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Presidential Documents

Title 3—

The President

Executive Order 14082 of September 12, 2022

Implementation of the Energy and Infrastructure Provisions of the Inflation Reduction Act of 2022

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to effectively implement the historic energy and infrastructure provisions in Public Law 117–169, commonly referred to as the Inflation Reduction Act of 2022 (the ''Act''), and to accelerate United States global leadership in clean energy innovation, manufacturing, and deployment in a way that cuts consumer energy costs, creates well-paying union jobs and sustainable and equitable economic opportunity, advances environmental justice, and addresses the climate crisis, it is hereby ordered as follows:

Section 1. *Background.* The Act is the single largest and most ambitious investment in the ability of the United States to advance clean energy, cut consumer energy costs, confront the climate crisis, promote environmental justice, and strengthen energy security, among other vital provisions that will lower costs for families, reduce the deficit, and grow and strengthen the economy. The Act will:

(a) build on the once-in-a-generation investment in the infrastructure and competitiveness of the United States set forth in the Infrastructure Investment and Jobs Act (Public Law 117–58) by accelerating the deployment of clean energy technologies, making home energy efficiency and clean energy installations more affordable, and incentivizing the purchase of electric vehicles;

(b) boost energy security and lower energy costs for families, businesses, and government;

(c) revitalize American manufacturing by investing in domestic clean energy supply chains and creating well-paying union jobs, including in traditional energy communities;

(d) improve public health and advance environmental justice and economic opportunity for frontline communities who disproportionately bear the brunt of cumulative exposure to industrial and energy pollution;

(e) promote climate justice by reducing harmful greenhouse gas emissions in line with the goal of realizing net-zero emissions by no later than 2050;

(f) harness nature-based solutions—including climate-smart agriculture and forestry—that deliver economic benefits for rural communities, Tribes, farmers, ranchers, and forest landowners;

(g) expand research and accelerate innovation in the development of clean energy, climate, and related technologies; and

(h) increase the resilience of our communities in the face of a changing climate.

Achieving these goals will require effective implementation of the Act by my Administration, as well as by State, local, Tribal, and territorial governments.

Sec. 2. *Implementation Priorities.* In implementing the Act, all agencies (as described in section 3502(1) of title 44, United States Code, except for the agencies described in section 3502(5) of title 44) shall, as appropriate and to the extent consistent with law, prioritize:

(a) investing public dollars effectively and efficiently, working to avoid waste, and achieving measurable, demonstrable outcomes for the American people;

(b) driving progress to achieve the climate goals of the United States to reduce greenhouse gas emissions 50–52 percent below 2005 levels in 2030, achieve a carbon pollution-free electricity sector by 2035, and achieve net-zero emissions by no later than 2050;

(c) advancing environmental and climate justice through an all-of-government approach, including through the Justice40 Initiative set forth in Executive Order 14008 of January 27, 2021 (Tackling the Climate Crisis at Home and Abroad), to protect and improve the health and well-being of fenceline and frontline communities in the United States;

(d) promoting construction of clean energy generation, storage, and transmission, and enabling technologies through efficient, effective mechanisms that incorporate community engagement;

(e) increasing the competitiveness of the United States economy and investment in critical supply chains, including through the Act's incentives and measures to strengthen domestic manufacturing and supply chains;

(f) increasing high-quality job opportunities for American workers and improving equitable access to these jobs, including in traditional energy communities, through the timely implementation of the Act's requirements for prevailing wages and registered apprenticeships and by focusing on high labor standards and the free and fair chance to join a union;

(g) reducing energy costs for working families, businesses, and governments at all levels while increasing energy security for the benefit of United States economic competitiveness and national security;

(h) accelerating innovation by directing the scientific and technical expertise of America's researchers, businesses, and workers toward achieving breakthroughs in clean energy and climate technologies; and

(i) effectively coordinating with State, local, Tribal, and territorial governments, as well as with private-sector stakeholders and nongovernmental organizations, in implementing the critical investments outlined in this section to build sustainable, resilient communities.

Sec. 3. *White House Office on Clean Energy Innovation and Implementation.* There is hereby established the White House Office on Clean Energy Innovation and Implementation within the Executive Office of the President, which shall coordinate the policymaking process with respect to implementing the energy and infrastructure provisions of the Act and other essential initiatives. The White House Office on Clean Energy Innovation and Implementation shall have a staff headed by the Senior Advisor for Clean Energy Innovation and Implementation; shall have such staff and other assistance as may be necessary to carry out the provisions of this order, subject to the availability of appropriations; and may work with established or ad hoc committees and interagency groups.

Sec. 4. *Interagency Coordination.* (a) To further the robust implementation of the energy and infrastructure provisions of the Act, Executive Order 14008 is amended as follows:

(i) The introductory text following the heading for section 203 is revised to read as follows: ''There is hereby established a National Climate Task Force (Task Force). The Task Force shall be chaired by the Senior Advisor for Clean Energy Innovation and Implementation. The National Climate Advisor shall serve as Vice Chair.''.

(ii) Section 203(a) is revised to read as follows:

''(a) Membership. The Task Force shall consist of the following additional members:

(i) the Secretary of the Treasury;

(ii) the Secretary of Defense;

(iii) the Attorney General;
(iv) the Secretary of the Interior;
(v) the Secretary of Agriculture;
(vi) the Secretary of Commerce;
(vii) the Secretary of Labor;
(viii) the Secretary of Health and Human Services;
(ix) the Secretary of Housing and Urban Development;
(x) the Secretary of Transportation;
(xi) the Secretary of Energy;
(xii) the Secretary of Education;
(xiii) the Secretary of Homeland Security;
(xiv) the Administrator of the Environmental Protection Agency;
(xv) the Director of the Office of Management and Budget;
(xvi) the Director of the Office of Science and Technology Policy;
(xvii) the Administrator of the Small Business Administration;
(xviii) the Chair of the Council on Environmental Quality;
(xix) the Assistant to the President for National Security Affairs;
(xx) the Assistant to the President for Domestic Policy;
(xxi) the Assistant to the President for Homeland Security and Counterterrorism;
(xxii) the Assistant to the President for Economic Policy;
(xxiii) the Administrator of the National Aeronautics and Space Administration;
(xxiv) the Chief Executive Officer of the Corporation for National and Community Service;
(xxv) the Administrator of General Services;
(xxvi) the White House Infrastructure Coordinator; and
(xxvii) the heads of such other departments, agencies, and offices as the Chair or Vice Chair may from time to time invite to participate.''.

(iii) To expand the mission of the National Climate Task Force to include coordinating effective implementation of the Act, as outlined in section 2 of this order, the second sentence of section 203(b) is revised to read as follows: ''This Task Force shall facilitate planning and implementation of key Federal actions to reduce climate pollution; increase resilience to the impacts of climate change; protect public health; conserve our lands, waters, oceans, and biodiversity; deliver environmental justice; spur well-paying union jobs and economic growth; coordinate effective implementation of Public Law 117–169, commonly referred to as the Inflation Reduction Act of 2022, in coordination with the Infrastructure Implementation Task Force established in Executive Order 14052 of November 15, 2021 (Implementation of the Infrastructure Investment and Jobs Act), as appropriate; and accelerate clean energy innovation and deployment.''.

(iv) The introductory text following the heading for section 218 is revised to read as follows: ''There is hereby established an Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization (Interagency Working Group). The National Climate Advisor, the Assistant to the President for Economic Policy, and the Senior Advisor for Clean Energy Innovation and Implementation shall serve as Co-Chairs of the Interagency Working Group.''.

(b) Section 1–102(b) of Executive Order 12898 of February 11, 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), as amended by section 220(a) of Executive Order 14008, is further amended by revising subsection (xvii) and (xviii) and adding subsection (xix) to read as follows: ''(xvii) the Assistant to the President for Domestic Policy; (xviii) the Assistant to the President for Economic Policy; and (xix) the Senior Advisor for Clean Energy Innovation and Implementation.''.

(c) To further support implementation of the energy and infrastructure provisions of the Act, section 3(d) of Executive Order 14052 of November 15, 2021 (Implementation of the Infrastructure Investment and Jobs Act), is amended by striking ''and'' at the end of subsection (xi), striking subsection

(xii), and adding in lieu thereof the following: ''(xii) the Senior Advisor for Clean Energy Innovation and Implementation; and (xiii) the heads of such other executive departments, agencies, and offices as the Co-Chairs may from time to time invite to participate.''.

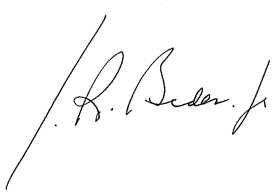
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
September 12, 2022.

[FR Doc. 2022–20210
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Billing code 3395–F2–P

Rules and Regulations

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–1157; Project Identifier MCAI–2022–01093–R; Amendment 39–22177; AD 2022–19–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Model SA341G and SA342J helicopters. This AD was prompted by a report of manufacturing defects on multiple tail rotor blades (TRBs). This AD requires visually inspecting certain part-numbered TRBs for the presence of a linear indication; and depending on the inspection results, fluorescent penetrant inspecting the TRB and further corrective actions if necessary. This AD also prohibits installing an affected TRB unless certain requirements have been met, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective October 3, 2022.

