compassionate Allowances Website Home Page (*ssa.gov*).

ADULT CARDIOVASCULAR DISORDERS LISTINGS CRITERIA—CHANGES IN HEALTHCARE UTILIZATION AND CONDITION/EPISODE REQUIREMENTS—Continued

Current listing criterion	Proposed listing criterion	Rationale	Resources
Listing 4.11 Chronic venous insufficiency			
4.11—Chronic venous insufficiency of a lower extremity with incompetency or obstruction of the deep venous system and one of the following:	4.11—Chronic venous insufficiency (see 4.00G) of a lower extremity with reflux or obstruction of the venous system documented by duplex ultrasound or other appropriate diagnostic technique, with A or B:	As recommended by IOM, we would require confirmation of CVI by duplex ultrasound or other appropriate diagnostic technique. The medical community considers the use of duplex ultrasound to be the best method for detecting reflux or obstruction.	IOM. (2010), 161.
4.11A—A. Extensive brawny edema (see 4.00G3) involving at least two-thirds of the leg between the ankle and knee or the distal one-third of the lower extremity between the ankle and hip.	A. Extensive trophic changes of skin (for example, hyperpigmentation, lipodermatosclerosis, brawny edema) involving at least two-thirds of the leg below the knee, on two evaluations at least 90 days apart within a consecutive 12-month period (see 4.00A3e), with both 1 and 2:	We would adopt IOM recommendations and broaden the listing criteria we apply to trophic changes of the skin. For example, in addition to brawny edema, trophic changes evaluated under the proposed listing would include hyperpigmentation and lipodermatosclerosis We would revise the current requirement that these skin changes involve ''at least two-thirds of the leg between the ankle and knee or the distal one-third of the lower extremity between the ankle and hip.'' Instead, we would require extensive skin changes involving at least two-thirds of the leg below the knee, to make the requirement simpler to understand and apply. This revision is consistent with IOM's recommendation to require skin changes below the knee. We would require the skin changes under proposed 4.11A to be consistent with CVI, and we would document the skin changes over a period of at least 90 days to ensure they are chronic.	IOM. (2010), 157–161.
4.11B—Superficial varicosities, stasis dermatitis, and either recurrent ulceration or persistent ulceration that has not healed following at least 3 months of prescribed treatment.	4.11B—Two or more episodes of ulceration that has not healed following at least 6 months of prescribed treatment.	This requirement is more conclusive than the current requirement of 3 months of unsuccessful prescribed treatment as it demonstrates the condition has persisted despite treatment for a longer period of time. The CVI must be unresponsive to compression therapy, because this therapy usually enables people to return to a good level of functioning.	IOM. (2010), 161.

Proposed Listing 4.02—Chronic Heart Failure

We propose to revise the listing criteria for chronic heart failure (CHF) in 4.02A and 4.02B and add new listing criteria 4.02C and 4.02D. Proposed listing-level severity for CHF would be met when the person's CHF satisfies the criteria in 4.02A and 4.02B. Listing-level severity for CHF would also be met when the person's CHF satisfies either proposed 4.02C or 4.02D.

Proposed criterion 4.02A1 requires an increased left ventricular end diastolic dimension (LVEDD) equal to or greater than 7.0 centimeters (cm) instead of the current criterion of an LVEDD greater than 6.0 cm, because an LVEDD less than 5.6 cm is normal. We followed the IOM's recommendation in determining that an increased LVEDD of greater than 6.0 cm but less than 7.0 cm indicates only a moderately enlarged heart, and an increased LVEDD of at least 7.0 cm more clearly establishes an enlarged heart with signs and symptoms indicating listing-level heart failure and is comparable to an ejection fraction (EF) of 30 percent or less.[25]

In proposed 4.02A2, we would consider an elevated left atrial volume index (LAVi) measurement. An LAVi measurement provides a precise representation of increased left atrial pressure, making it a more accurate indicator of heart failure than considering left atrium size alone.[26]

To establish listing-level severity for CHF, in addition to satisfying the criteria in proposed 4.02A, a person's CHF must satisfy the criteria in proposed 4.02B. The criteria in proposed 4.02B are similar to the criteria in current 4.02B1 and 4.02B3, respectively, with some important changes. For proposed 4.02B1a, we can use a conclusion by a medical source that an exercise tolerance test (ETT) presents a significant risk to a person; for example, the person's cardiologist stating that an ETT would cause cardiac instability or injury. For proposed 4.02B1b, we would require findings showing that a person is very seriously limited in his or her ability to perform an ETT, similar to current 4.02B3. Consistent with the IOM's recommendations, proposed 4.02B2 would also include findings showing the inability to perform on an ETT at 15 milliliters/kilograms/minute (ml/kg/min) peak VO_2 (oxygen consumption).[27] Peak VO_2 at this level is comparable to the requirement in current 4.02B3 for an inability to perform on an ETT at a workload equivalent to 5 metabolic equivalents (METs) of task.

We propose to remove current 4.02B2 ''three or more separate episodes of acute congestive heart failure'' because we would evaluate these episodes under proposed 4.02B3. As recommended by the IOM, proposed 4.02B3 would evaluate exacerbations or complications

[25] IOM. (2010), 88, 89.

[26] Cacciapuoti, Fu., Scognamiglio, A., Paoli, V.D., Romano, C., & Cacciapuoti, Fe. (2012). Left atrial volume index as indicator of left ventricular diastolic dysfunction: Comparation between left atrial volume index and tissue myocardial performance index. Journal of Cardiovascular Ultrasound, 20(1), 25–29. doi:10.4250/jcu.2012.20.1.25.

[27] IOM. (2010), 85, 93.

of CHF, requiring three hospitalizations within a consecutive 12-month period and at least 30 days apart.[28]

Additionally, proposed 4.02B2 would not include the requirement in current 4.02B3b of frequent premature ventricular contractions (PVCs). Frequent PVCs do not necessarily reflect an inability to perform an ETT.[29 30 31] The proposed listing also would no longer include the criterion in current 4.02B3d requiring signs attributable to inadequate cerebral perfusion, such as ataxic gait or mental confusion. Such manifestations rarely occur during an ETT, even if the person has very serious CHF.[32]

The IOM recommended a criterion for chronic heart failure in people who are stable and receiving treatment but have an EF on a sustained basis of 20 percent or less. An EF of only 20 percent means the heart's pumping action is less than a third of normal, and critically affects a person's ability to perform gainful activity.[33 34 35] Most individuals with disease this advanced have greater risk of mortality and major functional limitations, such as shortness of breath or fatigue, even during mild exertion.[36] We propose 4.02C consistent with the IOM's recommendation. We would require at least two EF measurements equal to or less than 20 percent at least 90 days apart within a consecutive 12-month period to document chronic disease and to exclude heart failure resulting from reversible causes.

Under proposed 4.02D1, we would include a new criterion for heart failure treated with a mechanical circulatory support device (MCSD). Implanted MCSDs, such as a left ventricle assistive device (LVAD) or a right ventricle assistive device (RVAD), help the heart pump blood and may be used as a ''bridge'' while a person waits for a heart transplant. We currently use our medical equivalence rules [37] to find someone with heart failure and an implanted MCSD disabled under listing 4.09 (*Heart transplantation*). Adding this new criterion will ensure that people with heart failure treated with MCSD are consistently identified.

People who require continuous intravenous administration of inotropic medication (for example, milrinone) have very serious heart failure, and the length of this treatment can be an accurate predictor of impairment severity.[38 39] Accordingly, proposed 4.02D2 would find people disabled if they require continuous intravenous inotropic medications for 30 or more consecutive days.

Proposed Listing 4.04—Ischemic Heart Disease

As noted earlier in this preamble, we propose to use reports from AMSs under proposed 4.04A to determine whether ECG findings are positive for IHD. We would also rely on such reports to determine whether systolic blood pressure measurements during ETTs are positive for IHD. Based on our program experience and consultation with agency medical experts, we expect that relying on these reports from AMSs will ensure the accuracy of disability claims adjudication.

We would replace current 4.04A4 with proposed 4.04A. Proposed 4.04B adds the requirement to consider imaging results derived from pharmacologic stress testing. The new proposed requirement will provide more specific findings than the current criterion, which generally requires only ''documented ischemia.'' [40] Because of these changes, we would redesignate current 4.04B as proposed 4.04C and revise the introductory text accordingly.

Proposed 4.04C (current 4.04B) would require three separate ischemic episodes that result in unplanned hospitalizations within a consecutive 12-month period (see 4.00A3e (*What do the following terms or phrases mean in these listings?*), including episodes requiring unplanned revascularization or treatment for myocardial infarction (heart attack), unstable angina, or an irregular heartbeat. We would evaluate unplanned hospitalizations under this section to ensure we are only evaluating urgent ischemic episodes. Individuals who have ischemic episodes that result in unplanned hospitalizations may need intensive care, can have long hospital stays, may require multiple procedures, and can be at high risk for post-discharge morbidity and mortality.[41 42 43 44] Many also have serious co-occurring medical conditions (for example, heart failure, chronic kidney disease, and chronic obstructive pulmonary disease).[45 46 47]

We would redesignate current 4.04C as proposed 4.04D. We would reorganize the criteria in current 4.04C and follow IOM's recommendation to add new criteria to evaluate the severity of a person's IHD regardless of whether he or she has had a timely ETT or pharmacologic stress test or whether such tests are contraindicated. ETTs and pharmacologic stress test are commonly performed for diagnostic and prognostic purposes, and applicable to determine

[28] IOM. (2010), 89, 91.

[29] Cha, Y.-M., Lee, G.K., Klarich, K.W., & Grogan, M. (2012). Premature ventricular contraction-induced cardiomyopathy: A treatable condition. Circulation: Arrhythmia and Electrophysiology, 5(1), 229–236. doi:10.1161/CIRCEP.111.963348.

[30] Dukes, J.W., Dewland, T.A., Vittinghoff, E., Mandyam, M.C., Heckbert, S.R., Siscovick, D.S., . . . Marcus, G.M. (2015). Ventricular ectopy as a predictor of heart failure and death. Journal of the American College of Cardiology, 66(2), 101–109. doi:10.1016/j.jacc.2015.04.062.

[31] IOM. (2010), 87.

[32] IOM. (2010), 87, 88.

[33] Desai, R.V., Guichard, J.L., Mujib, M., Ahmed, M.I., Feller, M.A., Fonarow, G.C., . . . Ahmed, A. (2013). Reduced right ventricular ejection fraction and increased mortality in chronic systolic heart failure patients receiving beta-blockers: Insights from the BEST trial. International Journal of Cardiology, 163(1), 61–67. doi:10.1016/j.ijcard.2011.05.051.

[34] IOM. (2010), 84, 89.

[35] Runge, M.S., Patterson, C., Stouffer, G.A., & Netter, F.H. (2010). Netter's Cardiology (2nd ed.). Philadelphia, PA: Saunders Elsevier.

[36] IOM. (2010), 78, 81, 82, 94.

[37] 20 CFR 404.1526 and 416.926.

[38] Malotte, K., Saguros, A., & Groninger, H. (2018). Continuous cardiac inotropes in patients with end-stage heart failure: An evolving experience. Journal of Pain Symptom Management, 55(1), 159–163. doi:10.1016/j.jpainsymman.2017.09.026.

[39] Bistola, V., Arfaras-Melainis, A., Polyzogopoulou, E., Ikonomidis, I., & Parissis, J. (2019). Inotropes in acute heart failure: From guidelines to practical use: Therapeutic options and clinical practice. Cardiac Failure Review, 5(3), 133–139. doi:10.15420/cfr.2019.11.2.

[40] IOM. (2010), 120.

[41] Hua, M., Gong, M.N., Brady, J., & Wunsch, H. (2015). Early and late unplanned rehospitalizations for survivors of critical illness. Critical Care Medicine, 43(2), 430–438. doi:10.1097/CCM.0000000000000717.

[42] Kim, Y., Gani, F., Canner, J.K., Margonis G.A., Makary, M.A., Schneider, E.B., & Pawlik, T.M. (2016). Hospital readmission after multiple major operative procedures among patients with employer provided health insurance. Surgery, 160(1), 178–190. doi:10.1016/j.surg.2016.01.025.

[43] Reynolds, K., Butler, M.G., Kimes, T.M., Rosales, A.G., Chan, W., & Nichols, G.A. (2015). Relation of acute heart failure hospital length of stay to subsequent readmission and all-cause mortality. American Journal of Cardiology, 116(3), 400–405. doi:10.1016/j.amjcard.2015.04.052.

[44] Yu, P.-J., Cassiere, H.A., Fishbein, J., Esposito, R.A., & Hartman, A.R. (2016). Outcomes of patients with prolonged intensive care unit length of stay after cardiac surgery. Journal of Cardiothoracic and Vascular Anesthesia, 30(6), 1550–1554. doi:10.1053/j.jvca.2016.03.145.

[45] Frigola-Capell, E., Comin-Colet, J., Davins-Miralles, J., Gich-Saladich, I., Wensing, M., & Verdú-Rotellar, J.M. (2012). Trends and predictors of hospitalization, readmissions and length of stay in ambulatory patients with heart failure. Revista Clinica Espanola, 213(1), 1–7. doi:10.1016/j.rce.2012.10.006.

[46] Nombela-Franco, L., del Trigo, M., Morrison-Polo, G., Veiga, G., Jimenez-Quevedo, P., Altisent, O.A.-J., . . . Rodés-Cabau, J. (2015). Incidence, causes, and predictors of early (<30 days) and late unplanned hospital readmissions after transcatheter aortic valve replacement. Journal of the American College of Cardiology: Cardiovascular Interventions, 8(13), 1748–1757. doi:10.1016/j.jcin.2015.07.022.

[47] Versteeg, H., Hoogwegt, M.T., Hansen, T.B., Pedersen, S.S., Zwisler, A.-D., & Thygesen, L.C. (2013). Depression, not anxiety, is independently associated with 5-year hospitalizations and mortality in patients with ischemic heart disease. Journal of Psychosomatic Research, 75(6), 518–525. doi:10.1016/j.jpsychores.2013.10.005.

functional capacity in persons with IHD.[48]

We would create proposed new 4.04D1 based upon blood flow in the coronary arteries expressed as fractional flow reserve (FFR). Updated medical science has shown FFR is a more objective and medically updated measure of the severity of stenosis.[49] A clinician may measure FFR in a stenotic (obstructed) artery to determine whether it requires revascularization. A normal (patent) artery has an FFR equal to 1.0. If a stenotic artery has an FFR equal to or less than 0.80, and the artery is amenable to revascularization, the clinician will use revascularization to restore the vessel, because the obstructed artery is causing significant ischemia. Accordingly, an FFR measurement less than or equal to 0.80 in the proximal or mid segment of an artery that is *not* amenable to revascularization is consistent with the requirements of proposed 4.04D1.[50] [51] [52]

In proposed 4.04D2 we would evaluate IHD by taking into consideration a person's history of coronary artery bypass graft surgery. In proposed 4.04D3, we would evaluate IHD by taking into consideration that a person has a decreased EF (*i.e.,* EF of less than 50 percent while medically stable and on a regimen of prescribed treatment).

In both proposed 4.04D2 and 4.04D3, we would require the person to have symptoms of myocardial ischemia, as described in current 4.00E3 through 4.00E7 and be on a regimen of prescribed treatment. Proposed 4.04D2 and 4.04D3 would include the criteria in current 4.04C1a, b, and d with minor editorial changes. Proposed 4.04D2 includes criteria in current 4.04C1e. We would not include the criteria in current 4.04C1c in the proposed listings 4.04D2 and 4.04D3 because based on our program experience, we determined that these criteria do not consistently correlate with listing-level severity.

We would remove current 4.04C2 with its requirement that a person's IHD result in very serious limitations in his or her ability to independently initiate, sustain, or complete activities of daily living. The criteria in proposed listings 4.04D1, 4.04D2, and 4.04D3 alone provide a description of listing-level IHD.

We are proposing new 4.04E to evaluate exacerbations or complications of IHD requiring three hospitalizations within a consecutive 12-month period and at least 30 days apart. These hospitalizations may be planned or unplanned. The hospitalizations required under 4.04E differ from those required in proposed 4.04C, which requires that hospitalizations be unplanned.