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

The FAA must receive comments on this AD by October 31, 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 *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 incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find this IBR material on the EASA website at *ad.easa.europa.eu.* For Airbus Helicopters service information identified in this final rule, 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 *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. It is also available in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1157.

Examining the AD Docket

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1157; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan McCully, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1701 Columbia Ave., Mail Stop: ACO, College Park, GA 30337; telephone (404) 474–5548; email *william.mccully@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD 2022–0169–E, dated August 12, 2022 (EASA AD 2022–0169–E), to correct an unsafe condition for Airbus Helicopters, formerly Eurocopter, Eurocopter France, Aerospatiale, Sud Aviation, Model SA 341 G and SA 342 J (Gazelle) helicopters, all serial numbers.

This AD was prompted by a report of manufacturing defects on multiple TRBs. EASA advises that an additional sample of TRBs from different manufacturing batches were visually inspected and further analysis revealed visual linear indications on approximately 75% of the TRBs inspected. EASA further advises that the visual linear indications were positioned at the aerofoil connection radius and perpendicular to the grain flow direction. EASA advises that follow-up dye penetrant inspections confirmed up to 20% of the TRBs were found to be affected and have a high risk for crack propagation.

Additionally, EASA advises that the investigation of the root cause of the unsafe condition is still on-going; therefore EASA considers EASA AD 2022–0169–E an immediate protective measure and states that further action may follow. The FAA is issuing this AD to detect linear indications on a TRB, which could result in an in-flight TRB loss, unbalance or damage to the tail or other parts of the helicopter, and subsequent loss of control of the helicopter. See EASA AD 2022–0169–E for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0169–E requires, before any cleaning of the TRB, using a lamp (1000 lux) to visually check (inspect) the root area of each affected TRB for the presence of any linear indication; and cleaning certain areas of each TRB and repeating the visual check (inspection) of the TRB for a linear indication. Depending on the inspection results, EASA AD 2022–0169–E requires performing a (fluorescent) dye penetrant inspection of the root area of a TRB, and if a linear indication is detected, replacing the affected TRB with a serviceable part. EASA AD 2022–0169–E also requires, if the number of flight hours accumulated on an affected part

is unknown, before next flight, replacing the affected part with a serviceable part. EASA AD 2022–0169–E allows for a one-time ferry flight for an affected helicopter, in order to be moved to a location where the (fluorescent) dye penetrant inspection and/or the TRB replacement(s) can be performed, as long as there are no passengers onboard. Lastly, EASA AD 2022–0169–E prohibits installing an affected TRB on any helicopter unless certain requirements have been met.

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.

Other Related Service Information

The FAA also reviewed Airbus Helicopters Emergency Alert Service Bulletin (EASB) No. SA341–65.71 for Model SA341G helicopters and non FAA-type certificated military Model SA341B, C, D, E, F, and H helicopters; and EASB No. SA342–65.71 for Model SA342J helicopters and non FAA-type certified military Model SA342 K, L, L1, M, M1, and MA helicopters, each Revision 0 and dated August 4, 2022 (co-published as one document). This service information specifies procedures for visually checking (inspecting) the TRB for presence of a linear indication; cleaning the TRB with a lint free rag and solvent and repeating the visual check (inspection); performing a (fluorescent) dye penetrant inspection if a linear indication is detected; removing and replacing any affected TRB if necessary; and recording compliance with the service information.

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 European Union, EASA, its technical representative, has notified the FAA of the unsafe condition described in its emergency AD. The FAA is issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2022–0169–E, described previously, as IBRed, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the 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, EASA AD 2022–0169–E is IBRed in this FAA final rule. This AD, therefore, requires compliance with EASA AD 2022–0169–E in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0169–E 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 2022–0169–E. Service information referenced in EASA AD 2022–0169–E for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2022–1157 after this final rule is published.

Differences Between This AD and the EASA AD

EASA AD 2022–0169–E requires accomplishing a visual check of the root area of each affected part, whereas this AD requires accomplishing a visual inspection of the root area of each affected part. Although EASA AD 2022–0169–E does not define the phrase ''a linear indication,'' service information referenced in EASA AD 2022–0169–E defines this phrase as an indication for which the longest dimension is at least three times longer than the smallest one. This AD defines a linear indication as any linear indication perpendicular to the fiber direction of the blade that is detected regardless of size. Where EASA AD 2022–0169–E requires performing a dye penetrant inspection, this AD requires a fluorescent penetrant inspection (FPI) performed by a Level II or Level III inspector certified in the FAA-acceptable standards for nondestructive inspection personnel. Paragraph (5) of EASA AD 2022–0169–E allows a ferry flight to operate the helicopter to a location where the dye penetrant inspection can be performed or where an affected part can be replaced as long as no passengers are onboard, whereas this AD does not allow compliance with paragraph (5) of EASA AD 2022–0169–E; instead for this AD, a special flight permit may be issued to operate the helicopter to a location where the visual inspection or FPI can be performed, provided no passengers are onboard. This AD prohibits special flight permits if a linear indication has been detected by an FPI or a visible crack has been detected on a TRB.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking.

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 because the affected part is critical to the control of a helicopter. In addition, failure of an affected part can cause the part to depart from the helicopter, thereby causing damage to the helicopter and subsequent loss of control of the helicopter. Also, the FAA has no information pertaining to how quickly the condition may propagate to failure. Investigation is still on-going to determine the root cause of the defect and the number of parts affected by the same condition. In light of this, the initial visual inspection must be accomplished before further flight. 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–2022–1157; Project Identifier MCAI–2022–01093–R'' 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 *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan McCully, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1701 Columbia Ave., Mail Stop: ACO, College Park, GA 30337; telephone (404) 474–5548; email *william.mccully@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.

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 22 helicopters of U.S. Registry. There may be up to 13 affected TRBs per helicopter. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Visually inspecting one TRB for presence of a linear indication takes about 1 work-hour for an estimated cost of $85 per inspection. Visually inspecting each additional TRB takes about 0.1 work-hour for an estimated cost of $9 per inspection. The cost for inspecting each helicopter may be up to $193 and the cost for the U.S. fleet may be up to $4,246.

If required, fluorescent penetrant inspecting a TRB for the presence of a linear indication takes about 2 work-hours for an estimated cost of $170 per inspection.

If required, removing an affected TRB and replacing it with a serviceable TRB takes about 2 work-hours and parts cost about $3,630 for an estimated cost of $3,800 per replacement. Removing each additional affected TRB and replacing it with a serviceable TRB takes about an additional 0.5 work-hour and parts cost about $3,630 for an estimated cost of $3,673 for each additional replacement.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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:

2022–19–08 Airbus Helicopters: Amendment 39–22177; Docket No. FAA–2022–1157; Project Identifier MCAI–2022–01093–R.

(a) Effective Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model SA341G and SA342J helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code: 6410, Tail Rotor Blades.

(e) Unsafe Condition

This AD was prompted by a report of manufacturing defects on multiple tail rotor blades (TRBs). The FAA is issuing this AD to detect linear indications on a TRB. The unsafe condition, if not addressed, could result in an in-flight TRB loss, unbalance or damage to the tail or other parts of the helicopter, 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 Emergency AD 2022–0169–E, dated August 12, 2022 (EASA AD 2022–0169–E).

(h) Exceptions to EASA AD 2022–0169–E

(1) Where EASA AD 2022–0169–E requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2022–0169–E refers to its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (1) of EASA AD 2022–0169–E states to ''accomplish a visual check of the root area of each affected part,'' for this AD, replace that text with ''accomplish a visual inspection of the root area of each affected part.''

(4) Where paragraph (2) of EASA AD 2022–0169–E states, ''linear indication,'' for the purposes of this AD, a linear indication is any linear indication perpendicular to the fiber direction of the blade that is detected regardless of size.

(5) Where paragraph (2) of EASA AD 2022–0169–E states to ''accomplish a dye penetrant inspection of the root area of each discrepant part in accordance with the instructions of the ASB,'' for this AD replace that text with ''perform a fluorescent penetrant inspection (FPI) of the root area of each affected part that has any linear indication (perpendicular to the fiber direction of the blade and regardless of size), in accordance with the Accomplishment Instructions, paragraph 3.B.3. of the ASB. This FPI must be accomplished by a Level II or Level III inspector certified in the FAA-acceptable standards for nondestructive inspection personnel.''

Note 1 to paragraph (h)(5): Advisory Circular 65–31B contains examples of FAA-acceptable Level II and Level III qualification standards criteria for inspection personnel doing nondestructive test inspections.

(6) This AD does not mandate paragraph (3) of EASA AD 2022–0169–E; instead, for this AD, if as a result of the action required by paragraph (2) of EASA AD 2022–0169–E, there is any linear indication (perpendicular to the fiber direction of the blade and regardless of size), before further flight, remove the affected TRB from service and replace it with a serviceable part as defined in EASA AD 2022–0169–E.

(7) This AD does not allow paragraph (5) of EASA AD 2022–0169–E, instead for this AD use paragraph (j) of this AD.

(8) Where the service information referenced in EASA AD 2022–0169–E specifies to discard the TRB if a linear indication is detected, this AD requires before further flight, removing that part from service.

(9) Where the service information referenced in EASA AD 2022–0169–E specifies to use tooling, this AD allows the use of equivalent tooling.

(10) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2022–0169–E.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0169–E specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

A special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the visual inspection or FPI can be performed, provided no passengers are onboard. Special flight permits are prohibited if a linear indication has been detected by an FPI or a visible crack has been detected on a TRB.

(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) 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

For more information about this AD, contact Dan McCully, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1701 Columbia Ave., Mail Stop: ACO, College Park, GA 30337; telephone (404) 474–5548; email *william.mccully@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) Emergency AD 2022–0169–E, dated August 12, 2022.

(ii) [Reserved]

(3) For EASA AD 2022–0169–E, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *easa.europa.eu.* You may find the EASA material on the EASA website at *ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–1157.

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

Issued on September 6, 2022.

Christina Underwood,

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

[FR Doc. 2022–20152 Filed 9–14–22; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 362

[Docket No. 220909–0189]

RIN 0625–AB21

Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord With Presidential Proclamation 10414

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: In accordance with Presidential Proclamation 10414 and pursuant to its authority under section 318(a) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is issuing this final rule to implement Proclamation 10414. Specifically, Commerce is issuing a new rule that, in the event of an affirmative preliminary or final determination in the antidumping and countervailing duty (AD/CVD) circumvention inquiries described below, under Title VII of the Act, extends the time for, and waives, the suspension of liquidation, the application of certain AD/CVD duties, and the collection of cash deposits on applicable entries of certain crystalline silicon photovoltaic cells, whether or not assembled into modules, that are completed in the Kingdom of Cambodia (Cambodia), Malaysia, the Kingdom of Thailand (Thailand), and the Socialist Republic of Vietnam (Vietnam) using parts and components manufactured in the People's Republic of China (China), and that are not already subject to an antidumping or countervailing duty order.

DATES: This rule is effective on November 15, 2022.

FOR FURTHER INFORMATION CONTACT: Dana Moreland, Enforcement & Compliance (E&C) Communications

office at (202) 482–0063 or *ECCOMMUNICATIONS@trade.gov.*

SUPPLEMENTARY INFORMATION:

General Background

Presidential Proclamation 10414

On June 6, 2022, the President signed Proclamation 10414, ''Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia.'' [1] As part of the Proclamation, the President declared an emergency to exist for purposes of section 318(a) of the Act (19 U.S.C. 1318(a)) and made that section's authority available to the Secretary according to the section's terms. The Proclamation directs the Secretary to ''consider taking appropriate action under section 318(a) . . . to permit, until 24 months after the date of this proclamation or until the emergency declared herein has terminated, whichever occurs first, under such regulations and under such conditions as the Secretary may prescribe, the importation, free of the collection of duties and estimated duties, if applicable,'' under sections 701, 731, 751 and 781 of the Act (19 U.S.C. 1671, 1673, 1675, 1677j) with respect to certain solar cells and modules exported from Cambodia, Malaysia, Thailand, and Vietnam, and that are not already subject to an antidumping or countervailing duty order as of the date of the Proclamation. Further, the Proclamation directs the Secretary to consider taking action to ''temporarily extend during the course of the emergency the time therein prescribed for the performance of any act related to such imports.'' [2]

On July 1, 2022, Commerce published a proposed rule to implement Presidential Proclamation 10414, with public comments due August 1, 2022.[3] Sixteen comments were submitted, with eleven generally supportive of the *Proposed Rule* and five generally opposed.

New Procedures in Accord With Presidential Proclamation 10414

Commerce is currently conducting circumvention inquiries to determine whether imports of crystalline silicon photovoltaic cells, whether or not assembled into modules, which are completed in Cambodia, Malaysia, Thailand, or Vietnam using parts and components manufactured in China and exported to the United States (hereinafter ''Southeast Asian-Completed Cells and Modules'' or ''SA-Completed Cells and Modules''), are circumventing the AD and CVD orders on solar cells and modules from China.[4] To respond to the emergency declared in the Proclamation, and pursuant to the Proclamation and section 318(a) of the Act, in this final rule, Commerce is adding Part 362 to extend the time for, and waive, the actions provided for in 19 CFR 351.226(l)(1), (2) and (3), if applicable, in the ongoing circumvention inquiries covering SA-Completed Cells and Modules. SA-Completed Cells and Modules are by definition not covered by the scope of the AD and CVD orders on solar cells and modules from China, and consistent with the Proclamation, the extension and waiver described in this final rule will apply only to imports of SA-Completed Cells and Modules that enter into the United States, or are withdrawn from warehouse, for consumption, before the Date of Termination (defined as June 6, 2024, or the date the emergency described in Presidential Proclamation 10414 has been terminated, whichever occurs first). In addition, this rule applies only to SA-Completed Cells and Modules that are utilized in the United States by the Utilization Expiration Date, which is 180 days after the Date of Termination. The final rule defines ''utilization'' and ''utilized'' to mean that the SA-Completed Cells and Modules will be used or installed in the United States. Furthermore, this final rule provides that, in the event of an affirmative determination of circumvention, no resulting AD/CVD estimated duties or duties will be applied to SA-Completed Cells and Modules that have been entered into the United States, or withdrawn from warehouse, for consumption before the Date of Termination and for use by the Utilization Expiration Date.

As explained above, this final rule applies to SA-Completed Cells and Modules. This rule does not apply to solar cells and modules which are manufactured and exported from China and are subject to the existing antidumping or countervailing duty orders on solar cells and modules from China (A–570–979; C–570–980) (China Solar Orders). Nor does it apply to solar cells and modules that are exported from Cambodia, Malaysia, Thailand, and Vietnam that are already subject to the China Solar Orders.[5] In addition, this rule does not apply to certain solar products that are manufactured and exported from Taiwan and are subject to the existing antidumping duty order on solar products from Taiwan (A–583–853) (Taiwan Solar Order), as well as certain solar products that are exported from Cambodia, Malaysia, Thailand, and Vietnam but are (already) subject to the order covering Taiwanese merchandise (*i.e.,* the country of origin is considered Taiwan).

Commerce will continue to use the certification requirements in place as an enforcement tool to monitor imports of solar cells and modules that are either Chinese or Taiwanese in origin and covered by the current AD/CVD duty orders.

Under this regulation, Commerce takes the following actions:

(1) Commerce shall instruct U.S. Customs and Border Protection (CBP) to discontinue the suspension of liquidation and collection of cash deposits for any SA-Completed Cells and Modules that were suspended, in connection with initiation of the circumvention inquiries, pursuant to § 351.226(l)(1). If, at the time Commerce issues instructions to CBP, the entries are suspended only for purposes of the circumvention inquiries, Commerce will direct CBP to liquidate those entries without regard to AD/CVD duties and refund those cash deposits collected pursuant to the circumvention inquiries.

[1] *Declaration of Emergency and Authorization for Temporary Extension of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia,* 87 FR 35067, 35068 (June 9, 2022) (Proclamation).

[2] Section 318(a) of the Act (19 U.S.C. 1318(a)) gives the Secretary of the Treasury authority, on a temporary basis, to take certain actions to respond immediately where the President declares the existence of an emergency. With respect to AD/CVD, this authority was delegated to the Secretary of Commerce in 1979, to be exercised in consultation with the Secretary of the Treasury. Section 5(a)(1)(e) of the Reorg. Plan No. 3 of 1979. Consistent with the Reorganization Plan and the Proclamation, we have consulted with the Department of Treasury and the Department of Homeland Security.

[3] *Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord with Presidential Proclamation 10414,* 87 FR 39426 (July 1, 2022) (*Proposed Rule*).

[4] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty and Countervailing Duty Orders,* 87 FR 19071 (April 1, 2022).

[5] Commerce has determined under the China Solar Orders that the country-of-origin is determined by where the solar cell is manufactured. If solar cells from China are sent to Cambodia, Malaysia, Thailand and Vietnam, and then incorporated into solar modules and panels, the solar products incorporating such cells and exported from those four countries remain subject to the China Solar Orders. *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (December 7, 2012).

(2) If, before the Date of Termination, Commerce issues an affirmative preliminary determination in a circumvention inquiry covering SA-Completed Cells and Modules, Commerce will not, at that time, direct CBP to suspend liquidation and collect cash deposits of estimated AD/CVD duties for entries of that merchandise entered, or withdrawn from warehouse, for consumption before, on, or after the date of initiation of that circumvention inquiry and that are to be utilized in the United States by the Utilization Expiration Date, notwithstanding § 351.226(l)(2). In the event there are such entries of SA-Completed Solar Cells and Modules before, on, or after the date of initiation of the circumvention inquiry that will not be utilized in the United States by the Utilization Expiration Date, Commerce will direct CBP to suspend liquidation and collect cash deposits of estimated AD/CVD duties for those entries.

(3) If, before the Date of Termination, Commerce issues an affirmative final determination in a circumvention inquiry covering SA-Completed Cells and Modules, Commerce will not, at that time, direct CBP to suspend liquidation and collect cash deposits of estimated AD/CVD duties for entries of that merchandise entered, or withdrawn from warehouse, for consumption before, on, or after the date of initiation of that circumvention inquiry and that are to be utilized in the United States by the Utilization Expiration Date, notwithstanding § 351.226(l)(3). In the event there are such entries of SA-Completed Solar Cells and Modules before, on, or after the date of initiation of the circumvention inquiry that will not be utilized in the United States by the Utilization Expiration Date, Commerce will direct CBP to suspend liquidation and collect cash deposits of estimated AD/CVD duties for those entries.