Proposed Listing 4.05—Recurrent Arrhythmias

We propose to reorganize the basic structure and presentation of current 4.05 (*Recurrent arrhythmias*) to improve its clarity and ease of reference. We would breakdown the current criteria into two parts: recurrent episodes of syncope (or near syncope) and findings and documentation by a medically acceptable test, to demonstrate that both parts must be satisfied to document listing-level severity. We would also remove ''uncontrolled'' as a descriptor for recurrent episodes of cardiac syncope because, inherently, these episodes are uncontrolled if they recur while a person is on a regimen of prescribed treatment. Because we would remove ''uncontrolled'' as a descriptor in the listing, we would also remove the definition for this term from current 4.00A3 in the introductory text. Symptoms associated with arrhythmia include: anxiety, chest pain, fatigue, sweating, near-syncope, and fainting (syncope). Syncope and near-syncope are two of the more serious symptoms; individuals with arrhythmias and recurrent episodes of syncope have a higher risk of mortality and sudden cardiac death. Furthermore, syncope and near-syncope are more quantifiable and objective than other symptoms like anxiety and fatigue. For these reasons, recurrent episodes of syncope and near syncope continue to be an appropriate indicator of listing-level severity for individuals with recurrent arrhythmias.[53]

Proposed Listing 4.06—Congenital Heart Disease

For the reason discussed below, we propose to remove the parenthetical reference to ''cyanotic or acyanotic'' congenital heart disease from the heading in current 4.06 in order to focus on hypoxemia.

Accordingly, we propose to revise current 4.06A to require ''hypoxemia'' rather than ''cyanosis or acyanosis.'' ''Hypoxemia'' reflects abnormalities in the blood, such as an increased hematocrit level or a low blood oxygen level, which are detected through laboratory analysis or pulse oximetry. On the other hand, the term ''cyanosis'' refers to skin discoloration observed during a physical examination. Cyanosis is a more subjective assessment subject to misinterpretation due to by many factors, including skin complexion. Thus, the term ''hypoxemia'' relates more to the laboratory and pulse oximetry findings than the term ''cyanosis.'' [54]

To establish listing-level severity for individuals with congenital heart disease, IOM recommended documentation of chronic and persistent hypoxemia. Therefore to demonstrate the chronic and persistent nature, in proposed 4.06A1, we would require two hematocrit measurements instead of the current listing's single measurement. Two measurements, at least 90 days apart within a consecutive 12-month period will help ensure the person's hematocrit level is associated with chronic hypoxemia and not the result of a reversible condition, such as dehydration.[55] The proposed requirement that the two measurements be 90 days apart is consistent with the time period requirement used in our other body system listings, and consistent with instructions providers receive for scheduling patients [56] and established check-up intervals for adults with congenital heart disease.[57]

[48] IOM. (2010), 70.

[49] Shlofmitz, E., and Jeremias, A. (2017). *FFR in 2017: Current Status in PCI Management—American College of Cardiology.* Available online at: *https://www.acc.org/latest-in-cardiology/articles/2017/05/25/08/34/ffr-in-2017-current-status-in-pci-management* (accessed September 17, 2021).

[50] Fearon, W.F. (2014). Percutaneous coronary intervention should be guided by fractional flow reserve measurement. Circulation, 129(18), 1860–1870. doi:10.1161/CIRCULATIONAHA.113.004300.

[51] Fearon, W.F., De Bruyne, B., & Pijlis, N.H. (2016). Fractional flow reserve in acute coronary syndromes. Journal of the American College of Cardiology, 68(11), 1192–1194. doi:10.1016/j.jacc.2016.07.713.

[52] Tebaldi, M., Biscaglia, S., Pecoraro, A., Fineschi, M., & Campo, G. (2016). Fractional flow reserve implementation in daily clinical practice: A European survey. International Journal of Cardiology, 207, 206–207. doi:10.1016/j.ijcard.2016.01.097.

[53] Koene, R.J., Adkisson, W.O., & Benditt, D.G. (2017). Syncope and the risk of sudden cardiac death: Evaluation, management, and prevention. *Journal of arrhythmia, 33*(6), 533–544. *https://doi.org/10.1016/j.joa.2017.07.005.*

[54] Stout, K.K. (2019).

[55] Stack, S.W. . . ., & Berger, S.A. (2009). The effects of high hematocrit arterial flow—A phenomenological study of health risk implications. Chemical Engineering Science, 64(22), 4701–4706. doi:10/1016/j.ces.2009.07.017.

[56] Bavafa, H., Savin, S., & Terwiesch, C. (2019). Redesigning Primary Care Delivery: Customized Office Revisit Intervals and E-Visits. *https://dx.doi.org/10.21con39/ssrn.2363685.*

Paper referenced by Bavafa: Schectman, G., G. Barnas, P. Laud, L. Cantwell, M. Horton, E.J. Zarling. 2005. Prolonging the return visit interval in primary care. *The American Journal of Medicine, 118*(4) 393–39.

[57] According to the University of Washington's Adult Congenital Heart Disease Clinic's *Information for Patients and Families* (2016), most people with congenital heart disease require regular check-ups with their cardiologist ''at intervals ranging from

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Furthermore, requiring two measurements at least 90 days apart is consistent with the current (and proposed) childhood congenital heart disease criterion (104.06A1) and will assist with documenting duration and establishing that the persistent nature of the person's condition.[58]

We would include the medical abbreviation ''S_aO_2'' in 4.06A2. This abbreviation frequently appears in the medical evidence to indicate arterial oxygen (O_2) saturation determined by arterial blood gas testing. We would also include the medical abbreviation ''P_aO_2'' (partial pressure of O_2), because medical reports may use it interchangeably with the abbreviation ''PO_2'' that we use in current 4.06A for arterial partial pressure of oxygen. Additionally, we would express P_aO_2 and PO_2 in millimeters of mercury (mmHg) instead of Torr units to make the listing consistent with current medical practice and terminology.[59]

In proposed 4.06A3, we would add a criterion for S_pO_2 (percentage of oxygen saturation of blood hemoglobin) measured by pulse oximetry, including measurements taken while the person is at rest or while doing a six-minute walk test (6MWT). Pulse oximetry measurements are a non-invasive alternative to invasive testing. A person's medical evidence often provides S_pO_2 findings, and S_pO_2 measured by pulse oximetry reflects an advance in medical technology that provides another way to establish listing-level severity.[60 61 62]

Proposed 4.06A3 would require three S_pO_2 measurements 30 days apart within a consecutive 12-month period showing hypoxemia. We explain in the introductory text of proposed 4.00H4c that these measurements must be documented by a medical source using methods consistent with the prevailing state of medical knowledge and clinical practice, and also must be consistent with the other evidence in the person's case record. We would require an S_pO_2 of 87 percent or less because this finding is comparable in severity to an S_aO_2 of less than 90 percent in current 4.06A2.[63] By requiring several measurements at least 30 days apart, we ensure that the required findings span a period of at least 90 days. Similar to the requirement for repeated hematocrit measurements under 4.06A1, this will document that the condition is chronic and persistent, and the measurements are not related to a reversible condition or an inaccurate reading.

In proposed 4.06B, we would include an additional option of taking an S_aO_2 measurement for determining the level of hypoxemia during exertion. This change would provide an additional way of evaluating hypoxemia. Similarly, we would include an oxygen uptake measurement as another option.

We are proposing several changes to current 4.06C. We would use the term ''pulmonary hypertension'' to describe the impairment instead of the term ''pulmonary vascular obstructive disease.'' ''Pulmonary hypertension'' is the term more commonly used by clinicians and, therefore, the most likely to appear in the medical evidence.[64] We are also proposing to delete ''secondary'' from the listing's heading, because pulmonary hypertension can be disabling regardless of whether it is a ''primary'' or ''secondary'' condition.

We would include medical findings in proposed 4.06C that are expressed in millimeters of mercury (mmHg). Findings of pulmonary artery pressure are expressed in mmHg more often than they are expressed as a percentage of ''systemic arterial systolic pressure,'' as in current 4.06C. Pulmonary hypertension may be reported in the medical evidence as either pulmonary artery pressure or *mean* pulmonary artery pressure, so we would include both types of findings in the proposed listing.

We would add a new criterion—proposed 4.06D—to evaluate adults with ''single ventricle,'' which is also known as ''single ventricle physiology'' or ''functional single ventricle.'' Children born with single ventricle have a severe, medically determinable impairment (MDI) that will usually need to be corrected by staged surgery called ''Fontan procedures.''[65] These procedures enable an increasing percentage of affected children to survive into adulthood. As adults, they have significantly reduced functional capacities that steadily decline. We would find adults disabled under proposed 4.06D if objective medical evidence shows the person has single ventricle, regardless of whether or not they had Fontan or other surgical procedures.[66 67] We provide information in the introductory text in proposed 4.00H3 (*What is single ventricle?*) about single ventricle and these surgical procedures.

Proposed Listing 4.07—Aortic Valvular Disease

We currently evaluate aortic valvular disease under other cardiovascular disorders listings, which include requirements for ETT or repeated hospitalization. According to the IOM report, due to the risk associated with exercise testing for individuals with symptomatic aortic stenosis, ETT is not advised.[68] Furthermore, very serious symptomatic aortic stenosis is ''universally fatal'' if left untreated and there are few effective, long-term medical therapies for individuals with this level of disease.[69] Therefore, we followed IOM recommendations to provide evaluation criteria for aortic valvular disease and propose to add new listing 4.07 to evaluate aortic valvular disease. The medical community considers an aortic valve area equal to or less than 1.0 cm^2 indicative of advanced stenotic disease associated with significant dyspnea, fatigue, angina, and other serious

every several months to every several years.'' Accessed May 4, 2022, from *HeartInstitute_AdultCongenitalHeartDiseaseClinic.pdf* (*uwmedicine.org*).

People with listing-level congenital heart disease are expected to require more frequent checkups than those who are asymptomatic or have less severe disease.

[58] See 20 CFR 404.1505(a) and 416.905(a). The law defines disability as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

[59] Castro D, Patil SM, Keenaghan M. Arterial Blood Gas. 2021 Jan 27. In: StatPearls [internet]. Treasure Island (FL): StatPearls Publishing; 2021 Jan–. PMID: 30725604.

[60] IOM. (2010), 178.

[61] Oster, M. E. . . ., & Kochilas, L.K. (2016). Screening for critical congenital heart disease. Clinics in Perinatology, 43(1), 73–80. doi:10.1016/j.clp.2015.11.005.

[62] Mechem, C.C. (2014). Pulse oximetry. In P.E. Parsons (Ed.), UpToDate (Jan. 2014). Retrieved from *https://www.uptodate.com/contents/pulse-oximetry.*

[63] IOM. (2010), 178.

[64] A review of the website for the Journal of the American Medical Association (JAMA), a peer-reviewed medical journal published 48 times a year by the American Medical Association, found that the exact term ''pulmonary hypertension'' came back with more than 800 results. A search for the exact term ''pulmonary vascular obstructive disease'' came back with zero results. The search was conducted on September 8, 2021.

[65] People with single ventricle will generally undergo staged reconstructive ''Fontan procedures,'' ultimately resulting in a ''Fontan circulation.'' Fontan circulation describes the state in which virtually all systemic venous return-blood passively flows directly into the pulmonary arteries via surgical or catheter-placed shunts, without the blood passing through a ventricle.

[66] Cohen, S., & Marelli, A. (2016). Evolving heart transplantation across the lifespan: A growing population of adults with congenital heart disease. Archives of Cardiovascular Disease, 109(10), 511–513. doi:10.1016/j.acvd.2016.05.001.

[67] IOM. (2010), 169, 178.

[68] IOM. (2010), 195.

[69] IOM. (2010), 194, 195.

symptoms.[70] [71] [72] [73] Proposed 4.07 would require appropriate testing that documents the aortic valve area.

Proposed Listing 4.08—Cardiomyopathy

Consistent with IOM recommendations, we would add 4.08 to evaluate cardiomyopathies, such as hypertrophic cardiomyopathy (HCM). We currently evaluate cardiomyopathy under 4.02 (*Chronic heart failure*), 4.04 (*Ischemic heart disease*), 4.05 (*Recurrent arrhythmias*), or 11.04 (*Vascular insult to the brain*), depending on its effects. Depending on the underlying cause of the person's cardiomyopathy or its effects, we may continue to evaluate cardiomyopathy under 4.02, 4.04, 4.05, and 11.04. We created this new cardiomyopathy listing to specifically address HCM, endomyocardial fibrosis, and cardiac amyloidosis AL type, which are more serious types of cardiomyopathy.[74]

HCM with severe left ventricular or septal wall thickness can cause serious problems, including chest pain, dyspnea, syncope, and arrhythmias.[75] As recommended by IOM, we would evaluate HCM under proposed 4.08A by requiring the heart to have a left ventricular or septal wall thickness equal to or greater than 20 millimeters. Proposed 4.08 also requires the individual to be seriously limited in the ability to perform an ETT, or a medical source has concluded that the performance of an ETT would present a significant risk.

Proposed 4.08B would evaluate endomyocardial fibrosis, a form of cardiomyopathy with a generally poor prognosis despite treatment. Under proposed 4.08B, we would require endomyocardial fibrosis resulting in a loss of heart chamber volume, atrial dilatation, and mitral or tricuspid valve regurgitation.

Proposed 4.08C would evaluate cardiac amyloidosis AL (light-chain) type, another form of cardiomyopathy with a poor prognosis. We would need objective medical evidence, such as biopsy findings, echocardiogram, cardiac MRI, and PET scan to establish listing-level severity.

Proposed 4.08D would evaluate exacerbations or complications of cardiomyopathy, requiring three hospitalizations within a consecutive 12-month period and at least 30 days apart.

Proposed Listing 4.09—Heart Transplantation

We are proposing editorial changes in the heading and text of current 4.09, which would not be substantive but would clarify the guidance. We have changed from ''1 year following surgery'' to ''1 year from the date of the transplant'' consistent with transplantation listings in other body systems such as 6.04 (*Chronic kidney disease*) and 7.17 (*Hematological disorders treated by bone marrow or stem cell transplantation*).

Proposed Listing 4.10—Dissecting Aneurysm of the Aorta or Major Branches

We propose to revise the heading for listing 4.10 to specify that we evaluate only ''dissecting'' aneurysms under the listing consistent with IOM recommendations.[76]

Proposed Listing 4.11—Chronic Venous Insufficiency

We propose to revise the heading in current listing 4.11 by replacing the outdated term ''incompetency'' with the term ''reflux''—the term the medical community currently uses to describe decrease blood flow and pooling of blood in the veins.[77] We would delete the word ''deep'' in the heading so that the listing covers reflux or obstruction associated with superficial and perforating veins. Reflux or obstruction in these veins may result in the required level of CVI.[78] Additionally, as recommended by IOM, we would require confirmation of CVI by duplex ultrasound or other appropriate diagnostic technique. The medical community considers the use of duplex ultrasound to be the best method for detecting reflux or obstruction.[79]

In proposed 4.11A, we would adopt IOM recommendations and broaden the listing criteria we apply to trophic changes (changes resulting from interruption of nerve supply) of the skin. For example, in addition to brawny edema, trophic changes evaluated under the proposed listing would include hyperpigmentation and lipodermatosclerosis.

We would revise the current requirement that these skin changes involve ''at least two-thirds of the leg between the ankle and knee or the distal one-third of the lower extremity between the ankle and hip.'' Instead, we would require extensive skin changes involving at least two-thirds of the leg below the knee, to make the requirement simpler to understand and apply. This revision is consistent with IOM's recommendation to require skin changes below the knee.[80]

We would require the skin changes under proposed 4.11A to be consistent with CVI, and we would document the skin changes over a period of at least 90 days to ensure they are chronic. Additionally, the CVI must be unresponsive to compression therapy, because this therapy usually enables people to return to a good level of functioning.[81]

In proposed 4.11B, we would remove findings in the current listing that no longer demonstrate required severity. For example, we would remove superficial varicosities, which indicate venous disease but not necessarily CVI. We would follow IOM's recommendation and also remove stasis dermatitis, because it is ''a generic term referring to the trophic changes,'' and it is unreliable because it may be a sign of other unrelated conditions including aging.[82]

Proposed 4.11B would require recurrent or persistent skin ulceration that has not healed after 6 or more months of prescribed treatment. In regard to documenting duration and severity of CVI, this requirement is more conclusive than the current requirement of 3 months of unsuccessful prescribed treatment as it demonstrates the condition has persisted despite treatment for a longer period of time.[83]

Proposed Listing 4.12—Peripheral Arterial Disease

We propose to revise the heading of the current listing to evaluate peripheral arterial disease (PAD) while the person is on a regimen of prescribed treatment. PAD often improves with angioplasty, supervised physical rehabilitation, and other prescribed therapies.[84]

[70] Berthelot-Richer, M., Pibarot, P., Capoulade, R., Dumesnil, J.G., Dahou, A., Thebault, C., . . . Clavel, M.-A. (2016). Discordant grading of aortic stenosis severity: Echocardiographic predictors of survival benefit associated with aortic valve replacement. Journal of the American College of Cardiology: Cardiovascular Imaging, 9(7), 797–805. doi:10.1016/j.jcmg.2015.09.026.