(4) If, after the Date of Termination, Commerce issues an affirmative final determination in a circumvention inquiry covering SA-Completed Cells and Modules and entries of SA-Completed Cells and Modules that will not be utilized in the United States by the Utilization Expiration Date, Commerce will direct CBP to order suspension of liquidation of those entries and the collection of cash deposits on those entries.

(5) If, before or after the Date of Termination, Commerce issues an affirmative final determination in a circumvention inquiry covering SA-Completed Cells and Modules and those SA-Completed Cells and Modules will be utilized by the Utilization Expiration Date:

a. Commerce will direct CBP to liquidate entries of those SA-Completed Cells and Modules entered, or withdrawn from warehouse, for consumption before the Date of Termination without regard to AD/CVD duties if liquidation instructions were issued to CBP pursuant to a different segment of the proceeding in accordance with section 751 of the Act that would have otherwise applied to those entries.

b. Commerce will direct CBP to commence suspension of liquidation of the SA-Completed Cells and Modules, as applicable, and collect cash deposits of estimated AD/CVD duties at the applicable rate only on SA-Completed Cells and Modules entered, or withdrawn from warehouse, for consumption on or after the Date of Termination.

Consistent with the authority granted by the Proclamation, Commerce notes that these actions ensure that duties or estimated duties will not be collected on entries of SA-Completed Cells and Modules that entered the United States both before and after the signing of the Proclamation, so long as they enter, or are withdrawn from warehouse, for consumption, before the Date of Termination. Furthermore, all entries following the effective date of the final rule must be utilized in the United States by the Utilization Expiration Date, which is 180 days following the Date of Termination, to benefit from this rule.

Commerce is invoking all authorities provided for in the Proclamation, pursuant to section 318(a) of the Act, as well as Commerce's authority to issue regulations pertaining to section 781 of the Act (19 U.S.C. 1677j), to take these steps to respond to the emergency declared in the Proclamation. Section 351.226(l) governs when merchandise found to be circumventing an AD or CVD order should be subject to suspension of liquidation and cash deposit requirements. Thus, in light of the emergency, Commerce is extending the time period established by regulation for Commerce to instruct CBP to begin suspension of liquidation and cash deposit requirements for SA-Completed Cells and Modules entered, or withdrawn from warehouse, for consumption, as well as the date on which suspension of liquidation and cash deposit requirements will begin, including for entries of SA-Completed Cells and Modules that may have continued to be suspended under § 351.226(l)(1) and are to be utilized in the United States by the Utilization Expiration Date.[6]

In addition, Commerce is permitting, for the duration provided for in the Proclamation, the importation, free of the collection of AD/CVD duties and estimated duties, if applicable, on SA-Completed Cells and Modules that are to be utilized in the United States by the Utilization Expiration Date. Under this final rule, cash deposits will not be collected on imports of SA-Completed Cells and Modules that were entered, or withdrawn from warehouse, for consumption before the Date of Termination and that are to be used in the United States by the Utilization Expiration Date.

Finally, if Commerce issues a final determination of circumvention, Commerce will instruct CBP to suspend liquidation and collect cash deposits on SA-Completed Cells and Modules that are entered, or are withdrawn from warehouse, for consumption on or after the Date of Termination.

This action will ensure that, once this emergency has passed, suspension of liquidation and collection of cash deposits of any AD/CVD estimated duties and duties will be instituted and applied prospectively, to post-Date of Termination entries, as set forth by statute and regulation.

Explanation of Changes From the Proposed Rule to the Final Rule and Responses to Comments

In the *Proposed Rule,* Commerce invited the public to submit comments,[7] and received 16 submissions from interested parties, including domestic producers, exporters, importers, non-profit organizations, and trade associations. We considered the merits of each submission. In response, Commerce is implementing the following modifications to the *Proposed Rule:*

- Several definitions are clarified. The definition of ''Applicable Entries'' is amended to clarify that such entries must be utilized in the United States by the ''Utilization Expiration Date,'' a new term. ''Utilization'' and ''utilized'' are also new terms, included to address comments concerning stockpiling. The phrase ''subject to the Solar Circumvention Inquiries'' previously located in the ''Applicable Entries''

[6] This rule in no way affects CBP's ability to act pursuant to its own independent authorities, including its ability to determine if the declared country of origin of merchandise upon importation has been misidentified and to suspend liquidation and collect deposits of estimated AD/CVD duties on entries subject to the China Solar Orders or Taiwan Solar Order.

[7] *Proposed Rule,* 87 FR at 39426.

definition now appears in the definition of ''Southeast Asian-Completed Cells and Modules'' as this location more clearly indicates the merchandise covered by the circumvention inquiries.

• The heading of § 362.103(a) now reads ''Importation of applicable entries free of duties and estimated duties.'' The words ''estimated duties'' have been added to better reflect the Proclamation and what the Secretary intends to cover, consistent with the request of commenters.

• Section 362.103(a) now reads ''antidumping and countervailing duties and estimated duties.'' The words ''duties and'' have been added in light of the previous change and the Secretary's intention to apply the waiver to both duties and estimated duties.

• Portions of § 362.103(b)(1) and 362.103(b)(1)(i) now reference the Secretary, in place of Commerce, to conform with statutory and regulatory language. Further, the first sentence of § 362.103(b)(1)(i) has been revised to indicate that the Secretary shall instruct CBP to discontinue the suspension of liquidation of entries and collection of cash deposits for any SA-Completed Cells and Modules that were suspended pursuant to § 351.226(l) of this chapter in connection with the initiation of the Solar Circumvention Inquiries.

• Section 362.103(b)(1)(iii) has been added to outline the Secretary's subsequent instructions to CBP in the event of an affirmative preliminary or final determination of circumvention in the Solar Circumvention Inquiries.

• Section 362.103(b)(2) now addresses the steps the Secretary will take in the event that the emergency is terminated prior to June 6, 2024, but following an affirmative preliminary or final determination of circumvention in the Solar Circumvention Inquiries. Under this section, in that event, the Secretary will inform CBP of the Date of Termination and issue suspension of liquidation and cash deposit instructions. Further, under that scenario, Commerce would be able to order the suspension of liquidation and collection of cash deposits on merchandise that entered on an alternative date following the Date of Termination, if the use of an alternative entry date were appropriate, depending on the direction of the implementation of the termination of the emergency.

• Section 362.103(b)(3) now addresses the steps the Secretary will take in the event that the emergency is terminated on June 6, 2024, following affirmative preliminary or final determinations of circumvention in the circumvention inquiries. Under this section as well, the Secretary will inform CBP of the Date of Termination and issue suspension of liquidation and cash deposit instructions.

• Section 362.104 changes the singular term ''certification'' to the plural ''certifications'' as the Secretary may require that entities other than the importer provide a certification.

The preamble to the *Proposed Rule* provides extensive background, analysis, and explanation which are relevant to these final regulations. Accordingly, to the extent that the public seeks a more detailed and comprehensive understanding of these regulations, we advise not only considering the preamble to these final regulations, but also the analysis and explanations in the preamble to the *Proposed Rule.*

The following contains a summary of the comments we received and Commerce's responses to those comments. In addition, Commerce provides explanations of any changes from the *Proposed Rule,* either in response to comments or that it deemed appropriate.

1. AD/CVD Duties Waived Under Section 318 of the Tariff Act of 1930

Some commenters assert that Commerce does not have the authority to waive duties imposed pursuant to AD/CVD laws. One commenter writes, for instance, that ''once antidumping and countervailing duty orders are issued, the duties are to remain in effect for at least five years, when they undergo a five-year review by Commerce and the International Trade Commission.'' The commenter adds that, under Commerce's regulations, if an affirmative circumvention determination is made, Commerce ''*will* direct the Customs Service to begin the suspension of liquidation and require a cash deposit of estimated duties'' on the goods found to be circumventing (emphasis in original). The commenter thus concludes that the proposed temporary waiver of duties and estimated duties is ''inconsistent with the law and agency regulations.''

Another commenter makes the related argument that section 318 does not authorize ''interfere[ence]'' in AD/CVD proceedings or the ''dictat[ion]'' of the remedies that result from those proceedings, claiming, ''it is *ultra vires* for the President to authorize across-the-board duty relief for *any* product'' (emphasis in original).

Response: Commerce disagrees with these commenters. Section 318 of the Tariff Act of 1930, as amended, states that, in appropriate circumstances, the President may authorize the Secretary to admit goods ''free of duty.'' The provision's text gives no indication that AD/CVD duties are excluded from this encompassing language. More than that, section 5(a)(1)(E) of the Reorg. Plan No. 3 of 1979 explicitly transferred section 318 functions related to AD/CVD duties from the Secretary of the Treasury to the Secretary of Commerce—indicating that it was clearly contemplated that section 318 could be applied to AD/CVD duties.

As noted in the preamble to the *Proposed Rule,* Commerce is continuing to conduct the circumvention inquiries at issue under its normal procedures.[8] By its terms, section 318 permits the waiver of duties that would otherwise apply under law. While Commerce is continuing its circumvention inquiries under its normal procedures, section 318 extends to any duties that may result from those inquiries that would otherwise apply before the period of emergency concludes. Furthermore, as discussed, there is no reason in the text or the surrounding history to think AD/CVD duties are beyond the scope of section 318; to the contrary, Reorg. Plan No. 3 of 1979 indicates that section 318 *can* apply to AD/CVD duties.

2. Solar Cells and Modules as ''Other Supplies for Use in Emergency Relief Work'' Within the Meaning of 318(a)

Four commenters contend that Commerce is not permitted to provide for duty-free entry of SA-Completed Cells and Modules because solar cells and modules do not constitute the types of ''supplies for use in emergency relief work'' contemplated by section 318(a) of the Act. They assert instead that such supplies are limited to goods necessary to sustain health and survival during times of war or natural disasters.

One commenter states that the *Proposed Rule* is consistent with the authorities given to Commerce through the Proclamation.

Response: Commerce disagrees with certain commenters' assertions that solar cells and modules cannot be considered ''supplies for use in emergency relief work'' within the meaning of section 318(a).

Commerce has previously rejected arguments that this term, as contemplated by section 318(a), is narrowly limited to humanitarian goods provided on a short-term basis. Rather, ''[w]hat supplies might be needed for use in emergency relief work will depend on the circumstances of a specific declared emergency and the particular needs of persons affected by

[8] *See Proposed Rule,* 87 FR at 39429.

that emergency.'' [9] Nor does section 318(a)'s text limit the duration that an emergency may continue or the time to respond to it.

Here, through the Proclamation, the President has declared an emergency exists ''with respect to the threats to the availability of sufficient electricity generation capacity to meet expected customer demand.'' [10] Consistent with the Proclamation, this rule provides for the temporary importation free of AD/CVD duties and estimated duties, if otherwise applicable, for certain SA-Completed Cells and Modules. Electricity is a basic necessity of life in the United States similar to housing, food, and water. It enables necessary medical care, national defense, and provides for essential communications, and for health and safety in extreme temperatures. The Proclamation declares that immediate action is needed to ensure access to a sufficient supply of solar modules to assist in meeting the United States' electricity generation needs. The waiver of AD/CVD duties on the specified goods will provide relief to this emergency by encouraging imports and increasing solar energy capacity. Accordingly, the specified goods qualify as ''other supplies for use in emergency relief work'' in connection with the emergency declared such that Commerce may permit the temporary importation of such products free of AD/CVD duties and estimated duties.

Moreover, there is historical precedent for invoking the statute to permit the duty-free importation of a broader variety of goods than certain commenters' proposed limitation. For example, President Truman invoked section 318 to permit ''the importation free of duty of . . . timber, lumber, or the products suitable for the construction or completion of housing accommodations,'' after proclaiming ''an unprecedented shortage of housing, particularly for veterans of World War II and their families'' in Proclamation No. 2708.[11] The waiver of the duties was designed to ''increase the available supplies'' of such goods and thereby facilitate construction. Like housing, electricity is a basic necessity of life in the United States, and the present action to ensure sufficient electricity generating capacity parallels the prior waiver of duties on the importation of housing construction supplies to ensure sufficient housing.

3. Whether There Is a Clearly Defined Emergency for Which Commerce Could Provide a Remedy

Two commenters cite import statistics from select periods and countries to argue that imports of solar products have increased, and that therefore there is no emergency with regard to such products. Further, relying on data from the National Renewable Energy Laboratory, one commenter alleges declining prices for solar panels provides evidence that there is no shortage.

Eight commenters agree that there is an emergency as declared by the President's Proclamation. Three commenters emphasize that there is undoubtably an electricity emergency, exacerbated by drought conditions, heatwaves, the war in Ukraine, and other factors stretching the United States' electricity supply. Eight commenters highlight that electricity is a basic utility essential for modern life through, for example, the operation of schools, hospitals, transportation, defense, and businesses. Many of these commenters also assert that solar energy, including access to a sufficient supply of solar cells and modules, is critical in addressing this emergency. In addition, several commenters provided data on how uncertainty and delays have significantly impacted the overall solar energy market.

Response: Whether there is an emergency is not the subject of Commerce's rulemaking—the declaration of emergency is committed by section 318 to the President's discretion, and the President exercised that discretion in issuing the Proclamation. In any event, Commerce disagrees with commenters who argue the Proclamation lacks a defined emergency. The Proclamation details that multiple factors including disruptions to electricity markets as a result of the war in Ukraine and extreme weather events exacerbated by climate change are threatening the United States' ability to provide sufficient electricity generation to consumers.[12] The Proclamation discusses drought conditions and heatwaves that are simultaneously causing projected electricity supply shortfalls and record electricity demand.[13] And it further notes that, as a result, the Federal Energy Regulatory Commission and the North American Electric Reliability Corporation have both warned of near-term electricity reliability risks in their recent summer reliability assessments.[14]

In drafting this final rule, Commerce also considered a Department of Energy (DOE) report released in June 2022 entitled ''*Acute Shortage of Solar Equipment Poses Risks to the Power Sector*'' (DOE Report) and other documentation identified and cited in this Preamble.[15] The DOE Report concluded, based on multiple citations and sources, that ''trade and supply-chain frictions have resulted in an acute shortage of solar photovoltaic (PV) equipment in the United States that risks abruptly slowing the rate of solar PV installation.'' [16] The DOE Report explained that DOE ''estimates that solar equipment shortages could reduce solar PV deployment by 12–15 gigawatts (GW) over the next year, equivalent to the electricity needs of more than 2 million homes.'' [17] Further, the DOE

[9] *Procedures for Importation of Supplies for Use in Emergency Relief Work,* 71 FR 63230, 63231, 63233 (October 30, 2006).

[10] *See* Proclamation, 87 FR 35067, 35068 (June 9, 2022).

[11] *Proclamation No. 2708,* 11 FR 12695 (October 29, 1946) (Emergency Due to Housing Shortage-Free Importation of Timber, Lumber, and Lumber Products).

[12] Proclamation, 87 FR at 35067.

[13] *Id.*

[14] *Id.; see also generally* North American Electric Reliability Corporation, *2022 Summer Reliability Assessment* (May 5, 2022), available at *https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2022.pdf;* Federal Energy Regulatory Commission, *Summer Energy Market and Reliability Assessment,* at 13–16 (2022), available at *https://www.ferc.gov/media/report-summer-assessment-2022.*

[15] *See* U.S. Dept. of Energy, *Acute Shortage of Solar Equipment Poses Risks to the Power Sector,* at 2 (June 2022), available at *https://www.energy.gov/sites/default/files/2022-06/June%202022%20DOE%20Solar%20Market%20Update.pdf.*

[16] *Id.* at 1.

[17] *Id.* Since the DOE Report was written, three additional months of data have been reported, revealing two offsetting effects. First, electric utilities are delaying solar projects. Over the first six months of 2022, capacity additions were less than half of what the industry had previously planned to install in those months. *See* U.S. Energy Information Administration (EIA), Utility-Scale Solar Projects Report Delays (Aug. 11, 2022), *https://www.eia.gov/todayinenergy/detail.php?id=53400.* As a result, EIA's anticipated demand for utility-scale solar capacity additions for the next year (July 2022 through June 2023) has increased to 23 GW. *See* EIA Short-Term Energy Outlook, Table 8b (August 9, 2022), *http://www.eia.gov/outlooks/steo/.* This is higher than the 22 GW in 2022 and 19 GW in 2023 assumed in the DOE Report, which cited an earlier EIA report based on December 2021 data. This change *increases* the anticipated annual capacity shortfall by 2 GW. Second, solar equipment imports have not dropped by as much as anticipated in the DOE Report. Including three additional months of data (April–June 2022) from the same Census-corrected data set used in the DOE Report gives imports averaging 1.8 GW per month for the 12 months ending June 2022 and 2.2 GW per month for the previous 12-month period. That is a 0.4 GW per month reduction in imports instead of the 0.6 GW per month reduction used in the DOE Report (*See* DOE Report's Figure 1). This change *decreases* the annual solar capacity shortfall by 2 GW. The updated estimates of supply and demand offset each other, supporting continued applicability of the 12–15 GW shortage reported in the DOE Report when including the demand for small-scale solar and the need for roughly 1.3 GW of solar panels for every 1 GW of solar plant capacity installed on the grid.