[71] IOM. (2010), 195.

[72] Nombela-Franco, L. (2015).

[73] Ziberszac, R., Gabriel, H., Schemper, M., Laufer, G., Maurer, G., & Rosenhek, R. (2017). Asymptomatic severe aortic stenosis in the elderly. Journal of the American College of Cardiology: Cardiovascular Imaging, 10(1), 43–50. doi:10.1016/j.jcmg.2016.05.015.

[74] SSA has designated endomyocardial fibrosis and cardiac amyloidosis AL type as Compassionate Allowance (CAL) conditions. See *Compassionate Allowances website Home Page (ssa.gov).*

[75] IOM. (2010), 80.

[76] IOM. (2010), 217.

[77] IOM. (2010), 160.

[78] IOM. (2010), 161.

[79] Id.

[80] IOM. (2010), 157–161.

[81] IOM. (2010), 159.

[82] IOM. (2010), 161.

[83] IOM. (2010), 161.

[84] Poredoš P, Jezovnik M, Kalodiki E. Medical management of patients with peripheral arterial

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We would add leg pain in the heading as a serious and potentially debilitating symptom of PAD. People who have PAD with intermittent leg pain may be impaired to a similar extent as a person with PAD with intermittent claudication.[85]

Consistent with IOM recommendations, we would require a person's intermittent leg pain or claudication to interfere with his or her mobility. This proposed change clarifies our original intent in the listing, which is to tie PAD to functioning. Finally, we would replace the term ''appropriate medically acceptable imaging'' in the listing heading with ''appropriate test(s)'' (4.00G6—*Are there any other studies that are helpful in evaluating PAD?*) to acknowledge that non-imaging procedures such as physical examination and blood tests may also help detect PAD.[86]

Proposed Listing 4.16—Cardiac Allograft Vasculopathy

We propose to add new listing 4.16 to evaluate a person who received a heart transplant (allograft) and subsequently developed cardiac allograft vasculopathy (CAV). Currently, we evaluate CAV through medical equivalence to listing 4.09 (*Heart transplant*). CAV results in stenosis of the heart's blood vessels that may progress quickly and cause significant heart dysfunction. CAV with moderate stenosis, as defined in the medical literature,[87] may also result in a listing-level impairment, depending on the extent and seriousness of dysfunction. To establish the required level of CAV, we would require a cardiac index (cardiac output) of less than 2 liters/minute/meter square (L/min/m^2), an ejection fraction equal to or less than 45 percent, right atrial pressure greater than 12 mmHg, or pulmonary capillary wedge pressure greater than 15 mmHg. Individuals who have any of these findings have a poor prognosis and are limited in their activities and ability to work.[88 89 90 91]

Other Proposed Changes

As mentioned, we are proposing new criteria to evaluate exacerbations or complications of several categories of cardiovascular disorders. These new criteria include proposed 4.02B3 for evaluating chronic heart failure, proposed 4.04E for evaluating ischemic heart disease, proposed 4.06E for evaluating congenital heart disease, and proposed 4.08D for evaluating cardiomyopathies. Consistent with IOM recommendations, we are proposing these new criteria for evaluating chronic heart failure and cardiomyopathies.[92] In addition, we are proposing these new criteria for evaluating ischemic heart disease (4.04) and congenital heart disease (4.06). Our adjudicative experience shows that these cardiovascular disorders are prone to exacerbations and serious complications. These proposed criteria would require exacerbations or complications causing a person to be hospitalized three or more times within a consecutive 12-month period.[93] An impairment resulting in exacerbations or complications that require this many hospitalizations in 12 months will prevent a person from engaging in any gainful activity.[94 95 96 97 98 99 100] We would require these hospitalizations to be at least 30 days apart and to last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization, to ensure we are evaluating separate listing-level episodes of exacerbations or complications. Our proposal to require that each hospitalization last at least 48 hours is generally consistent with data showing that the average length of hospital stays for serious cardiac conditions like primary heart failure and adult congenital heart disease is at least 48 hours.[101 102]

Another revision we are proposing would affect chronic venous insufficiency evaluated under 4.11. Under our proposed changes, we would follow IOM's recommendations and require documentation that certain manifestations of chronic venous insufficiency (for example, trophic changes of the skin) occurred at least twice within a consecutive 12-month period, instead of only once under the current listings.[103] This change is based on the IOM recommendation that two occurrences per year more accurately and consistently demonstrates listing-level severity. We would also require documentation that these manifestations occurred at least 90 days apart. These requirements ensure we are appropriately documenting the chronicity and persistence of these conditions and evaluating people who have very serious chronic conditions.

Proposed Changes to the Childhood Cardiovascular Disorders Introductory Text

Proposed 104.00—Introductory Text to the Childhood Cardiovascular Disorders Listings

We repeat much of the introductory text of proposed 4.00 in the introductory text of proposed 104.00, because the same basic criteria for evaluating cardiovascular disorders apply to both adults and children. Because we have already described these proposed criteria above, the following discussion describes only those criteria that are unique to children or that require further explanation in how they will be applied to children.

The following table shows the heading of the current and proposed sections of the childhood introductory text for cardiovascular disorders:

disease. Int Angiol. 2015 Feb;34(1):75–93. Epub 2014 Jun 11. PMID: 24916346.

[85] IOM. (2010), 151.

[86] Id.

[87] The International Society of Heart and Lung Transplantation's grading classification defines mild cardiac allograft vasculopathy (CAV_1) as having left main artery stenosis of less than 50 percent, primary vessel stenosis greater than 70 percent (including the right coronary artery), or any branch stenosis greater than 70 percent (see Mehra, M.R., Crespo-Leiro, M.G., Dipchand, A., Ensminger, S.M., Hiemann, N.E., Kobashigawa, J.A., . . . Uber, P.A. (2010). International Society of Heart and Lung Transplantation working formulation of a standardized nomenclature for cardiac allograft vasculopathy—2010. Journal of Heart and Lung Transplantation, 29(7), 717–727. doi:10.1016/j.healun.2010.05.017).

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[103] IOM. (2010), 161.

Current sections of the childhood introductory text and listings for cardiovascular system	Proposed sections of the childhood introductory text and listings for cardiovascular disorders
104.00 Cardiovascular System	104.00 Cardiovascular Disorders.
A. General	A. How do we define cardiovascular disorder and cardiovascular terms?
B. Documenting Cardiovascular Impairment	B. What documentation do we need to evaluate cardiovascular disorders?
C. Evaluating Chronic Heart Failure	C. How do we evaluate chronic heart failure?
D. Evaluating Congenital Heart Disease	D. How do we evaluate congenital heart disease?
E. Evaluating Arrhythmias	E. How do we evaluate arrhythmias?
F. Evaluating Other Cardiovascular Impairments	F. How do we evaluate other cardiovascular disorders?
G. Other Evaluation Issues	G. How do we evaluate issues that affect the cardiovascular system?
	H. How do we evaluate cardiovascular disorders that do not meet one of these listings?

Proposed 104.00C—How do we evaluate chronic heart failure?

We are proposing changes in current 104.00C consistent with changes we are proposing in the adult listings for chronic heart failure. We would extensively revise current 104.00C2 by removing specific findings for documenting cardiomegaly. These findings are often not provided in a child's case record and, therefore, have presented difficulty in adjudication. Proposed 104.00C2a would describe the types of imaging provided in a child's case record for documenting cardiomegaly. We explain at 104.00C2b(iii) that signs of congestion need not be found on all examinations because congestion may be controlled by prescribed treatment or may not be present at the time of evaluation. We have added 104.00C4 to explain how we propose to evaluate chronic heart failure treated with a mechanical circulatory support device under proposed 104.02D (*Chronic heart failure*).

Proposed 104.00D—How do we evaluate congenital heart disease?

We plan to significantly expand the information in current 104.00D. In proposed 104.00D2 (*How do we evaluate conditions associated with congenital heart disease?*), we would explain how we evaluate conditions associated with congenital heart disease. Proposed 104.00D2 includes additional means of measuring oxygen saturation in 104.06 (*Congenital heart disease*), because these measurements are readily found in the medical evidence. We are proposing new 104.00D3 (*What is Eisenmenger syndrome?*) to explain Eisenmenger syndrome in children, and we propose new 104.00D4 (*What is a single ventricle?*) to include a definition for the term ''single ventricle.''

Proposed 104.00F—How do we evaluate other cardiovascular disorders?

We propose revisions to 104.00F6 (*How will we evaluate chronic rheumatic fever or rheumatic heart disease?*) consistent with the removal of current listing 104.13, rheumatic heart disease. These revisions would explain that we evaluate rheumatic heart disease under 104.02 (*Chronic heart failure*) or 104.05 (*Recurrent arrhythmias*). We propose adding 104.00F11 (*What is cardiac allograft vasculopathy and how do we evaluate it?*) consistent with proposed 104.16 (*Cardiac allograft vasculopathy*).

Proposed 104.00G—How do we evaluate issues that affect the cardiovascular system?

We propose revisions to 104.00G consistent with those proposed to the adult listings. We propose to revise 104.00G1 (*How do we consider the effects of obesity when we evaluate your cardiovascular disorder?*) to simplify and refocus our discussion of how we consider the effects of obesity more specifically on cardiovascular disorders. We propose adding 104.00G3 (*How do we consider hospitalizations?*), consistent with new 104.02E (*Chronic heart failure*) and 104.06E (*Congenital heart disease*). We propose to redesignate current 104.00G3 (*How do we evaluate impairments that do not meet one of the cardiovascular listings?*) as 104.00H (*How do we evaluate cardiovascular disorders that do not meet one of these listings?*).

Proposed Changes to the Childhood Cardiovascular Disorders Listings

We are proposing some changes to the childhood listings that correspond with changes we are proposing to the adult listings. Other changes are specific to how we evaluate cardiovascular disorders in children. The reasons provided above for changing or removing current criteria for adults also apply to the criteria for children. Because we have already described these proposed criteria above, the following discussion describes only those criteria that are unique to children or that require further explanation in how we will specifically apply them to children. Additionally, the numbering of the childhood listings would conform to that of the adult listings.

The following table shows the heading of the current and proposed sections of the childhood listings for cardiovascular disorders:

CHILDHOOD CARDIOVASCULAR DISORDERS LISTINGS

Current	Proposed
104.02 Chronic heart failure	104.02 Chronic heart failure.
104.05 Recurrent arrhythmias	104.03 [Reserved].
104.06 Congenital heart disease	104.04 [Reserved].
104.09 Heart transplant	104.05 Recurrent arrhythmias.
104.13 Rheumatic heart disease	104.06 Congenital heart disease.
	104.07 [Reserved].
	104.08 [Reserved].
	104.09 Heart transplantation.
	104.10 [Reserved].
	104.11 [Reserved].
	104.12 [Reserved].

CHILDHOOD CARDIOVASCULAR DISORDERS LISTINGS—Continued

Current	Proposed
	104.13 [Reserved]. 104.14 [Reserved]. 104.15 [Reserved]. 104.16 Cardiac allograft vasculopathy.

The following table shows our proposed changes to the childhood cardiovascular disorders listings criteria that involve changes to healthcare utilization and condition/episode requirements, the rationale for each change, and supporting resource. Following this table, we discuss all of our proposed changes to the childhood cardiovascular disorders listings in more detail.

CHILDHOOD CARDIOVASCULAR DISORDERS LISTINGS CRITERIA—CHANGES IN HEALTHCARE UTILIZATION AND CONDITION/EPISODE REQUIREMENTS

Current listing criterion	Proposed listing criterion	Rationale	Resources
Listing 104.02 Chronic heart failure			
104.02A Persistent tachycardia at rest (see Table I);	A. Persistent tachycardia at rest measured at least twice within a consecutive 12-month period and at least 90 days apart documented by apical heart rate greater than or equal to the value in Table I.	We would clarify that to satisfy 104.02A, we would require two or more tachycardia measurements in a consecutive 12-month period. Our intent is to ensure that the child has persistent tachycardia despite treatment. We would also require that readings of tachycardia occur at least 90 days apart to further document chronic disease.	IOM. (2010), 171,173, 176.
104.02B ..... Persistent tachypnea at rest (see Table II) or markedly decreased exercise tolerance (see 104.00C2b);	B. Persistent tachypnea at rest measured at least twice within a consecutive12-month period and at least 90 days apart documented by respiratory rate greater than or equal to the value in Table II or markedly decreased exercise tolerance (see 104.00C2b).	To satisfy 104.02B, we would require two or more tachypnea measurements in a consecutive 12-month period. Our intent is to ensure that the child has persistent tachypnea, despite treatment. We would also require that readings of tachypnea occur at least 90 days apart to further document chronic disease.	IOM. (2010), 171,173, 176.
Listing 104.06 Congenital heart disease			
104.06 ..... A. 2. Arterial O2 saturation of less than 90 percent in room air, or resting arterial PO2 of 60 Torr or less; or 3. Hypercyanotic spells, syncope, characteristic squatting, or other incapacitating symptoms directly related to documented cyanotic heart disease; or 4. Exercise intolerance with increased hypoxemia on exertion.	104.06 ..... A. 2. Arterial blood gas test measurement obtained at rest while breathing room air, as described in either a or b: a. SaO2 (arterial oxygen saturation) less than or equal to 89 percent; or b. PO2 or PaO2 (partial pressure of oxygen) less than or equal to 60 mmHg; or 3. SpO2 (percentage of oxygen saturation of blood hemoglobin) measured by pulse oximetry either at rest, or after activity, while breathing room air, less than or equal to 87 percent on three evaluations at least 30 days apart within a consecutive 12-month period (see 104.00A3e).	In 104.06A2, we would use the measurement of millimeters of mercury, ''mmHg,'' instead of the measurement of ''Torr'' that is used in current 104.06A2, and we would note that arterial PO_2 is normally measured in room air. We would remove current 104.06A3 and 104.06A4, because Agency medical experts indicated they are less objective and more difficult to document than the other criteria and they are used infrequently. We would add another criterion to 104.06A by adding S_pO_2 (percentage of oxygen saturation of blood hemoglobin), measured by pulse oximetry equal to or less than 87 percent. Consistent with the proposed adult listing (4.06), this criterion would become the new 104.06A3.	Based on SSA administrative data from FY 2019–2021, of all childhood claims with a primary impairment of congenital heart disease that met or medically equaled listing 104.06, approximately .2 percent cited 104.06A3 or 104.06A4 criteria. See Table A and B in supporting and related materials to this Docket for more information.

CHILDHOOD CARDIOVASCULAR DISORDERS LISTINGS CRITERIA—CHANGES IN HEALTHCARE UTILIZATION AND CONDITION/EPISODE REQUIREMENTS—Continued

Current listing criterion	Proposed listing criterion	Rationale	Resources
No current criteria	E. Exacerbations or complications of congenital heart disease (see 104.00D) requiring three hospitalizations within a consecutive 12-month period (see 104.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 104.00G3).	We would add 104.06E to evaluate exacerbations or complications of congenital heart disease occurring at least 30 days apart and resulting in at least three hospitalizations within a consecutive 12-month period. An impairment resulting in exacerbations or complications that require this many hospitalizations in 12 months will result in marked and severe functional limitations for children. We would require these hospitalizations to be at least 30 days apart to ensure we are evaluating separate episodes of exacerbations or complications.	IOM. (2010), 179.

Proposed Listing 104.02—Chronic Heart Failure

We would clarify that to satisfy 104.02A, we would require two or more tachycardia measurements in a consecutive 12-month period, and to satisfy 104.02B, we would require two or more tachypnea measurements in a consecutive 12-month period.[104] Our intent is to ensure that the child has persistent tachycardia or persistent tachypnea, despite treatment. We would also require that readings of tachycardia or tachypnea occur at least 90 days apart to further document chronic disease.[105]

When we last published final rules for growth disorders and weight loss in children,[106] we inadvertently removed Table I for tachycardia at rest and Table II for tachypnea at rest in listing 104.02. We would restore these tables to the proposed 104.02.