Report explained that the reliability risks referenced above relate ''to the lack of sufficient generation capacity combined with the growing prevalence of extreme weather in the form of heat waves, drought, and wildfires.'' [18]

In the same document, DOE explained that ''domestic solar manufacturing capability is simply not sufficient to meet demand. The nation's 7.5 GW of current domestic module production capacity comprises less than one-fourth of near-term market demand and less than one-tenth what would be required to meet the country's climate targets and energy security needs.'' [19] DOE explained that ''establishing a solar component manufacturing facility, whether polysilicon production, ingots, cells, wafers, mounting structures or inverters, requires time—from one to four years,'' spotlighting that even under the best of conditions, today's current solar energy demands cannot be satisfied solely by domestic solar production and will not be satisfied by domestic solar production in at least the immediate future.[20] Thus, DOE concluded that meeting ''near-term demand will, by necessity, require reliance on both domestic and international supply chains. Absent an ability to access both sources of supply, PV project cancellations and delays will pose risks to the provision of reliable, affordable electricity supply while also imperiling achievement of the nation's energy security and climate objectives.'' [21]

Despite previous anticipated estimates that ''solar PV was anticipated to account for approximately 50% of newly installed generation capacity this year and next,'' DOE explained that ''PV module (*i.e.,* panel) imports have been falling abruptly rather than increasing to meet'' America's solar PV demand.[22] Pointing to data from the United States International Trade Commission (USITC), DOE explained that from ''July 2021 through March 2022, imports fell to 1.7 GW per month down from a prior average of 2.3 GW per month.'' [23] DOE explained that ''[t]wo-third of imports (an average of 1.5 GW per month in 2020 and 2021) were crystalline silicon modules form Cambodia, Malaysia, Thailand and Vietnam.'' [24]

DOE explained that the ''equipment shortage'' was also ''hitting domestic module production,'' explaining that in 2021, ''there was 5 GW of domestic module production, of which 3 was crystalline silicon modules that depend on imported solar cells for production,'' with ''over 1 GW of solar cells'' imported from Cambodia, Malaysia, Thailand and Vietnam.'' [25] Thus, DOE concluded that ''[c]easing cell imports from those countries would threaten at least 1 GW of domestic module production.'' [26]

DOE further pointed to the conclusions reached by the North American Electric Reliability Corporation (NERC) that warned that because of ''extreme weather in the form of heat waves, drought, and wildfires,'' ''the entirety of the central and western United States is at a high or elevated risk.'' [27] In addition, DOE pointed to various problems faced by Arizona, New Mexico, California and Texas that lead to energy-related problems because of ''solar installation delays.'' [28]

Further, DOE explained that the ''war in Ukraine, in addition to the end of many COVID–19 restrictions, has led to significant increases in natural gas and coal prices that have in turn increased electricity prices. Average wholesale electricity prices since the start of the war have been roughly double those of the same months in 2021.'' [29]

In addition, information provided by several commenters confirms the electricity emergency declared by the Proclamation.[30] That information indicates an increasing frequency of extreme weather presenting a public health and safety risk and serious challenges the United States faces with regard to its electricity supply.[31] In the conclusion to its report, DOE explained that ''most of the polysilicon, ingots, wafers, solar glass and cells for those modules come from imports'' and that ''today's domestic module production capacity comprises less than one-fourth of near-term market demand and less than one-tenth what would be required to meet the country's climate and energy security needs.'' [32] Thus, to address America's energy needs, DOE concluded that for the ''next several years,'' the United States ''will, by necessity, require both domestic and international supply chains.'' [33]

Considering DOE's conclusions in the DOE Report, as well as the various other documents identified and cited in this Preamble and the resources provided by several of the parties who filed comments in response to the proposed rule, the record supports the conclusions of the President that an electricity supply emergency exists in the United States, and that to address the energy supply emergency with solar energy technology, the United States must rely, in part, on imported solar modules for the immediate future.

As noted above, some commenters disagree with the conclusions that an emergency exists, but Commerce finds that certain data used by those critics are unpersuasive. For example, one commenter points to decreasing prices to argue that there is not a solar panel shortage. The National Renewable Energy Laboratory report upon which this commenter relied indicates that the dollar value of imported panels decreased, but this total dollar value reflects both unit price and the volume of imported units, which decreased. In

[18] DOE Report at 1.

[19] *Id.*

[20] *Id.* at 2.

[21] *Id.*

[22] *Id.*

[23] *Id.* (citing module import data from the United States International Trade Commission. 2022. ''*DataWeb.USITC.GOV*.'' May 16, 2022).

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.* at 4 (citing the North American Electric Reliability Corporation, *2022 Summer Reliability Assessment* (May 5, 2022), available at *https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2022.pdf*).

[28] DOE Report at 5.

[29] *Id.*

[30] *See, e.g., Building a Better Grid Initiative To Upgrade and Expand the Nation's Electric Transmission Grid To Support Resilience, Reliability, and Decarbonization,* 87 FR 2769, 2769 (U.S. Dept. of Energy, Jan. 19, 2022); *see also FERC Acts to Boost Grid Reliability Against Extreme Weather Conditions* (June 16, 2022), available at *https://www.ferc.gov/news-events/news/ferc-acts-boost-grid-reliability-against-extreme-weather-conditions* (the chairman of the U.S. Federal Energy Regulatory Commission, Richard Glick, explained, ''[i]ncreasingly frequent cold snaps, heat waves, drought and major storms continue to challenge the ability of our nation's electric infrastructure to deliver reliable affordable energy to consumers.''); Scott Disavino, *US. Power Companies Face Supply-Chain Crisis this Summer,* Reuters (June 29, 2022), available at *https://www.reuters.com/business/energy/us-power-companies-face-supply-chain-crisis-this-summer-2022-06-29/* (''U.S. power companies are facing supply crunches that may hamper their ability keep the lights on as the nation heads into the heat of summer and the peak hurricane season.''); *see also* Robinson Meyer, *America 's Approach to Energy Security Is Broken,* The Atlantic (March 19, 2022) available at *https://www.theatlantic.com/science/archive/2022/03/energy-independence-gas-prices/627117/* (''For the first time in many years, America has no credible plan for how maintain its energy security in a geopolitical crisis.'').

[31] *See* Tim McLaughlin, *Creaky U.S. Power Grid Threatens Progress on Renewables, EVs, Reuters* (May 12, 2022), available at *https://www.reuters.com/investigates/special-report/usa-renewables-electric-grid/* (indicating that extreme weather events have caused widespread failures in power systems, including Gulf Coast hurricanes, West Coast wildfires, Midwest heatwaves, and devastating winter weather in Texas); *see also June 2022: U.S. Dominated by Remarkable Heat, Dryness, National Oceanic and Atmospheric Administration*(July 11, 2022), available at *https://www.noaa.gov/news/june-2022-us-dominated-by-remarkable-heat-dryness* (explaining that the U.S. has experienced nine separate billion-dollar weather disasters in 2022, including extreme drought, tornadoes, severe weather, and hail storms).

[32] *Id.*

[33] *Id.*

actuality, the same report shows that the price per watt of imported solar panels, which is the more relevant price metric because it reflects per unit costs, has been increasing since mid-2020.[34]

Moreover, in response to commenters' assertions regarding increasing imports of solar modules, Commerce has reviewed the trade data available from the U.S. Census as of August 2022 and determined that imports (in watts) for crystalline-silicon modules in the first half of 2022 were down by roughly 25 percent from the first half of 2021.[35] In addition, combined imports of crystalline-silicon solar modules specifically from Malaysia, Vietnam, Thailand and Cambodia—the four countries at issue in the circumvention inquiries—were down by over 30 percent from the first half of 2021.[36] To the extent commenters referenced select import data, such as import data from only one or two countries, such discussion offers a limited picture of the broader electricity emergency threatening the United States industry as described in the Proclamation.

Thus, in sum, Commerce agrees with DOE's assessments of the nature of the emergency declared by the Proclamation. Commerce also finds it appropriate that this final rule provides a remedy that addresses that emergency and allows for importation of certain SA-Completed Cells and Modules without requiring the suspension of liquidation and the collection of cash deposits until the emergency has passed, in accord with the Proclamation and section 318(a) of the Act.

4. Link Between the Declared Emergency and Remedy Provided

Three commenters assert that the Proclamation and Commerce's *Proposed Rule* do not make any effort to link the proposed remedy of tariff relief to an actual emergency and ''emergency relief work'' as required by section 318(a). One commenter argues that the Proclamation makes broad references to potential drought conditions and strain on the electricity grid but fails to establish which imports are necessary for use in such ''emergency relief work'' in accordance with section 318(a). Three commenters argue that the *Proposed Rule* is not sufficiently tailored because it provides duty relief to a broad category of products and relates little to the emergency in the Proclamation. One commenter also argues that solar energy cannot solve the current emergency crisis in the short term because solar energy accounted for only 2.8 percent of total U.S. energy generation capacity in 2021. This commenter also argues that even if solar cells and modules are ''emergency relief items'' within the meaning of section 318(a), the relief provided in the *Proposed Rule* extends beyond that needed to address the alleged emergency of ''solar projects being postponed or cancelled'' because the duty relief provided in the *Proposed Rule* would apply to solar cells and modules imported for a project that may not be completed for years after the Date of Termination and have no specific intended use. Accordingly, the commenter contends, any emergency duty relief afforded should relate only to imported SA-Completed Cells and Modules designated for stalled projects. In addition, one commenter claims that solar products subject to the inquiries should not be encouraged because they are produced predominantly by fossil fuels.

Seven commenters assert that there have been significant project delays including halted shipments, idled factories, and losses in electricity capacity which increase costs for consumers and reliance on fossil fuel. For example, one commenter provided that 24 GWs of solar installations and $30 billion in investments from 2022–2023 are in jeopardy without the final rule. This commenter relied on a letter from twenty-two U.S. senators and surveys from industry groups to support its assertion that tariffs from affirmative circumvention determinations would threaten the solar industry. Another commenter, citing a survey of investors and developers in solar energy, asserts that if the final rule is not promulgated, U.S. solar projects would face a crisis, and the United States would not meet its electricity generation needs while also achieving its clean energy goals to address the climate crisis. Many of these commenters explain that the rule would allow for necessary projects to move forward and increase the amount of energy generated through solar power to meet United States' electricity generation needs and clean energy goals.

Response: As a preliminary matter, as explained above, the DOE Report indicates that two-thirds of imports of solar modules in 2020 and 2021 to the United States were exported from Cambodia, Malaysia, Thailand, and Vietnam.[37] Furthermore, the DOE Report also indicates that today's domestic module production capacity comprises less than one-fourth of near-term market demand, and less than one-tenth of what would be required to meet the country's climate and energy needs.[38] So to the extent that certain commenters claim that there is an inadequate link between claims of a need for a greater number of imported solar modules in the near-term, and this final rule, which allows for the temporary importation of certain solar modules without AD or CVD duties and estimated duties from the countries that have recently provided two-thirds of the imports of solar modules, Commerce disagrees with that assessment.

The Proclamation describes the need for robust and reliable electric power as a basic necessity in the United States and as critical for national defense. It explains that to address the electricity emergency detailed above and ensure electric resource adequacy, utilities and grid operators must build new capacity through new solar installations. While solar power accounted for 4 percent of total electricity generation in 2021,[39] according to an Energy Information Administration (EIA) publication upon which DOE relied for part of its analysis in the DOE Report, that data also shows that solar power was the largest source of new generating capacity in 2021[40] and that added solar capacity was expected to account for over half of new

[34] *See* David Feldman et al., *Spring 2022 Solar Industry Update,* National Renewable Energy Laboratory (Apr. 26, 2022) at slide 62, available at *https://www.nrel.gov/docs/fy22osti/82854.pdf* (NREL Spring Update).

[35] *See* U.S. Census Bureau data for HTS codes 8541.40.60.15 and 8541.43.00.10, Second Unit of Quantity (watts), available at *https://usatrade.census.gov.* A commenter's assertion that imports of solar modules are higher for the first five months of 2022 compared to the same period in 2021 is potentially based on erroneous Census data for Turkey and Thailand that has since been corrected. *See* U.S. Census Bureau, *Corrections to 2022 Data,* available at *https://www.census.gov/foreign-trade/statistics/corrections/index.html.*

[36] *See* U.S. Census Bureau data for HTS 8541.40.60.15, 8541.43.00.10, available at *https://usatrade.census.gov,* Second Unit of Quantity (watts). Considering imports of all modules, *i.e.,* CSPV and thin-film, the data show a reduction of about 20 percent in imports from these four countries and a reduction of about 15 percent for imports from all countries between the same two half-year periods. *Id.* for HTS codes 8541.40.60.15, 8541.43.00.10, 8541.40.60.35 and 8541.43.00.80. Considering imports of CSPV cells, the data show that while imports from these four countries has risen, total imports from all countries declined slightly over the same time. *Id.* for HTS codes 8541.40.60.25, 8541.42.00.10. Encouraging imports of solar cells is expected to address the electricity emergency by improving the supply of components needed for solar products.

[37] DOE Report at 2.

[38] *Id.* at 8.

[39] *See* EIA Short Term Energy Outlook, available at *https://www.eia.gov/outlooks/steo/archives/May22.pdf.* Table 8b lists 113.9 billion kWh of utility-scale solar and 49.8 billion kWh from small-scale solar in 2021. Table 7b lists 3962.8 billion kWh total generation in 2021. (113.9 + 49.8)/3962.8 = 4.1%. One commenter asserted that solar power produced 2.8% of U.S. electricity generation in 2021; however, this figure is only for utility scale plants.

[40] *See* NREL Spring Update at slide 26.

electric sector capacity in 2022 and 2023.[41] The Proclamation states that ''[t]he unavailability of solar cells and modules jeopardizes those planned additions, which in turn threatens the availability of sufficient electricity generation capacity to serve expected customer demand.'' [42] As discussed above, DOE has estimated ''that solar equipment shortages could reduce solar [photovoltaic] deployment by 12–15 gigawatts (GW) over the next year, equivalent to the electricity needs of more than 2 million homes.'' [43]

Furthermore, in response to the arguments made by certain commenters that the breadth of the proposed rule was not sufficiently tailored, Commerce disagrees. This final rule is calibrated in multiple ways. The rule applies only to solar cells and modules: (1) exported from the four Southeast Asian countries at issue that have been manufactured using certain Chinese inputs; (2) which will be utilized in the United States within 180 days after the Date of Termination (*i.e.,* the Utilization Expiration Date); and (3) which enter the United States no later than June 6, 2024, if not earlier.

With respect the duration of the rule, in particular, as the Proclamation notes, ''The Federal Government is working with the private sector to promote the expansion of domestic solar manufacturing capacity, including our capacity to manufacture modules and other inputs in the solar supply chain, but building that capacity will take time.'' [44] As DOE explained in its Report, the timelines for establishing a solar component manufacturing facility can range from ''one to four years.'' [45] Accordingly, this relief is not open-ended—rather it is temporary and calibrated to align with the timeline necessary for new domestic solar production plants to get set up and begin production.

With respect to the claim that the regulations should apply only to stalled solar projects, the Proclamation not only discussed concerns with stalled solar projects, but discussed the electricity emergency broadly, including that solar capacity additions could help ensure sufficient electricity generation to ensure electricity grid resource adequacy, achieve U.S. climate and clean energy goals, and help combat rising energy prices.[46] Accordingly, Commerce does not find it appropriate to limit the remedy, as one commenter suggests, only to imports of SA-Completed Cells and Modules that are designated for stalled projects. More than that, such a proposed remedy would be difficult to administer.[47]

In addition, Commerce disagrees with the commenter that asserts importation of these certain solar cells and modules should not be promoted because they are produced using fossil fuels. The International Energy Agency has stated that solar panels produced by fossil fuels only need to operate for several months to offset their manufacturing emissions, whereas the average solar panel has a lifetime of around 25–30 years.[48]

As identified by a number of commenters, the tariff relief provided in the *Proposed Rule* could stimulate United States' solar projects and assist the United States in meeting its electricity generation needs while also achieving clean energy goals to address the climate crisis. These commenters, several of whom are or represent investors and developers of solar projects in the United States, explained that collectively billions of dollars in solar energy projects are in jeopardy without the tariff relief provided in the *Proposed Rule.*[49] Commerce believes that this final rule will provide stability and commercial certainty for its duration. Accordingly, Commerce continues to find that the remedy provided by this final rule is consistent with the emergency declared by the Proclamation and is sufficiently tailored to target imports of cells and modules that can help address the identified emergency.

5. Proclamation 10414 and the National Emergencies Act

One commenter notes that Proclamation 10414 potentially fails to conform with the requirements of the National Emergencies Act (citing 50 U.S.C. 1601 *et seq*).

Response: As an initial matter, 19 U.S.C. 1318(a) recognizes that the President has authority to declare emergencies arising under the Tariff Act of 1930, as amended. As explained elsewhere in our response to comments, the President has declared an emergency under that provision and the remedies available under that provision are being applied here. We do not agree that Proclamation 10414 fails to conform with the requirements of the National Emergencies Act. Pursuant to 50 U.S.C. 1621, the President is permitted to exercise any special or extraordinary powers as authorized by the Acts of Congress. Pursuant to 50 U.S.C. 1631, the President must specify the provisions of law under which he proposes that he, or other officers, will act, and such provision must be made in either the declaration of a national emergency, or by subsequent executive orders published in the **Federal Register** and transmitted to Congress. The President explicitly invoked 19 U.S.C. 1318(a) in the Proclamation and identified it as the provision of law pursuant to which Commerce officials were to take action.

6. The President's Actions as They Relate to the Injury Determination by the U.S. International Trade Commission

One commenter argues that 19 U.S.C. 1318(a) does not authorize the President to invalidate the USITC's injury determinations and that the President cannot use 19 U.S.C. 1318(a) to control the Commission or its determinations.

Response: The President's authority over the USITC and its determinations is not at issue in this final rule. The actions Commerce has taken pursuant to

[41] *See U.S. Energy Information Administration, Short Term Energy Outlook* (May 10, 2022), available at *https://www.eia.gov/outlooks/steo/archives/May22.pdf.*

[42] *See* Proclamation, 87 FR at 35067.

[43] U.S. Dept. of Energy, *Acute Shortage of Solar Equipment Poses Risks to the Power Sector,* at 1 (June 2022), available at *https://www.energy.gov/sites/default/files/2022-06/June%202022%20DOE%20Solar%20Market%20Update.pdf.*

[44] *See* Proclamation, 87 FR at 35067. DOE has stated that ''today's domestic module capacity comprises less than one-fourth of near-term market demand and less than one-tenth of what would be required to meet the country's climate and energy security needs.'' U.S. Dept. of Energy, *Acute Shortage of Solar Equipment Poses Risks to the Power Sector,* at 8 (June 2022), available at *https://www.energy.gov/sites/default/files/2022-06/June%202022%20DOE%20Solar%20Market%20Update.pdf.*

[45] DOE Report at 8.