We would add new 104.02D to describe how we will evaluate chronic heart failure treated with a mechanical circulatory support device.

We would add new 104.02E(), to describe how we will evaluate exacerbations and complications of heart failure requiring extended medical intervention in the hospital or emergency department, as explained above.

Proposed Listing 104.06—Congenital Heart Disease

In 104.06A2, we would use the measurement of millimeters of mercury, ''mmHg,'' instead of the measurement of ''Torr'' that is used in current 104.06A2, and we would note that arterial PO_2 is normally measured in room air.

We would add another criterion to 104.06A by adding S_pO_2 (percentage of oxygen saturation of blood hemoglobin), measured by pulse oximetry equal to or less than 87 percent. This criterion would become the new criterion 104.06A3. As we are proposing in the adult criteria, we would explain in the introductory text to the childhood listings that we need pulse oximetry measurements documented by medical sources using methods consistent with the prevailing state of medical knowledge and clinical practice. These measurements must be consistent with the other evidence in the case record.

We would remove current 104.06A3 and 104.06A4, because they are used infrequently.[107] Our adjudicative experience shows that children with impairments meeting these listings would be evaluated under current and proposed 104.06.

We would add multiple medical readings for pulmonary hypertension in 104.06B. We propose adding laboratory findings expressed in millimeters of mercury (mmHG) in 104.06B2, and we would add mean pulmonary artery pressure readings in 104.06B3.

We are proposing 104.06C, similar to the adult criterion 4.06D (*Congenital heart disease*), to evaluate children born with a single ventricle. Adding consideration of single ventricle to listing 104.06 enables seriously limited children to be identified earlier in the sequential evaluation process.

We would add 104.06E to evaluate exacerbations or complications of congenital heart disease occurring at least 30 days apart and resulting in at least three hospitalizations within a consecutive 12-month period. An impairment resulting in exacerbations or complications that require this many hospitalizations in 12 months will result in marked and severe functional limitations for children.[108] We would require these hospitalizations to be at least 30 days apart to ensure we are evaluating separate episodes of exacerbations or complications.

Proposed Removal of Listing 104.13—Rheumatic Heart Disease

We would remove and reserve listing 104.13 because rheumatic heart disease is a complication of rheumatic fever, which is rare in the United States due to widely available treatment with antibiotics.[109] [110] When complications of rheumatic fever result in rheumatic heart disease, and these complications last for 12 months or more, we would evaluate the complications under other cardiovascular listings, such as 104.02 (*Chronic heart failure*) or 104.05

[104] IOM. (2010), 171, 176.

[105] IOM. (2010), 173.

[106] 80 FR 19522 (2015).

[107] Based on SSA administrative data from FY 2019–2021, of all childhood claims with a primary impairment of congenital heart disease that met or medically equaled listing 104.06, approximately .2 percent cited these criteria. See Table A and B in supporting and related materials to this Docket for more information.

[108] IOM. (2010), 179.

[109] Beaudoin, A., Edison, L., Introcaso, C.E., Goh, L., Marrone, J., Mejia, A. . . ., & Van Beneden, C. (2015). Acute rheumatic fever and rheumatic heart disease among children—America Samoa, 2011–2012. Morbidity and Mortality Weekly Report, 64(20), 555–558. Retrieved from *https://www.cdc.gov/mmwr/pdf/wk/mm6420.pdf.*

[110] Yandrapalli, S., Tariq, S., Vuddanda, V.L.K., Sanaani, A., Solangi, Z., Anugu, V.R., . . . Aronow, W. (2017). In-hospital outcomes and hospitalizations for acute rheumatic heart disease: A United States national study. Journal of the American College of Cardiology, 69(11)(Suppl.), 1742. doi:10.1016/S0735–1097(17)35131–8.

(*Recurrent arrhythmias*). Rheumatic heart disease will still be addressed in the introductory text under 104.00F6 (*How will we evaluate chronic rheumatic fever or rheumatic heart disease?*).

Proposed Listing 104.16—Cardiac Allograft Vasculopathy

We propose to add listing 104.16 (*Cardiac allograft vasculopathy*) to evaluate a child who received a heart transplant and developed cardiac allograft vasculopathy (CAV). CAV may develop after heart transplantation and progress to a very serious condition with significant functional effects. The medical literature indicates that CAV is a leading cause of graft failure and mortality in pediatric heart transplant recipients.[111] To establish listing-level CAV for children, we would require only CAV documented by appropriate medically acceptable imaging, because pediatric CAV alone is disabling enough to result in marked and severe functional limitations for children

Specific Questions for the Public

While the public is welcome to comment on any aspect of this proposed rule, we are also seeking input on the following topics:

- Should any of the proposed listings for cardiovascular disorders be combined into one listing, or divided into multiple listings, to enable our adjudicators to more easily identify adults or children with impairments that are of listing-level severity? If you believe our listing categories create unnecessary administrative barriers for impairments that meet listing level severity, please tell us by submitting your comments and any supporting research or data.
- Are there changes in the medical terminology related to cardiovascular disorders that we should consider incorporating or clarifying in future revisions to the cardiovascular disorders listings? If you believe we should consider updating the medical terminology we use in our cardiovascular disorders listings, please tell us by submitting your comments and any supporting research or data.
- Do the frequencies and durations of exacerbations of cardiovascular disorders in this proposed rule adequately represent listing level severity for cardiovascular disorders? Are there other treatments and evidence we should consider when assessing listing-level severity including additional objective medical tests, for any of the proposed cardiovascular disorders listings? We encourage you to cite relevant research or data to support your comments.
- Are the proposed functional criteria for cardiovascular disorders sufficient for assessing listing level severity? Please provide specific suggestions along with supporting research and data for different criteria you would like SSA to consider.
- Did we not include any valuable information that should be included in the introductory text of the cardiovascular disorders listings? This text is intended to ease administrative burden for adjudicators, claimants, claimant representatives, and the public. Please submit specific comments, along with supporting research or data, about additional information to include in the introductory text.
- In proposed 4.02A1 (*Chronic heart failure*), we require systolic failure documented by appropriate medically acceptable imaging during a period of stability (not during an episode of exacerbation of heart failure), with left ventricular end diastolic dimension equal to or greater than 7.0 cm; or ejection fraction of 30 percent or less. If you believe we should require more than one evaluation to document the duration of an individual's chronic heart failure, please tell us by submitting your comments and any supporting research or data.
- In proposed 4.02A2 (*Chronic heart failure*), we require diastolic failure documented by appropriate medically acceptable imaging during a period of stability (not during an episode of exacerbation of heart failure), with left ventricular posterior wall plus septal thickness totaling 2.5 cm or greater, with an enlarged left atrium greater than or equal to 4.5 cm, *OR* left atrial volume index (LAVi) greater than or equal to 40 ml, BSA/m2 (milliliters to body surface area in squared meters). If you believe we should consider other measurements of chronic heart failure, please tell us by submitting your comments and any supporting research or data.
- In proposed 104.02A (*Chronic heart failure*), we require persistent tachycardia at rest measured twice within a consecutive 12-month period and at least 90 days apart documented by apical heart rate greater than or equal to the value in Table I. In proposed 104.02B, we require persistent tachypnea measured at least twice within a consecutive 12-month period and at least 90 days apart documented by respiratory rate greater than or equal to the value in Table II or markedly decreased exercise tolerance. If you believe our proposed requirement for at least two measurements of apical heart rate and respiratory rate under this listing is inconsistent with current medical practice or standards of care (*i.e.,* medical providers do not routinely repeat these measurements), please tell us by submitting your comments and any supporting research or data.
- In proposed 4.06A1 (*Congenital heart disease*), we require two measurements of hematocrit at least 90 days apart within a consecutive 12-month period instead of the current requirement for one measurement. If you would like to propose a different time frame during which these measures should occur, please submit comments and any supporting research or data.
- Are there alternatives to pulse oximetry testing that are reliable, non-invasive, and commonly used to measure chronic hypoxemia that we should consider incorporating into proposed listing criterion 4.06A3 (*Congenital heart disease*) and 104.06A3 (*Congenital heart disease*)? If you believe there are tests that fit into this category, please tell us by submitting your comments and any supporting research or data.
- At IOM's recommendation, we are proposing to add listing 4.07 (*Aortic valvular disease*) to provide evaluation criteria for symptomatic adult individuals with aortic valvular disease.[112] We currently evaluate aortic valvular disease under other cardiovascular disorders listings, which include requirements for exercise testing or repeated hospitalizations. If you disagree with proposed 4.07 (*Aortic valvular disease*), please tell us by submitting your comments and any supporting research or data.

What is our authority to make rules and set procedures for determining whether a person is disabled under the statutory definition?

The Act authorizes us to make rules and regulations and to establish necessary and appropriate procedures to implement them.[113]

How long would this proposed rule be effective?

If we publish this proposed rule as a final rule, it will remain in effect for five years after the date it becomes effective, unless we extend it, or revise and issue it again.

Rulemaking Analyses and Notices

We will consider all comments we receive on or before the close of

[111] Kindel, S.J. (2011).

[112] IOM. (2010), 195.

[113] Sections 205(a), 702(a)(5), and 1631(d)(1) of the Social Security Act.

business on the comment closing date indicated above. The comments will be available for examination in the rulemaking docket for this rule at the above address. We will file comments received after the comment closing date in the docket and will consider those comments to the extent practicable. However, we will not address untimely comments. We may publish a final rule at any time after close of the comment period.

Clarity of This Proposed Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand such as using different groupings and order of sections, headings, or paragraphing?

When will we start to use this rule?

We will not use this proposed rule until we evaluate public comments and publish a final rule in the **Federal Register**. All final rules we issue include an effective date. We will continue to use our current rule until that date. If we publish a final rule, we will include a summary of the relevant comments we received and an explanation of how we will apply the new rule.

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this proposed rule meets the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB reviewed the rule.

We also determined that this proposed rule meets the plain language requirement of Executive Order 12866.

Executive Order 13132 (Federalism)

We analyzed this proposed rule in accordance with the principles and criteria established by Executive Order 13132 and determined that this proposed rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this proposed rule would not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Executive Order 13771

Based upon the criteria established in Executive Order 13771 and M–17–21 (Guidance Implementing E.O. 13771), we consider this rule a transfer rule with no more than *de minimis* costs. As such, it is exempt from requirements under E.O. 13771.

Anticipated Accounting Costs of This Proposed Rule

Anticipated Costs to Our Programs

Our Office of the Chief Actuary has developed estimates of the effects of implementing this proposed rule, which are presented in a memorandum attached to this NPRM as a supplementary document. The memorandum indicates the estimated annual changes in Old-Age, Survivors and Disability Insurance (OASDI) benefit payments and Federal Supplemental Security Income (SSI) payments over the 10-year period of fiscal years (FY) 2022–2031. The memorandum also provides details about the case study developed for the purpose of making these estimates, as well as changes since the time the case study was originally developed and conducted, that may have impacted the case study results.

In summary, based on the best available data, our Office of the Chief Actuary estimates that this proposed rule, assuming it is finalized and implemented for all disability decisions completed on or after April 1, 2023, would result in net increases of $308 million in scheduled OASDI benefit payments and $71 million in Federal SSI payments over the 10-year period of fiscal years (FY) 2022–2031.

Anticipated Administrative Costs to the Social Security Administration

The Office of Budget, Finance, and Management estimates a net administrative savings of less than 15 work years and $2 million annually.

Paperwork Reduction Act

This rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

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We consulted the following references when we developed this proposed rule:

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We will make these references available to you for inspection if you are interested in reading them. Please make arrangements with the contact person shown in this preamble if you would like to review any reference materials.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income).

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-age, survivors, and disability insurance; Reporting and recordkeeping requirements; Social Security.

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary Federal Register Liaison for the Social Security Administration, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons set forth in the preamble, we propose to amend subpart P of part 404 of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

■ 1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a)–(b), and (d)–(h), 216(i), 221(a) and (h)–(j), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a)–(b), and (d)–(h), 416(i), 421(a) and (h)–(j), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Amend appendix 1 to subpart P of part 404 by:

■ a. Revising item 5 of the introductory text before part A;

■ b. Revising the body system name for section 4.00 in the table of contents;

■ c. Revising the heading of 4.00A, the heading of 4.00A1, the introductory text of 4.00A1b, and 4.00A1b(iv), 4.00A2, and the first sentence of 4.00A3a; and adding two sentences to 4.00A3b, and two sentences to 4.00A3c; and removing 4.00A3f;

■ d. Revising the heading of 4.00B, the first sentence of 4.00B1, the third sentence of 4.00B2, the second and fourth sentences of 4.00B3(a), the second sentence of 4.00B3(b), and the first sentence of 4.00B5;

■ e. Revising the heading of 4.00C, the second sentence of 4.00C3(c), 4.00C6(a)(i), 4.00C7(b) through (d), 4.00C8(d)(iv), 4.00C8(e), and 4.00C9(a); removing the third sentence of 4.00C15(a), revising 4.00C15(b), removing 4.00C15(c); and revising the first two sentences of 4.00C16;

■ f. Revising the heading of 4.00D; adding new fourth and fifth sentences to 4.00D1a; revising the second sentence of 4.00D1b; adding a third sentence to 4.00D1b; revising 4.00D2(a)(i) through (iii), the first sentence of 4.00D2(b), the second sentence of 4.00D2(b)(i), the second sentence of 4.00D2(b)(ii), the third sentence of 4.00D3, 4.00D4(b) and 4.00D4(c) and the first, second, and fifth sentences of 4.00D4(d); and adding 4.00D4(e);

■ g. Revising the heading of 4.00E, 4.00E2b; the first sentence of 4.00E5, 4.00E7(b)(i)–(ii); and adding 4.00E7(b)(iii);

■ h. Revising the first three sentences of 4.00E8, and4.00E9(b) through (f), and removing 4.00E9(g) and (h);

■ i. Revising the heading of 4.00F; adding a new sentence to 4.00F1, revising the first sentence of 4.00F3(a), 4.00F4(a), and the second and fourth sentences of 4.00F4(b);

■ j. Revising the heading of 4.00G; adding a fourth sentence to 4.00G1, revising 4.00G2, the first two sentences of 4.00G4(b), 4.00G6, and the fourth sentence of 4.00G7(b);

■ k. Redesignating 4.00H and I as 4.00I and J, respectively

■ l. Adding a new 4.00H;

■ m. Revising the heading of 4.00I; 4.00I1, removing 4.00I2, and redesignating 4.00I3 through 5 as 4.00I2 through 4;

■ n. Revising 4.00I2, 4.00I3, 4.00I4(a) and (d), adding a new 4.00I5, and revising the third sentence of 4.00I8b;

■ o. Revising the heading of 4.00J, 4.00J1, the first sentence of 4.00J2, redesignating 4.00J3 as 4.00K, and adding new 4.00J3;

■ p. Revising 4.00K;

■ q. Revising listings 4.01 and 4.02, adding and reserving listing 4.03, revising listings 4.05 and 4.06, adding listing 4.07, adding listing 4.08, revising 4.09 through 4.12, adding and reserving listings 4.13 through 4.15, and adding listing 4.16.

■ r. Revising the heading of 104.00A; the heading of 104.00A1; the introductory text of 104.00A1(b), 104.00A1(b)(iv), and 104.00A2; and the first sentence of 104.00A3(a), and adding two sentences to 104.00A3(b), adding two sentences to 104.00A3(c), and removing 104.00A3(f) and (g);

■ s. Revising the heading of 104.00B; the first sentence of 104.00B1; the third sentence of 104.00B2; the second and fourth sentences of 104.00B3(a); the second sentence of 104.00B3(b); 104.00B4(a)(i); the first and third sentences of 104.00B5; the heading of 100.04B7; the second sentence of 100.04B7(a); and the first sentence of 104.00B7(b);

■ t. Revising the heading of 104.00C; the heading of 104.00C1, and the first sentence of 104.00C1a; adding two sentences to 104.00C1a; revising 104.00C1b; 104.00C2(a);.00C2(b), and the second sentence of 104.00C2(b)(iii); and adding 104.00C4;

■ u. Revising the heading of 104.00D; 104.00D1, 104.00D1d, and 104.00D2; and adding 104.00D3 and 104.00D4;

■ v. Revising the heading of 104.00E; adding a new sentence to the end of 104.00E1; revising the fourth and fifth sentences of 104.00E4(a), and the fourth sentence of 104.00E4(b);

■ w. Revising the heading of 104.00F; the last sentence of 104.00F1, the first sentence of 104.00F2; removing the fourth through seventh sentences of 104.00F3; adding a new 104.00F3a and 104.00F3b; revising 104.00F4, 104.00F5(a), 104.00F5(d), 104.00F6, and 104.00F9b; and adding 104.00F11;
■ x. Revising the heading of 104.00G; 104.00G1, the first sentence of 104.00G2; redesignating 104.00G3 as 104.00H, 104.00G3(a) as 104.00H1, and 104.00G3(b) as 104.00H2; and adding a new 104.00G3;
■ y. Revising 104.00H; and
■ z. Revising listings 104.01,104.02; adding and reserving 104.03 and 104.04; revising 104.05 and 104.06; adding and reserving 104.07 and 104.08; revising 104.09; adding and reserving listings 104.10 through 104.12; removing and reserving listing 104.13; adding and reserving listings 104.14 and 104.15: and adding listing 104.16.

The additions and revision to read as follows:

Appendix 1 to Subpart P of Part 404—Listing of Impairments

* * * * *

5. Cardiovascular Disorders (4.00 and 104.00) [DATE 5 YEARS FROM THE EFFECTIVE DATE OF THE FINAL RULE].

* * * * *

Part A

* * * * *

4.00 Cardiovascular Disorders.

* * * * *

4.00 Cardiovascular Disorders

A. *How do we define cardiovascular disorders and cardiovascular terms?*

1. *What do we mean by a cardiovascular disorder?*

a. * * *

b. Cardiovascular disorders result from one or more of four consequences of heart disease:

(i) * * *

(ii) * * *

(iii) * * *

(iv) Hypoxemia due to right-to-left shunt, reduced oxygen concentration in the arterial blood, or pulmonary vascular disease.

c. * * *

2. *What do we consider in evaluating cardiovascular disorders?* The listings in this section describe cardiovascular disorders based on the medical and other evidence, including response to a regimen of prescribed treatment and functional limitations.

3. * * *

a. *Medical consultant* is a person defined in §§ 404.1616(a) and 416.1016(a) of this chapter. * * *

b. * * * By ''exceptions,'' we mean brief periods when the required finding(s) is greatly reduced or gone. These periods are so brief or inconsequential, the required finding(s) remains a factor in the person's condition.

c. * * * By ''improvement of sufficient duration,'' we mean the finding is greatly reduced or not present for long enough that the required finding(s) is no longer a factor in the person's condition.

* * * * *

f. [Removed]

B. *What documentation do we need to evaluate cardiovascular disorders?*

1. *What basic documentation do we need?* We need sufficiently detailed reports of history, physical examinations, laboratory studies, and any prescribed treatment and response to allow us to assess the severity and duration of your cardiovascular disorder.

* * * * *

2. *Why is a longitudinal clinical record important?* * * * Whenever there is evidence of such treatment, your longitudinal clinical record should include a description of the ongoing management and evaluation provided by your medical source(s). * * *

3. * * *

a. * * * In this situation, we will base our evaluation on the current evidence we have. * * * However, we may find you disabled because you have another impairment(s) that, in combination with your cardiovascular disorder, medically equals a listing or based on consideration of your residual functional capacity and age, education, and work experience.

b. * * * In rare instances when there is no or insufficient longitudinal evidence, we may purchase a consultative examination(s) to help us establish the existence, severity, and duration of your impairment.

* * * * *

5. *Will we purchase any studies?* In appropriate situations, we may purchase studies necessary to substantiate the existence of a medically determinable impairment or to document the severity of your impairment, generally after we have evaluated the evidence we already have. * * *

* * * * *

C. *How do we use cardiovascular test results?*

* * * * *

3. * * *

c. * * * In this test, you walk on a treadmill, usually for a specified period of time, and the person who administers the test measures the effect of exercise on the flow of blood in your legs, usually by using ultrasound. * * *

* * * * *

6. * * *

a. * * *

(i) There is a question whether your cardiovascular disorder meets or medically equals the severity of one of the listings, or there is no timely test in the evidence we have (see 4.00C9), and we cannot find you disabled on some other basis; or

* * * * *

7. * * *

a. * * *

b. If you are under the care of a medical source (see §§ 404.1502 and 416.902 of this chapter) for a cardiovascular disorder, this source has not performed an exercise test, and there are no reported significant risks to testing, we will request a statement from that source explaining why it was not done or should not be done before we decide whether we will purchase the test.

c. The MC, in accordance with the regulations and other instructions on consultative examinations, will generally not override the medical source's conclusion about the risk of exercise testing to you. In the rare situation in which the MC does override the medical source's conclusion, the MC must prepare a written rationale documenting the reasons for overriding the conclusion.

d. If you do not have a medical source or we cannot obtain a statement from your medical source, the MC is responsible for assessing the risk of exercise testing based on a review of the records we have before purchasing an exercise test for you.

* * * * *

8. * * *

d. * * *

(iv) Percutaneous transluminal coronary angioplasty (PTCA) or percutaneous coronary intervention (PCI) with or without stenting.

e. If you are deconditioned after an extended period of bedrest or inactivity and could improve with activity, or if you are in acute heart failure and are expected to improve with treatment, we will wait an appropriate period of time until you are ready and there are no medical reasons that prevent us from purchasing an exercise test.

9. * * *

a. We consider exercise test results to be timely for 12 months after the date they are performed, provided there has been no change in your clinical status that may alter the severity of your cardiovascular disorder.

* * * * *

15. * * *

a. * * *

b. Cardiac catheterization reports commonly include evaluation of coronary artery size and flow patterns, pressures in the left and right side of the heart, and evaluation of wall motion and ejection fraction, as well as chamber size. Also more routinely included in the catheterization report is fractional flow reserve (FFR), which is an objective measure of flow access across an obstruction. FFR also helps define the adequacy of collateral flow that directly affects function in ischemic heart disease.

16. *What details should exercise Doppler test reports contain?* The reports of exercise Doppler tests must describe the level of exercise; for example, the speed and grade of the treadmill settings, the duration of exercise, changes in the person's condition during exercise, and the reasons for stopping exercise if the expected level of exercise was not attained. These reports must also provide the blood pressures at the ankle and other pertinent sites measured after exercise, and also provide the time required for the systolic blood pressure to return toward or to the pre-exercise level. * * *

* * * * *

D. *How do we evaluate chronic heart failure?*

1. * * *

a. * * * Ejection fraction in heart failure is a continuum ranging from low ejection

fraction due to muscle dysfunction to preserved ejection fraction resulting from high intracardiac pressures. We consider heart failure to be chronic when the condition persists or recurs over time despite treatment. * * *

b. * * * If the CHF is the result of primary pulmonary hypertension secondary to disease of the lung, we evaluate your impairment under the listings in 3.00 (for example, 3.09) or 4.00, as appropriate. For the purposes of 4.02B3, a finding of elevated B-type natriuretic peptide (BNP) or N-terminal pro-B-type natriuretic peptide (NT-pro-BNP) in the blood assists in differentiating chronic heart failure from non-heart failure symptoms.

2. * * *

a. * * *

(i) Abnormal cardiac imaging provides objective measures of both left ventricular function and structural abnormality in heart failure. Examples of abnormal findings include increased left ventricular end diastolic dimension (LVEDD), decreased EF, increased left atrial chamber size, increased left atrial volume index (LAVi), increased ventricular filling pressures measured at cardiac catheterization, or increased left ventricular wall or septum thickness.

(ii) An LVEDD equal to or greater than 7.0 cm, *or* an EF of 30 percent or less during a period of stability (that is, not during an episode of acute heart failure) may be associated clinically with systolic dysfunction.

(iii) LAVi is measured in milliliters (ml) indexed to body surface area (BSA) measured in squared meters (m^2). Indexing is a method of standardizing measurements to different body sizes. Diastolic dysfunction may be clinically associated with LAVi of 40 ml, BSA/m^2 or greater. The imaging report will contain a measurement for the left atrium volume. The index is calculated by dividing the left atrium volume by BSA.

* * * * *

b. Your medical history and physical examination should describe characteristic symptoms and signs of pulmonary or systemic congestion (fluid retention) or of limited cardiac output associated with the abnormal findings on appropriate medically acceptable imaging. * * *

(i) * * * People with CHF may also experience shortness of breath upon lying flat (orthopnea) or episodes of shortness of breath that wake them from sleep (paroxysmal nocturnal dyspnea). * * *

(ii) * * * However, these signs need not be found on all examinations because congestion may be controlled by prescribed treatment or may not be present at the time of evaluation.

3. *Is it safe for you to have an ETT if you have CHF?* * * * ETT has been used safely in people with CHF. Therefore, we may purchase an ETT for evaluation under 4.02B2 if an MC, preferably one experienced in the care of patients with cardiovascular disease, determines that the test poses no significant risk to you. * * *

4. * * *

a. * * *

b. To meet the required level of severity for this listing, your impairment must satisfy the requirements of the criteria in A and B or satisfy either C or D.

c. In 4.02B1, we follow a two-part process to evaluate your impairment. Your impairment must satisfy the requirements in the first part of this process before we will move to the second part.

(i) Your impairment satisfies the first part if a medical source has concluded that the performance of an ETT would present a significant risk to you. This medical source, such as a cardiologist, may be providing your care. If your case record does not include a conclusion from a medical source that an ETT would present a significant risk to you, an MC as defined in 4.00A3a may make such a conclusion if evidence in your case record supports it.

(ii) In the second part of the process, we will evaluate activities of daily living (ADL). ADLs include, but are not limited to, such activities as doing household chores, grooming and hygiene, shopping at a grocery store, taking public transportation, or paying bills. We will assess whether you have persistent symptoms of chronic heart failure (for example, easy fatigue, weakness, shortness of breath, or chest discomfort) at rest or with activity that very seriously limit your ability to perform ADLs independently, appropriately, effectively, and on a sustained basis. Even if you are able to perform some ADLs, we may find your ability is very seriously limited and that your impairment satisfies the second part of the evaluation.

d. Listing 4.02B2b requires a decrease in systolic blood pressure below the baseline level or below any systolic pressure reading recorded during exercise. We have this requirement because, normally, systolic blood pressure and heart rate increase gradually with exercise. * * * Also, some people with increased sympathetic responses because of deconditioning or apprehension may increase their systolic blood pressure and heart rate above their baseline level just before and early into exercise. * * *

e. *How do we evaluate CHF treated with a mechanical circulatory support device?* We use 4.02D1 to evaluate CHF treated with an implanted mechanical circulatory support device (MCSD), such as a left ventricle assistive device (LVAD) or a right ventricle assistive device (RVAD). Implanted MCSDs are intended for long-term circulatory support in helping the heart pump blood. For the purposes of 4.02D1, an MCSD does not include extracorporeal membrane oxygenation (ECMO). Although ECMO is a form of mechanical circulatory support, we do not include it in 4.02D1 because ECMO is intended only for short-term circulatory support (maximum 30 days), used in a setting of imminent or actual cardiac arrest.

E. *How do we evaluate ischemic heart disease*?

1. * * *

2. * * *

a. * * *

b. Instead of typical angina pectoris, some people with IHD experience atypical angina, anginal equivalent, variant angina, or silent ischemia, all of which we may evaluate using 4.04. We discuss the various manifestations of ischemia in 4.00E3–4.00E7.

* * * * *

5. *What is anginal equivalent?* Often, people with IHD will complain of shortness of breath (dyspnea) on exertion without chest pain or discomfort. * * *

* * * * *

7. * * *

a. * * *

b. * * *

(i) People with documented past myocardial infarction or established angina without prior infarction who do not have chest pain on ETT, but have a positive test with ischemic abnormality on ECG, perfusion scan, or other appropriate medically acceptable imaging.

(ii) People with documented past myocardial infarction or angina who have ST segment changes on ambulatory monitoring (Holter monitoring) that are similar to those that occur during episodes of angina. ST depression shown on the ambulatory recording should not be interpreted as positive for ischemia unless similar depression is also seen during chest pain episodes annotated in the diary that the person keeps while wearing the Holter monitor.

(iii) People who have diabetes mellitus with neuropathy. People with diabetes mellitus can have a higher threshold for pain because of the neuropathy and may not feel chest pain or discomfort from cardiac ischemia.

* * * * *

8. *What other sources of chest discomfort are there?* Chest discomfort of nonischemic origin may result from other cardiovascular disorders, such as pericarditis. Noncardiac disorders may also produce symptoms mimicking that of myocardial ischemia. These disorders include acute anxiety or panic attacks, gastrointestinal tract disorders, such as esophageal spasm, esophagitis, hiatal hernia, biliary tract disease, gastritis, peptic ulcer, and pancreatitis, and musculoskeletal syndromes, such as chest wall muscle spasm, chest wall syndrome (especially after coronary bypass surgery), costochondritis, and cervical or dorsal spine arthritis. * * *

9. * * *

a. * * *

b. In 4.04A, we need evidence, such as an ECG interpretation, from an acceptable medical source who reviewed your ETT findings and found them positive for ischemia. These ETT findings may include ECG tracings or systolic blood pressure measurements. If your case record does not have such an interpretation from an acceptable medical source, an MC, as defined in 4.00A3a, may review your ETT findings and interpret them as being positive for ischemia if evidence in your case record supports it.

(i) ETT findings may show the classically accepted changes in ECG tracings of horizontal or down sloping ST depression or of ST elevation. For example, ECG tracings may show horizontal or down sloping depression, in the absence of digitalis glycoside treatment or hypokalemia, of the ST segment of at least –0.10 millivolts (-1.0 mm) in at least three consecutive complexes that are on a level baseline in any lead other than a VR, and depression of at least –0.10 millivolts last for at least 1 minute of

recovery. Alternatively, the ECG tracings may show at least 0.10 millivolt (1 mm) ST elevation above resting baseline in non-infarct leads during both exercise and 1 or more minutes of recovery.

(ii) ETT findings may also show a decrease of 10 mmHg or more in systolic pressure below the baseline systolic blood pressure or the preceding systolic pressure measured during exercise due to left ventricular dysfunction, despite an increase in workload. This finding is the same finding required in 4.02B2b. See 4.00D4d for full details.

c. In 4.04C, each ischemic episode must result in an unplanned hospitalization. Examples of ischemic episodes that may result in unplanned hospitalizations include unplanned revascularizations, myocardial infarctions, unstable angina, or dysrhythmias. *Revascularization* means angioplasty (with or without stent placement) or bypass surgery.

(i) How do we calculate separate ischemic episodes? Reocclusion that occurs after a revascularization procedure but during the same hospitalization and that requires a second procedure during the same hospitalization will not be counted as another ischemic episode. If you are hospitalized for documented myocardial infarction and have a revascularization procedure during the same hospitalization, this event will be counted as one ischemic episode.

(ii) How do we evaluate ischemic episodes not amenable to revascularizations? If your ischemic episodes are not amenable to revascularization, we will evaluate them using the appropriate listing (for example, 4.04D). *Not amenable* means that the revascularization procedure could not be done because of another medical impairment or because the vessel was not suitable for revascularization.

d. We will use 4.04D only when you have symptoms due to myocardial ischemia as described in 4.00E3–4.00E7 while on a regimen of prescribed treatment, you are at risk for ETT (see 4.00C8), *and* we do not have a timely ETT or a timely normal drug-induced stress test for you. See 4.00C9 for what we mean by a timely test.

e. In 4.04D1, the term fractional flow reserve (FFR) is a measurement of the pressure differences across an obstructive lesion, giving an estimate of the severity of stenosis. An FFR measurement of 1.0 indicates normal blood flow. An FFR measurement equal to or less than 0.80 indicates stenosis capable of producing serious myocardial ischemia in an artery appropriate for revascularization. An FFR measurement that is greater than 0.80 indicates stenosis not likely to produce significant ischemia.

f. In 4.04D2 and 4.04D3, the term nonbypassed means that the blockage is in a vessel that is potentially bypassable; that is, large enough to be bypassed and considered to be a cause of your ischemia. These vessels are usually major arteries or one of a major artery's major branches. A vessel that has become obstructed again after angioplasty or stent placement and has remained obstructed or is not amenable to another revascularization is considered a nonbypassed vessel for purposes of the listings. When you have had revascularization, we will not use the pre-operative findings to assess the current severity of your coronary artery disease under 4.04D, although we will consider the severity and duration of your impairment before your surgery in making our determination or decision.

F. *How do we evaluate arrhythmias?*

1. *What is an arrhythmia?* * * * Although we use the term ''arrhythmia'' in the listings, the term ''dysrhythmia'' may also be used in the medical evidence to describe this condition.

* * * * *

3. * * *

a. We will use 4.05 when you have arrhythmias that are not fully controlled by medication, an implanted pacemaker, or an implanted cardiac defibrillator, and you have recurrent episodes of syncope or near syncope. * * *

* * * * *

4. * * *

a. Implanted cardiac defibrillators are used to prevent sudden cardiac death in people who have had, or are at high risk for, cardiac arrest from life-threatening ventricular arrhythmias. The largest group at risk for sudden cardiac death consists of people with cardiomyopathy (ischemic or non-ischemic) and reduced ventricular function. However, life-threatening ventricular arrhythmias can also occur in people with little or no ventricular dysfunction. The shock from the implanted cardiac defibrillator rescues a person from what may have been cardiac arrest. However, as a consequence of the shock(s), similar to the effects of treatments for other cardiovascular disease, a person may experience psychological distress, which we may evaluate under the listings in 12.00.

b. * * * In some people, these functions may result in the termination of ventricular arrhythmias without an otherwise painful shock. * * * Also, exposure to strong electrical or magnetic fields, such as from magnetic resonance imaging, can trigger or reprogram an implanted cardiac defibrillator, resulting in inappropriate shocks. * * *

* * * * *

G. *How do we evaluate peripheral vascular disease?*

1. *What is peripheral vascular disease (PVD)?* * * * Neuropathy may mask these typical symptoms. * * *

2. *How do we assess limitations resulting from PVD?* We will assess your limitations based on your symptoms together with physical findings and Doppler studies or other appropriate diagnostic techniques. However, if the PVD has resulted in amputation, we will evaluate any limitations related to the amputation under the listings in 1.00.

* * * * *

4. * * *

a. * * *

b. Lymphedema does not meet the requirements of 4.11, although it may medically equal the listing. We will evaluate lymphedema by considering whether the underlying cause meets or medically equals any listing, or whether the lymphedema medically equals a cardiovascular disorders listing such as 4.11 or a listing in 1.00. * * *

5. * * *

6. *Are there any other studies that are helpful in evaluating PAD?* Doppler studies done using a recording ultrasonic Doppler unit and strain-gauge plethysmography are other useful tools for evaluating PAD. A recording Doppler, which prints a tracing of the arterial pulse wave in the femoral, popliteal, dorsalis pedis, and posterior tibia arteries, is an evaluation tool that compares waveforms in normal and compromised peripheral blood flow. Qualitative analysis of the pulse wave is helpful in the overall assessment of the severity of the occlusive disease. Tracings help in assessing severity if you have small vessel disease related to diabetes mellitus or other diseases with similar vascular changes, or diseases causing medial calcifications when ankle pressure is either normal or falsely high. When there is evidence of medial calcification of the ankle arteries or the ankle-brachial index is 0.50 or greater, other appropriate tests for PAD include magnetic resonance angiography, computed tomography angiography, contrast angiography, and graded treadmill tests.

7. * * *

a. * * *

b. * * * The criterion in 4.12A is met when your resting ankle/brachial systolic blood pressure ratio is less than 0.50. * * *

* * * * *

H. *How do we evaluate congenital heart disease?*

1. *What is congenital heart disease?* Congenital heart disease is any abnormality of the heart or the major blood vessels that is present at birth. Congenital heart disease includes abnormal structure of the individual heart chambers, valves, and blood vessels, and abnormal relative relationship of the chambers to each other that alters the normal pattern of blood flow. Surgery in childhood is the usual treatment, and with improving surgical techniques and medical management, more children with congenital heart disease are surviving into adulthood. Rarely, a person with congenital heart disease may not have received the usual surgery in childhood, and later, as an adult, he or she is no longer a surgical candidate, as for example, in Eisenmenger syndrome.

2. *What is Eisenmenger syndrome?* Eisenmenger syndrome refers to any surgically untreated congenital heart defect with intracardiac communication that over time leads to pulmonary hypertension, reversal of blood flow, and hypoxemia.

a. Lesions in Eisenmenger syndrome, such as large septal defects, are characterized by elevated pulmonary pressures or a high pulmonary flow rate. In response, the pulmonary blood vessels pathologically change, leading eventually to pulmonary hypertension. Development of Eisenmenger syndrome represents a point at which pulmonary hypertension is irreversible and the cardiac lesion is likely inoperable.

b. Examples of congenital heart disease that if untreated may cause pulmonary vascular disease leading to Eisenmenger syndrome include atrial septal defect (ASD), ventricular septal defect (VSD), and large patent ductus arteriosus (PDA).

3. *What is single ventricle?* The term ''single ventricle'' (also known as single ventricle physiology or functional single ventricle) describes a diverse group of congenital cardiac anomalies sharing the common feature that only one of the two heart ventricles is adequately developed. At birth, one ventricle must functionally do the work of two, pumping blood for both the body (systemic) and the lungs (pulmonary). Because of this feature, the ultimate plan for cardiac reconstruction is similar for most of these anomalies. People with single ventricle will generally undergo staged reconstructive ''Fontan procedures,'' ultimately resulting in a ''Fontan circulation.'' Fontan circulation describes the hemodynamic state in which virtually all systemic venous return-blood passively flows directly into the pulmonary arteries via surgical or catheter-placed shunts, without the blood passing through a ventricle. Some of the anomalies described as single ventricle include the following:

(a) Hypoplastic left heart syndrome;

(b) Hypoplastic right ventricle;

(c) Tricuspid valve atresia;

(d) Double inlet left ventricle; and

(e) Some variations of double outlet right ventricle.

4. *How do we evaluate conditions associated with congenital heart disease?*

a. We evaluate congenital heart disease that results in chronic heart failure with evidence of ventricular dysfunction or in recurrent arrhythmias under 4.02 or 4.05, respectively. Otherwise, we evaluate your impairment under 4.06.

b. We evaluate pulmonary hypertension due to congenital heart disease under 4.06B or 4.06C. We evaluate pulmonary hypertension not due to congenital heart disease under the listings in 3.00 (for example, 3.09).

c. We need pulse oximetry measurements documented by medical sources using methods consistent with the prevailing state of medical knowledge and clinical practice to evaluate chronic hypoxemia in congenital heart disease under 4.06A3. These pulse oximetry measurements also must be consistent with the other evidence in the case record.

d. We evaluate single ventricle physiology under 4.06D and will consider you disabled if your medical evidence documents that you have any congenital heart disorder that results in single ventricle physiology (functional single ventricle). In addition to the above congenital heart disorders, examples of palliative surgical procedures that indicate single ventricle physiology include the Glenn, Fontan, and Norwood procedures.

* * * * *

I. *How do we evaluate other cardiovascular disorders?*

1. *How do we evaluate hypertension? Hypertension* (high blood pressure) over time may significantly raise the pressures in the heart to the point of ineffective heart muscle function known generally as hypertensive heart disease that we can evaluate under 4.02. Other body systems, such as the brain, kidneys, or eyes may also be affected. We evaluate these impairments by reference to the specific body system(s) that is affected. We will also consider any limitations imposed by your hypertension when we assess your residual functional capacity.

2. *What is cardiomyopathy and how will we evaluate it?* Cardiomyopathy is a disease of the heart muscle. The heart loses its ability to pump blood (heart failure), and in some instances, heart rhythm is disturbed, leading to irregular heartbeats (arrhythmias). Usually, the exact cause of the muscle damage is never found (idiopathic cardiomyopathy).

a. There are various types of cardiomyopathy, which fall into two major categories: ischemic and nonischemic cardiomyopathy. Ischemic cardiomyopathy typically refers to heart muscle damage that results from coronary artery disease, including heart attacks. Nonischemic cardiomyopathy includes several types: dilated, hypertensive, hypertrophic, and restrictive. Cardiomyopathy includes hypertrophic cardiomyopathy, endomyocardial fibrosis, or cardiac amyloidosis AL type.

b. We evaluate cardiomyopathy under 4.08. Depending on the underlying cause of the cardiomyopathy or its effects on you, we may also evaluate your cardiomyopathy under 4.02, 4.04, or 4.05. If your cardiomyopathy results in vascular insult to the brain, we may also evaluate it under 11.04.

c. Under 4.08A2, we need a conclusion from a medical source that the performance of an exercise test would present a significant risk to you. If your case record does not have a conclusion from a medical source that an exercise test would present a significant risk to you, an MC defined in 4.00A3a may make such a conclusion if evidence in your case record supports it.

3. *How do we evaluate valvular heart disease?* We evaluate aortic valvular disease under 4.07. We may also evaluate aortic valvular disease, as well as other forms of valvular disease, under 4.02, 4.04, 4.05, 4.06, or a listing in 11.00, depending on its effects on you.

4. *What do we consider when we evaluate heart transplant recipients?* a. After your heart transplant, we will consider you disabled under 4.09 for 1 year following the surgery because there is a greater likelihood of rejection of the organ and infection during the first year. If you develop cardiac allograft vasculopathy after your transplant, we will evaluate this impairment under 4.16.

b. * * *

c. * * *

d. When we do a continuing disability review to determine whether you are still disabled, we will evaluate your residual impairment(s), as shown by the evidence in your case record, including any side effects of medication. We will consider all evidence indicative of cardiac dysfunction in deciding whether medical improvement (as defined in §§ 404.1594 and 416.994 of this chapter) has occurred.

5. *What is cardiac allograft vasculopathy and how do we evaluate it?* Cardiac allograft vasculopathy (CAV) may affect a person who has received a heart transplant and involves thickening in the walls of the coronary arteries that may progress quickly into serious vascular stenosis and heart dysfunction. Stenosis in CAV is caused by a pathological process different from classic atherosclerosis and treatment often is only palliative. We evaluate CAV under 4.16.

* * * * *

8. * * *

a. * * *

b. * * * Most people with Marfan syndrome have abnormalities associated with the heart and blood vessels. * * * * *

J. *How do we evaluate issues that affect the cardiovascular system?* 1. *How do we consider the effects of obesity when we evaluate your cardiovascular disorder?* Obesity is a medically determinable impairment that may be associated with cardiovascular disorders. The additional body mass may make it harder for the chest and lungs to expand or may cause the heart to work harder to pump blood to carry oxygen to the body. The combined effects of obesity with a cardiovascular disorder can be greater than the effects of each of the impairments considered separately. We consider the additional and cumulative effects of obesity when we determine whether you have a severe cardiovascular disorder, a listing-level cardiovascular disorder, a combination of impairments that medically equals the severity of a listed impairment, and when we assess your residual functional capacity.

2. *How do we relate treatment to functional status?* In general, conclusions about the severity of a cardiovascular disorder cannot be made on the basis of the type of treatment rendered or anticipated. * * *

3. *How do we consider hospitalizations?* When we evaluate hospitalizations for chronic heart failure (4.02B3), ischemic heart disease (4.04E), congenital heart disease (4.06E), and cardiomyopathy (4.08D), the hospitalizations do not all have to be for the same cardiovascular disorder(s). They may be for three different exacerbations or complications resulting from your cardiovascular disorder. The hospitalizations must be at least 30 days apart, and each one must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization.

K. *How do we evaluate cardiovascular disorders that do not meet one of these listings?*

1. These listings are only examples of common cardiovascular disorders that we consider severe enough to prevent you from doing any gainful activity. If your impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment(s) that satisfies the criteria of a listing in another body system.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing. See §§ 404.1526 and 416.926 of this chapter. If your impairment(s) does not meet or medically equal a listing, you may or may not have the residual functional capacity to engage in substantial gainful activity. We will proceed to the fourth step and, if necessary, the fifth step of the sequential evaluation process in §§ 404.1520 and 416.920 of this chapter. We will use the rules in §§ 404.1594 or 416.994 of this chapter, as appropriate,

when we decide whether you continue to be disabled.

4.01 Category of Impairments, Cardiovascular Disorders

4.02 *Chronic heart failure* (see 4.00D) while on a regimen of prescribed treatment, with symptoms and signs described in 4.00D2. The required level of severity for this impairment is met when the requirements are satisfied by A and B; or C alone; or D alone.

A. Medically documented presence of one of the following:

1. Systolic failure documented by appropriate medically acceptable imaging during a period of stability (not during an episode of exacerbation of heart failure), with left ventricular end diastolic dimension equal to or greater than 7.0 cm; or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure); OR

2. Diastolic failure documented by appropriate medically acceptable imaging during a period of stability (not during an episode of exacerbation of heart failure), with left ventricular posterior wall plus septal thickness totaling 2.5 cm or greater, with an enlarged left atrium greater than or equal to 4.5 cm, *OR* left atrial volume index (LAVi) greater than or equal to 40 ml, BSA/m2 (milliliters to body surface area in squared meters).

AND

B. Resulting in one of the following:

1. Recurrent (see 4.00A3c) symptoms of heart failure, resulting in both a and b:

a. A medical source (see 4.00D4c(i)) has concluded that the performance of an exercise test would present a significant risk to the person; and

b. Very serious limitation in the ability to perform activities of daily living independently, appropriately, effectively, and on a sustained basis; or

2. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less if using a standard treadmill (or bicycle) test without gas exchange, or at 15 ml/kg/min peak VO2 (oxygen consumption) on a cardiopulmonary exercise test, due to either a or b:

a. Dyspnea, fatigue, palpitations, or chest discomfort; or

b. Decrease of 10 mmHg or more in systolic pressure below the baseline systolic blood pressure or the preceding systolic pressure measured during exercise (see 4.00D4d) due to left ventricular dysfunction, despite an increase in workload; or

3. Exacerbations or complications of chronic heart failure (see 4.00D1b) requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3);

OR

C. Heart failure with left ventricular ejection fraction of 20 percent or less while on a regimen of prescribed therapy, on two evaluations at least 90 days apart within a consecutive 12-month period (see 4.00A3e) during a period of stability (not during an episode of exacerbation of heart failure);

OR

D. One of the following while hospitalized, at home, or both:

1. Mechanical circulatory support device except extracorporeal membrane oxygenation (ECMO) (see 4.00D4e). Consider under a disability for 1 year from the date of implantation; after that, evaluate any residual impairment(s) under the criteria for the affected body system.

2. Continuous intravenous administration of inotropic medication (for example, milrinone) for at least 30 consecutive days. Consider under a disability for 1 year from the date of initiation of the treatment; after that, evaluate any residual impairment(s) under the criteria for the affected body system.

4.03 [Reserved]

4.04 *Ischemic heart disease* (see 4.00E), with symptoms due to myocardial ischemia, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with A, B, C, D, or E:

A. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less with findings interpreted by an acceptable medical source as positive for ischemia (see 4.00E9b).

OR

B. Ischemic response with exercise or pharmacological (drug-induced) stress testing (see 4.00C14) on medically appropriate imaging, with either 1 or 2:

1. At least two reversible or fixed regional myocardial perfusion defects and either a or b:

a. Transient ischemic dilatation; or

b. Resting left ventricular ejection fraction of less than 50 percent; or

2. At least two reversible or fixed regional wall motion abnormalities and either a or b:

a. Decrease in left ventricular ejection fraction during testing; or

b. Resting left ventricular ejection fraction of less than 50 percent.

OR

C. Documentation of three separate ischemic episodes (see 4.00E9c) requiring unplanned hospitalization (inpatient or observation status) within a consecutive 12-month period (see 4.00A3e).

OR

D. Coronary artery disease, documented by coronary angiography (obtained independently of Social Security disability evaluation) with 1, 2, or 3:

1. Fractional flow reserve (see 4.00E9e) measurement of less than or equal to 0.80 of a proximal segment or mid segment coronary artery not amenable to revascularization (see 4.00E9c(ii)).

2. History of coronary artery bypass graft surgery with manifestations of ischemia, as described in 4.00E3–4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment) with a, b, c, or d:

a. 50 percent or more stenosis of a nonbypassed left main coronary artery; or

b. 70 percent or more stenosis in the proximal segment or mid segment of another nonbypassed coronary artery; or

c. 50 percent or more stenosis in the proximal segment or mid segment of at least two nonbypassed coronary arteries; or

d. 70 percent or more stenosis of a bypass graft vessel.

3. Resting left ventricular ejection fraction of less than 50 percent while medically stable (see 4.00B4) with manifestations of ischemia, as described in 4.00E3–4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment) with a, b, or c:

a. 50 percent or more stenosis of a nonbypassed left main coronary artery; or

b. 70 percent stenosis in the proximal segment or mid segment of another nonbypassed coronary artery; or

c. 50 percent or more stenosis in the proximal segment or mid segment of at least two nonbypassed coronary arteries.

OR

E. Exacerbations or complications of ischemic heart disease (see 4.00E2–4.00E7) requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3).

4.05 *Recurrent arrhythmias* (see 4.00F), not related to reversible causes such as electrolyte abnormalities or digitalis glycoside or antiarrhythmic drug toxicity, while on a regimen of prescribed treatment (see 4.00B3 if there is no prescribed treatment), demonstrated by both A and B:

A. Coincident with recurrent (see 4.00A3c) episodes of cardiac syncope or near syncope (see 4.00F3b).

AND

B. Documented by either 1 or 2:

1. Resting or ambulatory (Holter) electrocardiography; or

2. Other appropriate medically acceptable testing.

4.06 *Congenital heart disease* (see 4.00H), documented by appropriate medically acceptable imaging (see 4.00A3d) or cardiac catheterization, with A, B, C, D, or E:

A. Chronic hypoxemia, and 1, 2, or 3:

1. Hematocrit of 55 percent or greater on two evaluations at least 90 days apart within a consecutive 12-month period (see 4.00A3e); or

2. Arterial blood gas test measurement obtained at rest while breathing room air, as described in either a or b:

a. S_aO_2 (arterial oxygen saturation) less than or equal to 89 percent; or

b. PO_2 or P_aO_2 (partial pressure of oxygen) less than or equal to 60 mmHg;

3. S_pO_2 (percentage of oxygen saturation of blood hemoglobin) measured by pulse oximetry either at rest, during a 6-minute walk test (6MWT), or after a 6MWT, while breathing room air, less than or equal to 87 percent on three evaluations at least 30 days apart within a consecutive 12-month period (see 4.00A3e).

OR

B. Intermittent right-to-left shunting (for example, Eisenmenger syndrome; see 4.00H2) during cardiopulmonary exercise testing while breathing room air, resulting in oxygen desaturation on exertion at a workload equivalent to 5 METs or less, or peak VO_2 (oxygen uptake) of 15.0 ml/kg/min or less, *and* arterial blood gas test measurement, with either 1 or 2:

1. S_aO_2 less than or equal to 89 percent; or

2. PO_2 or P_aO_2 less than or equal to 60 mmHg.

OR

C. Pulmonary hypertension documented by cardiac catheterization while medically stable, as described in 1, 2, or 3:

1. Pulmonary arterial systolic pressure elevated to at least 70 percent of the systemic arterial systolic pressure; or

2. Pulmonary arterial systolic pressure equal to or greater than 70 mmHg; or

3. Mean pulmonary artery pressure equal to or greater than 40mmHg.

OR

D. Single ventricle (with or without Fontan procedures) (see 4.00H4).

OR

E. Exacerbations or complications of congenital heart disease (see 4.00J3) requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3).

4.07 *Aortic valvular disease* (see 4.00I3), with symptoms due to stenosis, determined by appropriate test or tests showing an aortic valve area of less than 1.0 cm^2.

4.08 *Cardiomyopathy* (see 4.00I2) while on a regimen of prescribed treatment, with A, B, C, or D:

A. Hypertrophic cardiomyopathy documented by appropriate medically acceptable imaging, with left ventricular or septal wall thickness equal to or greater than 20 mm in the absence of other causes of left ventricular hypertrophy (for example, hypertension or aortic valvular disease) and either 1 or 2:

1. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less if using a standard treadmill (or bicycle) test without gas exchange, or at 15 ml/kg/min peak VO_2 (oxygen consumption) on a cardiopulmonary exercise test; or

2. A medical source (see 4.00I2c) has concluded that the performance of an exercise tolerance test would present a significant risk to the person.

OR

B. Endomyocardial fibrosis documented by appropriate medically acceptable imaging, with 1, 2, and 3:

1. Loss of chamber volume due to fibrosis of the endocardium of at least one ventricle; and

2. Right or left atrial dilatation (chamber enlargement); and

3. Regurgitant (backward) blood flow through the mitral or tricuspid valve.

OR

C. Cardiac amyloidosis AL (light-chain) type documented by biopsy.

OR

D. Exacerbations or complications of cardiomyopathy requiring three hospitalizations within a consecutive 12-month period (see 4.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 4.00J3).

4.09 *Heart transplantation* (see 4.00I4). Consider under a disability for 1 year from the date of the transplant; after that, evaluate the residual impairment(s).

4.10 *Dissecting aneurysm of the aorta or major branches* (see 4.00I6), due to any cause (for example, atherosclerosis, cystic medical necrosis Marfan syndrome, or trauma), demonstrated by appropriate medically acceptable imaging, with dissection not controlled by prescribed treatment.

4.11 *Chronic venous insufficiency* (see 4.00G) of a lower extremity with reflux or obstruction of the venous system documented by duplex ultrasound or other appropriate diagnostic technique, with A or B:

A. Extensive trophic changes of skin (for example, hyperpigmentation, lipodermatosclerosis, brawny edema) involving at least two-thirds of the leg below the knee, on two evaluations at least 90 days apart within a consecutive 12-month period (see 4.00A3e), with both 1 and 2:

1. Consistent with chronic venous insufficiency; and

2. Unresponsive to compression therapy.

OR

B. Two or more episodes of ulceration that has not healed following at least 6 months of prescribed treatment.

4.12 *Peripheral arterial disease* (see 4.00G7) while on a regimen of prescribed treatment resulting in intermittent claudication or leg pain that interferes with mobility (see 4.00G1), with A, B, C, or D, as determined by an appropriate test(s) (see 4.00G5–4.00G6):

A. Resting ankle/brachial systolic blood pressure ratio of less than 0.50 (see 4.00G7a).

OR

B. Decrease in systolic blood pressure at the ankle on exercise test (see 4.00G7a) of 50 percent or more of the pre-exercise level and requiring 10 minutes or more to return to pre-exercise level.

OR

C. Resting toe systolic pressure of less than 30 mmHg (see 4.00G7c and 4.00G8).

OR

D. Resting toe/brachial systolic blood pressure ratio of less than 0.40 (see 4.00G7c).

4.13–4.15 [Reserved]

4.16 *Cardiac allograft vasculopathy* (see 4.00I5), documented by appropriate medically acceptable imaging (for example, intravascular ultrasonography or coronary angiography) (see 4.00A3d), with A, B, C, or D:

A. Cardiac index (CI) or cardiac output (CO) less than 2 $l/min/m^2$.

OR

B. Left ventricular ejection fraction equal to or less than 45 percent.

OR

C. Right atrial pressure (RAP) greater than 12 mmHg.

OR

D. Pulmonary capillary wedge pressure (PCWP) greater than 15 mmHg.

* * * * *

5. Amend part B of appendix 1 to subpart P of part 404 by revising the body system name for section 104.00 in the table of contents to read as follows:

* * * * *

Part B

* * * * *

104.00 Cardiovascular Disorders

* * * * *

104.00 Cardiovascular Disorders

A. *How do we define cardiovascular disorders and cardiovascular terms?*

1. *What do we mean by a cardiovascular disorder?*

a. * * *

b. Cardiovascular disorders result from one or more of four consequences of heart disease: * * *

(iv) Hypoxemia due to right-to-left shunt, reduced oxygen concentration in the arterial blood, or pulmonary vascular disease.

* * * * *

2. *What do we consider in evaluating cardiovascular disorders?* The listings in this section describe cardiovascular disorders based on the medical and other evidence, including response to a regimen of prescribed treatment and functional limitations.

3. *What do the following terms or phrases mean in these listings?*

a. *Medical consultant* is a person defined in § 416.1016(a) of this chapter. * * *

b. * * * By ''exceptions,'' we mean brief periods when the required finding(s) is greatly reduced or gone. These periods are so brief or inconsequential, the required finding(s) remains a factor in the person's condition.

c. * * * By ''improvement of sufficient duration,'' we mean the finding is greatly reduced or not present for long enough that the required finding(s) is no longer a factor in the person's condition.

* * * * *

B. *What documentation do we need to evaluate cardiovascular disorders?*

1. *What basic documentation do we need?* We need sufficiently detailed reports of history, physical examinations, laboratory studies, and any prescribed treatment and response to allow us to assess the severity and duration of your cardiovascular disorder.

* * * * *

2. *Why is a longitudinal clinical record important?* * * * Whenever there is evidence of such treatment, your longitudinal clinical record should include a description of the ongoing management and evaluation provided by your medical source(s). * * *

3. *What if you have not received ongoing medical treatment?*

a. * * * In this situation, we will base our evaluation on the current evidence we have. * * * However, we may find you disabled because you have another impairment(s) that, in combination with your cardiovascular disorder, medically equals a listing or functionally equals the listings.

b. * * * In rare instances when there is no or insufficient longitudinal evidence, we may purchase a consultative examination(s) to help us establish the existence, severity, and duration of your impairment.

4. *When will we wait before we ask for more evidence?*

a. * * *

(i) If you have had a recent acute event; for example, acute heart failure.

* * * * *

5. *Will we purchase any studies?* In appropriate situations, we may purchase studies necessary to substantiate the existence of a medically determinable impairment or to document the severity of your impairment, generally after we have evaluated the evidence we already have. * * * We will follow sections 4.00C6, 4.00C7, 4.00C8 in part A, and 104.00B7, when we decide whether to purchase exercise testing. * * *

* * * * *

7. *Will we use exercise tolerance tests (ETT) for evaluating children with cardiovascular disorders?*

a. * * * An ETT may be of value in the assessment of some arrhythmias, as indicated in 104.05B2. ETTs may also be used in the assessment of the severity of chronic heart failure and in the assessment of recovery of function following cardiac surgery or other treatment.

b. We will purchase an ETT only if we cannot make a determination or decision based on the evidence we have and an MC, preferably one with experience in the care of children with cardiovascular disorders, has determined that an ETT is needed to evaluate your impairment. * * *

c. For full details on ETT requirements and usage, see 4.00C3 in part A.

C. *How do we evaluate chronic heart failure?*

1. *What is chronic heart failure (CHF)?*

a. *Heart failure* is the inability of the heart to pump enough oxygenated blood to body tissues. * * * Ejection fraction in heart failure is a continuum ranging from low ejection fraction due to muscle dysfunction to preserved ejection fraction resulting from high intracardiac pressures. We consider heart failure to be chronic when the condition persists or recurs over time despite treatment.

b. *CHF* is considered in these listings as a single category whether due to atherosclerosis (narrowing of the arteries), cardiomyopathy, hypertension, congenital, or other heart disease. If the CHF is the result of primary pulmonary hypertension secondary to disease of the lung, we will evaluate your impairment under the listings in 3.00 (for example, 3.09) or 4.00, as appropriate.

2. *What evidence of CHF do we need?*

a. Cardiomegaly or ventricular dysfunction must be present and demonstrated by appropriate medically acceptable imaging, such as chest x-ray, echocardiography (M-Mode, 2-dimensional, and Doppler), radionuclide studies, or cardiac catheterization. Other findings on appropriate medically acceptable imaging may include increased pulmonary vascular markings, pleural effusion, and pulmonary edema.

b. Your medical history and physical examination should describe characteristic symptoms and signs of pulmonary or systemic congestion (fluid retention) or of limited cardiac output associated with the abnormal findings on appropriate medically acceptable imaging. When an acute episode of heart failure is triggered by a remediable factor, such as an arrhythmia, dietary sodium overload, or high altitude, cardiac function may be restored and a chronic impairment may not be present.

(i) * * *

(ii) * * *

(iii) * * * However, these signs need not be found on all examinations because congestion may be controlled by prescribed treatment or may not be present at the time of evaluation.

* * * * *

4. *How do we evaluate CHF treated with a mechanical circulatory support device?* We use 104.02D to evaluate CHF treated with an implanted mechanical circulatory support device (MCSD), such as a left ventricle assistive device (LVAD) or a right ventricle assistive device (RVAD). Implanted MCSDs are intended for long-term circulatory support in helping the heart pump blood. For the purposes of 104.02D, an MCSD does not include extracorporeal membrane oxygenation (ECMO). Although ECMO is a form of mechanical circulatory support, we do not include it in 104.02D because ECMO is intended only for short-term circulatory support (maximum 30 days), used in a setting of imminent or actual cardiac arrest.

D. *How do we evaluate congenital heart disease?*

1. *What is congenital heart disease? Congenital heart disease* is any abnormality of the heart or the major blood vessels that is present at birth. Congenital heart disease includes abnormal structure of the individual heart chambers, valves, and blood vessels, and abnormal relative relationship of the chambers to each other that alters the normal pattern of blood flow. Surgery is the usual treatment, and with improving surgical techniques and medical management, more children with congenital heart disease are surviving into adulthood. Examples of congenital heart disease include:

a. * * *

b. * * *

c. * * *

d. Major abnormalities of ventricular development, including hypoplastic left heart syndrome or tricuspid atresia with hypoplastic right ventricle.

2. *How do we evaluate conditions associated with congenital heart disease?*

a. We will evaluate congenital heart disease that results in chronic heart failure with evidence of ventricular dysfunction or in recurrent arrhythmias under 104.02 or 104.05, respectively. Otherwise, we will evaluate your impairment under 104.06.

b. We need pulse oximetry measurements documented by medical sources using methods consistent with the prevailing state of medical knowledge and clinical practice to evaluate chronic hypoxemia in congenital heart disease under 104.06A3. These pulse oximetry measurements also must be consistent with the other evidence in the case record.

c. 104.06D, life-threatening congenital heart disease does not include single ventricle; we evaluate single ventricle physiology separately under 104.06C. When we evaluate life-threatening congenital heart disease under 104.06D, we consider whether it responds to surgical treatment and, therefore, may not meet the 12-month duration requirement. Examples of impairments that in most instances will require life-saving surgery or a combination of surgery and other major interventional procedures (for example, multiple ''balloon'' catheter procedures) before age 1 include, but are not limited to, the following:

(i) Critical aortic stenosis with neonatal heart failure,

(ii) Critical coarctation of the aorta, with associated anomalies,

(iii) Complete atrioventricular canal defects,

(iv) Transposition of the great arteries,

(v) Tetralogy of Fallot, and

(vi) Multiple ventricular septal defects.

3. *What is Eisenmenger syndrome?* Eisenmenger syndrome refers to any surgically untreated congenital heart defect with intracardiac communication that over time leads to pulmonary hypertension, reversal of blood flow, and hypoxemia.

a. Lesions in Eisenmenger syndrome, such as large septal defects, are characterized by elevated pulmonary pressures or a high pulmonary flow rate. In response, the pulmonary blood vessels pathologically change, leading eventually to pulmonary hypertension. Development of Eisenmenger syndrome represents a point at which pulmonary hypertension is irreversible and the cardiac lesion is likely inoperable.

b. Examples of congenital heart disease that if untreated may cause pulmonary vascular disease leading to Eisenmenger syndrome include atrial septal defect (ASD), ventricular septal defect (VSD), and large patent ductus arteriosus (PDA). We evaluate Eisenmenger syndrome under 104.06A or 104.06B.

4. *What is single ventricle?* The term ''single ventricle'' (also known as single ventricle physiology or functional single ventricle) describes a diverse group of congenital cardiac anomalies sharing the common feature that only one of the two heart ventricles is adequately developed. At birth, one ventricle must functionally do the work of two, pumping blood for both the body (systemic) and the lungs (pulmonary). Because of this feature, the ultimate plan for cardiac reconstruction is similar for most of these anomalies. People with single ventricle will generally undergo staged reconstructive ''Fontan procedures,'' ultimately resulting in a ''Fontan circulation.'' Fontan circulation describes the hemodynamic state in which virtually all systemic venous return-blood passively flows directly into the pulmonary arteries via surgical or catheter-placed shunts, without (the blood) passing through a ventricle. Some of the anomalies described as single ventricle include the following:

(i) Hypoplastic left heart syndrome;

(ii) Hypoplastic right ventricle;

(iii) Tricuspid valve atresia;

(iv) Double inlet left ventricle; and

(v) Some variations of double outlet right ventricle.

E. *How do we evaluate arrhythmias?*

1. *What is an arrhythmia?* * * * Although we use the term ''arrhythmia'' in the listings, the term ''dysrhythmia'' may also be used in the medical evidence to describe this condition.

* * * * *

4. *What will we consider when you have an implanted cardiac defibrillator and you do*

not have arrhythmias that meet the requirements of 104.05?

a. * * * The shock from the implanted cardiac defibrillator rescues a child from what may have been cardiac arrest. However, as a consequence of the shock(s), similar to the effects of treatments for other cardiovascular disease, a child may experience psychological distress, which we may evaluate under the listings in 112.00.

b. * * * Also, exposure to strong electrical or magnetic fields, such as from magnetic resonance imaging, can trigger or reprogram an implanted cardiac defibrillator, resulting in inappropriate shocks. * * *

* * * * *

F. *How do we evaluate other cardiovascular disorders?*

1. *What is ischemic heart disease (IHD) and how will we evaluate it in children?* * * * If you have IHD, we will evaluate it under 4.04 in part A.

2. *How will we evaluate hypertension?* Hypertension (high blood pressure) generally causes disability in children through its effects on other body systems, such as the brain, kidneys, or eyes, and we will evaluate these impairments by reference to the specific body system(s) that is affected. * * *

3. *What is cardiomyopathy and how will we evaluate it?*

a. There are various types of cardiomyopathy, which fall into two major categories: ischemic and nonischemic cardiomyopathy. Ischemic cardiomyopathy typically refers to heart muscle damage that results from coronary artery disease, including heart attacks. Nonischemic cardiomyopathy includes several types: dilated, hypertensive, hypertrophic, and restrictive.

b. We will evaluate cardiomyopathy under 4.04 in part A, 104.02, or 104.05, depending on its effects on you.

4. *How will we evaluate valvular heart disease?* We will evaluate aortic valvular disease under 4.07 in part A. We may also evaluate aortic valvular disease, as well as other forms of valvular disease, under 4.04 in part A, 104.02, 104.05, 104.06, or a listing in 111.00, depending on its effects on you.

5. * * *

a. After your heart transplant, we will consider you disabled under 104.09 for 1 year following the surgery because there is a greater likelihood of rejection of the organ and infection during the first year. If you develop cardiac allograft vasculopathy after your transplant, we will evaluate this impairment under 104.16.

* * * * *

d. When we do a continuing disability review to determine whether you are still disabled, we will evaluate your residual impairment(s), as shown by the evidence in your case record, including any side effects of medication. We will consider all evidence indicative of cardiac dysfunction in deciding whether medical improvement (as defined in § 416.994a of this chapter) has occurred.

6. *How will we evaluate chronic rheumatic fever or rheumatic heart disease?* We will evaluate rheumatic fever or rheumatic heart disease under the listing appropriate to its effects on you, which may include heart failure or recurrent arrhythmias. If you have evidence of chronic heart failure or recurrent arrhythmias associated with rheumatic heart disease, we will evaluate these disorders under 104.02 or 104.05, respectively.

* * * * *

9. * * *

a. * * *

b. Lymphedema does not meet the requirements of 4.11 in part A, although it may medically equal the listing. We evaluate lymphedema by considering whether the underlying cause meets or medically equals any listing or whether the lymphedema medically equals a cardiovascular disorders listing, such as 4.11 in part A, or a listing in 101.00. If no listing is met or medically equaled, we will evaluate any functional limitations imposed by your lymphedema when we consider whether you have an impairment(s) that functionally equals the listings.

* * * * *

11. *What is cardiac allograft vasculopathy and how do we evaluate it?* Cardiac allograft vasculopathy (CAV) may affect a person who has received a heart transplant and involves thickening in the walls of the coronary arteries that may progress quickly into serious vascular stenosis and heart dysfunction. Stenosis in CAV is caused by a pathological process different from classic atherosclerosis and treatment often is only palliative. We evaluate CAV under 104.16.

G. *How do we evaluate issues that affect the cardiovascular system?*

1. How do we consider the effects of obesity when we evaluate your cardiovascular disorder? Obesity is a medically determinable impairment that may be associated with cardiovascular disorders. The additional body mass may make it harder for the chest and lungs to expand or may cause the heart to work harder to pump blood to carry oxygen to the body. The combined effects of obesity with a cardiovascular disorder can be greater than the effects of each of the impairments considered separately. We consider the additional and cumulative effects of obesity when we determine whether you have a severe cardiovascular disorder, a listing-level cardiovascular disorder, a combination of impairments that medically equals the severity of a listed impairment, and when we determine whether your impairment(s) functionally equals the listings.

2. *How do we relate treatment to functional status?* In general, conclusions about the severity of a cardiovascular disorder cannot be made on the basis of the type of treatment rendered or anticipated. * * *

3. *How do we consider hospitalizations?* The hospitalizations in 104.02E and 104.06E do not all have to be for the same exacerbation or complication of your cardiovascular disorder(s). They may be for three different exacerbations or complications resulting from your cardiovascular disorder. The hospitalizations must be at least 30 days apart, and each one must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization.

H. *How do we evaluate cardiovascular disorders that do not meet one of these listings?*

1. These listings are only examples of common cardiovascular disorders that we consider severe enough to result in marked and severe functional limitations. If your impairment(s) does not meet the criteria of any of these listings, we must also consider whether you have an impairment(s) that satisfies the criteria of a listing in another body system.

2. If you have a severe medically determinable impairment(s) that does not meet a listing, we will determine whether your impairment(s) medically equals a listing. See § 416.926 of this chapter. If your impairment(s) does not meet or medically equal a listing, we will also consider whether it functionally equals the listings. See § 416.926a of this chapter. We will use the rules in § 416.994a of this chapter when we decide whether you continue to be disabled.

104.01 Category of Impairments, Cardiovascular Disorders

104.02 *Chronic heart failure* (see 104.00C) while on a regimen of prescribed treatment with symptoms and signs described in 104.00C2, and with A, B, C, D, or E:

A. Persistent tachycardia at rest measured at least twice within a consecutive 12-month period and at least 90 days apart documented by apical heart rate greater than or equal to the value in Table I.

TABLE I—TACHYCARDIA AT REST

Age	Apical heart rate (beats per minute)
Under 1 year	150
1 through 3 years	130
4 through 9 years	120
10 through 15 years	110
Over 15 years	100

OR

B. Persistent tachypnea at rest measured at least twice within a consecutive 12-month period and at least 90 days apart documented by respiratory rate greater than or equal to the value in Table II *or* markedly decreased exercise tolerance (see 104.00C2b).

TABLE II—TACHYPNEA AT REST

Age	Respiratory rate (per minute)
Under 1 year	40
1 through 5 years	35
6 through 9 years	30
Over 9 years	25

OR

C. Growth failure as required in 1 or 2:

1. *For children from birth to attainment of age 2,* three weight-for-length measurements that are:

a. Within a consecutive 12-month period; and

b. At least 60 days apart; and

c. Less than the third percentile on the appropriate weight-for-length table under 105.08B1; or

2. *For children age 2 to attainment of age 18,* three BMI-for-age measurements that are:

a. Within a consecutive 12-month period; and

b. At least 60 days apart; and

c. Less than the third percentile on the appropriate BMI-for-age table under 105.08B2.

OR

D. Mechanical circulatory support device (except an extracorporeal membrane oxygenation (ECMO) while hospitalized, at home, or both (see 104.00C4). Consider under a disability for 12 months from the date of implantation; after that, evaluate any residual impairment(s) under the criteria for the affected body system.

OR

E. Exacerbations or complications of chronic heart failure (see 104.00C1b) requiring three hospitalizations within a consecutive 12-month period and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 104.00G3).

104.03–104.04 [Reserved]

104.05 *Recurrent arrhythmias* (see 104.00E), not related to reversible causes such as electrolyte abnormalities or digitalis glycoside or antiarrhythmic drug toxicity, while on a regimen of prescribed treatment (see 104.00B3 if there is no prescribed treatment), demonstrated by both A and B:

A. Coincident with recurrent (see 104.00A3c) episodes of cardiac syncope or near syncope (see 104.00E3b).

AND

B. Documented by either 1 or 2:

1. Resting or ambulatory (Holter) electrocardiography; or

2. Other appropriate medically acceptable testing.

104.06 *Congenital heart disease* (see 104.00D), documented by appropriate medically acceptable imaging (see 104.00A3d) or cardiac catheterization, with A, B, C, D, or E:

A. Chronic hypoxemia, and 1, 2, or 3:

1. Hematocrit of 55 percent or greater on two evaluations at least 90 days apart within a consecutive 12-month period (see 104.00A3e); or

2. Arterial blood gas test measurement obtained at rest while breathing room air, as described in either a or b:

a. S_aO_2 (arterial oxygen saturation) less than or equal to 89 percent; or

b. PO_2 or P_aO_2 (partial pressure of oxygen) less than or equal to 60 mmHg; or

3. S_pO_2 (percentage of oxygen saturation of blood hemoglobin) measured by pulse oximetry either at rest, or after activity, while breathing room air, less than or equal to 87 percent on three evaluations at least 30 days apart within a consecutive 12-month period (see 104.00A3e).

OR

B. Pulmonary hypertension documented by cardiac catheterization while medically stable, as described in 1, 2, or 3:

1. Pulmonary arterial systolic pressure elevated to at least 70 percent of the systemic arterial systolic pressure; or

2. Pulmonary arterial systolic pressure equal to or greater than 70 mmHg; or

3. Mean pulmonary artery pressure equal to or greater than 40 mmHg.

OR

C. Single ventricle (for example, hypoplastic left or right ventricle) that has or will require Fontan procedures (see 104.00D5).

OR

D. For infants under 1 year of age at the time of filing, with life-threatening congenital heart disease (see 104.00D3c) that will require or already has required surgical treatment in the first year of life, and the impairment is expected to be disabling (because of residual impairment following surgery, or the recovery time required, or both) until the attainment of at least 1 year of age, consider under a disability until the attainment of at least age 1; after that, evaluate impairment severity with the appropriate listing.

OR

E. Exacerbations or complications of congenital heart disease (see 104.00D) requiring three hospitalizations within a consecutive 12-month period (see 104.00A3e) and at least 30 days apart. Each hospitalization must last at least 48 hours, including hours in a hospital emergency department immediately before the hospitalization (see 104.00G3).

104.07–104.08 [Reserved]

104.09 *Heart transplantation* (see 104.00F5). Consider under a disability for 1 year from the date of the transplant; after that, evaluate the residual impairment(s).

104.10–104.15 [Reserved]

104.16 *Cardiac allograft vasculopathy* (see 104.00F11), documented by appropriate medically acceptable imaging (for example, intravascular ultrasonography or coronary angiography).

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Part III

The President

Memorandum of June 27, 2022—Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians

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Presidential Documents

Title 3—

The President

Memorandum of June 27, 2022

Extending and Expanding Eligibility for Deferred Enforced Departure for Liberians

Memorandum for the Secretary of State [and] the Secretary of Homeland Security

Since 1991, the United States has provided safe haven for Liberians who were forced to flee their country as a result of armed conflict and widespread civil strife, in part through the grant of Temporary Protected Status (TPS). The armed conflict ended in 2003, and TPS for affected Liberian nationals ended effective October 1, 2007. President Bush then deferred the enforced departure of those Liberians originally granted TPS. President Obama, in successive memoranda, extended that grant of Deferred Enforced Departure (DED) to March 31, 2018. President Trump then determined that conditions in Liberia did not warrant a further extension of DED, but that the foreign policy interests of the United States warranted an orderly transition period for Liberian DED beneficiaries. President Trump later extended that DED transition period through March 30, 2020.

In December 2019, the Congress enacted the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92) (NDAA), which included, as section 7611, the Liberian Refugee Immigration Fairness (LRIF) provision. The LRIF provision, with limited exceptions, makes Liberians who have been continuously present in the United States since November 20, 2014, as well as their spouses and children, eligible for adjustment of status to that of lawful permanent resident (LPR). The NDAA gave eligible Liberian nationals until December 20, 2020, to apply for this adjustment of status. After the enactment of the LRIF provision, President Trump further extended the DED transition period through January 10, 2021, to ensure that DED beneficiaries would continue to be eligible for employment authorization during the LRIF application period.

The LRIF application process was new and complex, resulting in some procedural and administrative challenges. Recognizing these difficulties, the Congress enacted a 1-year extension to the application period in section 901 of the Consolidated Appropriations Act, 2021 (Public Law 116–260). That legislation, however, did not provide for continued employment authorization past January 10, 2021. Through my memorandum of January 20, 2021 (Reinstating Deferred Enforced Departure for Liberians), DED was subsequently reinstated through June 30, 2022, in order to permit employment authorization for eligible Liberians while they made their applications for adjustment of status under the LRIF provision.

There are compelling foreign policy reasons to extend DED for an additional period for those Liberians presently residing in the United States who were under a grant of DED until June 30, 2022, as well as to defer enforced departure for Liberians who have been continuously present in the United States since May 20, 2017. In addition to updating the continuous presence requirement, I have also determined that it is appropriate to include qualifying Liberians whose LRIF applications have been denied for reasons other than ineligibility under sections 7611(b)(1)(C) and (b)(3) of the NDAA in this DED designation. In particular, this includes providing protection from removal to those who arrived in the United States during a time when conditions prevented them from returning safely, including through May 20, 2017, and have since established family and community ties in the

United States. Providing protection from removal and work authorization to these Liberians, for whom we have long authorized TPS or DED in the United States, including while they complete the LRIF status-adjustment process, honors the historic close relationship between the United States and Liberia and is in the foreign policy interests of the United States.

Pursuant to my constitutional authority to conduct the foreign relations of the United States, I have determined that it is in the foreign policy interests of the United States to defer through June 30, 2024, the removal of any Liberian national, or person without nationality who last habitually resided in Liberia, who is present in the United States and who was under a grant of DED as of June 30, 2022, as well as any Liberian national, or person without nationality who last habitually resided in Liberia, who has been continuously physically present in the United States since May 20, 2017. I have also determined that any Liberian national, or person without nationality who last habitually resided in Liberia, who was under a grant of DED as of June 30, 2022, or who has been continuously physically present in the United States since May 20, 2017, should have continued employment authorization through June 30, 2024.

The Secretary of Homeland Security shall promptly direct the appropriate officials to make provision, by means of a notice published in the *Federal Register*, for immediate allowance of employment authorization for those Liberians who held appropriate DED-related employment authorization documents as of June 30, 2022, or those Liberian nationals who have been continuously present in the United States since May 20, 2017. The Secretary of Homeland Security shall also provide for the prompt issuance of new or replacement employment authorization documents in appropriate cases.

This grant of DED and continued employment authorization shall apply to any Liberian DED beneficiary as of June 30, 2022, or any Liberian national who has been continuously present in the United States since May 20, 2017, but shall not apply to such persons in the following categories:

(1) individuals who would be ineligible for TPS for the reasons provided in section 244(c)(2)(B) of the Immigration and Nationality Act, 8 U.S.C. 1254a(c)(2)(B);

(2) individuals who sought or seek LPR status under the LRIF provision but whose applications have been or are denied by the Secretary of Homeland Security due to ineligibility for the LRIF provision under sections 7611(b)(1)(C) and (b)(3) of the NDAA;

(3) individuals whose removal the Secretary of Homeland Security determines is in the interest of the United States, subject to the LRIF provision;

(4) individuals whose presence or activities in the United States the Secretary of State has reasonable grounds to believe would have potentially serious adverse foreign policy consequences for the United States;

(5) individuals who have voluntarily returned to Liberia or their country of last habitual residence outside the United States for an aggregate period of 180 days or more, as specified in subsection (c)(2) of the LRIF provision; or

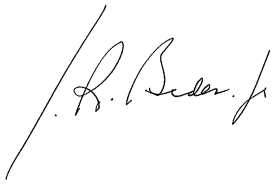
(6) individuals who are subject to extradition.

Accordingly, I hereby direct the Secretary of Homeland Security to take the necessary steps to implement for eligible Liberians:

(1) a deferral of enforced departure from the United States through June 30, 2024, effective immediately; and

(2) authorization for employment valid through June 30, 2024.

The Secretary of Homeland Security is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 27, 2022

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