[46] *See* Proclamation, 87 FR at 35067.

[47] Moreover, limiting the remedy only to stalled projects could create perverse incentives by effectively encouraging additional projects to stall, thereby undercutting the aims of the remedy.

[48] *See* International Energy Agency, *Special Report on Solar PV Global Supply Chains* at 8 (July 2022), available at *https://iea.blob.core.windows.net/assets/4eedd256-b3db-4bc6-b5aa-2711ddfc1f90/SpecialReportonSolarPVGlobalSupplyChains.pdf.*

[49] *See* Tomich, Jeffrey, *Solar Market Turmoil Delays Ind. Coal Shutdown* (May 5, 2022), available at *https://www.eenews.net/articles/solar-market-turmoil-delays-ind-coal-shutdown/;* Salt River Project, *Coolidge Expansion Project FAQ, How does growing demand contribute to resource constraints?,* available at *https://www.srpnet.com/grid-water-management/grid-management/improvement-projects/coolidge-expansion-project-faq.* Office of the Governor of California, Letter to U.S. Department of Commerce Secretary Gina M. Raimondo (April 27, 2022), available at *https://s3.documentcloud.org/documents/21761581/newsom-letter.pdf.;* Mangieri, Gina, *Power Cost Hike, Supply Crunch Ahead as Last Hawaii Coal Plant Closes* (June 24,2022), available at *https://www.khon2.com/always-investigating/power-cost-hike-supply-crunch-ahead-as-last-hawaii-coal-plant-closes/.*

19 U.S.C. 1318(a) and Commerce's regulatory authority, including promulgating this final rule, in no way affect the Commission's injury determination with respect to the China Solar Orders. As discussed in more detail above, these authorities coexist with the Commission's authority to issue an injury determination. Moreover, as explained above, by its terms, section 318(a) permits the waiver of duties that would otherwise apply under law.

7. Short Supply

One commenter asserts that the *Proposed Rule* appears to be an iteration of the ''short supply'' amendments to exclude from the scope of an order products that the domestic industry did not produce, or did not produce in sufficient quantities, that have been rejected both administratively and in Congress in the past. This commenter argues that because U.S. lawmakers have opted not to include ''short supply'' exemptions in trade laws, Commerce should not do so through the *Proposed Rule.*

Response: Neither the Proclamation nor the preamble to the *Proposed Rule* indicate that this regulation is a ''short supply'' rule. The *Proposed Rule* has been developed pursuant to the Proclamation, which invoked section 318(a) and declared a national emergency. The final rule is not amending the statute; rather, it is a temporary remedy provided in response to the Proclamation issued pursuant to the statute.

8. Declining To Use Part 358 of Commerce's Regulations in Addressing the Declared Emergency

Four commenters argue that instead of adopting the *Proposed Rule,* Commerce should use the regulations at 19 CFR part 358, which also address section 318. Commenters advanced arguments on policy grounds—such as arguing that applying Part 358 would better support the existing United States trade regime—and some also argued that Commerce should use Part 358 based upon prior statements Commerce made when originally promulgating Part 358. Commenters also critiqued the rationale offered in the *Proposed Rule* for declining to apply Part 358—that Part 358 applied only to goods to which an existing AD/CVD order applied, whereas the relevant goods here are presently subject to no such order. Some commenters argued that an affirmative determination in the circumvention inquiries would mean that the goods under consideration were *always* subject to the relevant order, likening a circumvention determination to a scope ruling. Further, some commenters argued that even if the goods were not presently subject to the order, in the event of a final affirmative determination they would then become subject to an order, and so Part 358 should at least be used from that time onward. Another commenter argued goods cannot both be treated as not subject to an order but also need to be permitted to be entered free of duty. In addition, a commenter suggested that, in declining to use Part 358, Commerce failed to avoid duplicative regulations, contrary to Executive Order 12866.

Response: Commerce believes its use of this final rule, rather than Part 358, to be both lawful and appropriate.

First, Commerce reiterates its view that Part 358, by its terms, applies to goods that are already subject to an order.[50] The goods at issue in these final regulations are not presently subject to any such order, even if they could become subject to an order later. Further, even if Part 358 might otherwise apply, Commerce is not prohibited from using different procedures, promulgated via notice-and comment-rulemaking, when those procedures are better-suited to address the emergency at hand; and Commerce concludes the procedures articulated in the final rule are indeed better suited to address the instant emergency.

As noted above, commenters who contend that Part 358 should apply make different arguments. One such argument is that under Commerce's recent modifications to its scope regulations, Commerce has explained that if Commerce determines that a product is in-scope as part of a scope determination under 19 CFR 351.225, then that product has always been within the scope of the order.[51] They argue that because circumvention proceedings under 19 CFR 351.226 are similar to scope determinations, the same understanding applies to circumventing merchandise.

Contrary to this assertion, Commerce's reasoning with respect to scope rulings does not apply to circumvention determinations.[52] Relying on the same rationale would conflate the basis for a scope ruling under 19 CFR 351.225 and a circumvention determination under 19 CFR 351.226. While scope rulings under 19 CFR 351.225 determine whether a product ''has always been covered by the scope of'' an order,[53] circumvention inquiries seek to determine whether, under section 781, it is appropriate to expand the scope of the order to include merchandise which was originally not covered by the scope.[54] As a result, circumvention determinations typically limit the inclusion of that merchandise in the scope to the date of initiation of the circumvention inquiry. We acknowledge there are exceptions to the applicable date in the regulations for both scope rulings and circumvention determinations, but the general rules reflect the differences between the two findings that products should be covered by the scope of an order (or orders).

Even assuming *arguendo* Commerce's reasoning about scope determinations were to apply to circumvention determinations, entries would not actually be covered by the order until Commerce makes an affirmative circumvention determination. Prior to an affirmative determination, entries of merchandise subject to the circumvention inquiry are not subject to an order. In the present case, Commerce has not issued a preliminary affirmative circumvention determination, much less a final affirmative circumvention determination. Thus, entries of allegedly circumventing SA-Completed Cells and Modules are not covered by any order at this time.

In addition, contrary to one commenter's assertion, our reliance on section 318(a) to promulgate this rule is consistent with our reasoning not to use Part 358. This rule provides a remedy aligned with the Proclamation's call for duty-free entry of certain solar cells and modules and the temporary extension of action related to such imports. Should Commerce make affirmative determinations in the circumvention proceedings, such entries would be subject to AD/CVD estimated duties and duties absent this rule. Thus, although the applicable solar cells and modules were not subject to duties as of the date

[50] For instance, Part 358 requires parties requesting duty-free treatment state the AD/CVD order case number, indicating that these goods are already subject to an order.

[51] *See Regulations To Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52312 (September 20, 2021).

[52] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52344 (September 20, 2021) (stating that the circumvention framework, under 19 [CFR] 352.226(l) ''differs from the scope framework'' under 19 CFR 351.225(l)).

[53] 19 CFR 351.225(a).

[54] *See Deacero S.A. de C.V.* v. *United States,* 817 F.3d 1332, 1337–38 (Fed. Cir. 2016) (''In order to effectively combat circumvention of antidumping duty orders, Commerce may determine that certain types of articles are within the scope of a duty order, even when the articles do not fall within the order's literal scope. The Tariff Act identifies four articles that may fall within the scope of a duty order without unlawfully expanding the order's reach[.]'').

of the Proclamation, this rule creates certainty and provides for a remedy up until the Date of Termination in accordance with the Proclamation in the event these products may be subject to estimated duties and duties in the future.

Another argument advanced in the comments is that, in the event of an affirmative final determination of circumvention, Part 358 should at least apply to any imported SA-Completed Cells and Modules that are imported between that date and the Date of Termination. Again, Commerce disagrees, concluding that Part 358 applies to supplies that are subject to an existing AD/CVD order at the time the Secretary determines to permit importation of those supplies free of AD/CVD duties. A different reading, whereby two sets of section 318 protocols would apply to the same set of goods at different points in time, would complicate the consistent and efficient administration of regulations designed to address an emergency.

In any event, while Commerce promulgated Part 358 as a method to address emergencies declared pursuant to section 318(a), Commerce is not prohibited from using different procedures, promulgated via notice-and-comment rulemaking, when those procedures would be better suited to address emergencies. The products at issue were not covered by an AD/CVD order on the date of the Proclamation, and Commerce has determined that in light of the emergency declared in the Proclamation, the procedures outlined in the final rule are better suited than, and not duplicative of, those outlined in Part 358.[55] The electricity emergency requires immediate relief as it is impacting an entire industry and a significant number of Americans. The final rule more efficiently and appropriately addresses the emergency declared in the Proclamation.

9. Application of the Final Rule to Pre-June 6, 2022 Entries

Multiple commenters criticize the application of the proposed rule to pre-June 6, 2022 entries—that is, to entries which entered prior to the Proclamation's signing date, arguing that the Proclamation does not permit ''retroactive'' effect. For example, some commenters contend that any relief must be limited to goods that entered on or after the date the Proclamation was signed, while others assert the opposite, *i.e.,* that the agency may lift suspension on pre-Proclamation entries without collecting cash deposits or duties based on principles of consistency, fairness, and certainty.

Response: Commerce disagrees that it is exercising section 318 authority outside the period of the emergency, or that its actions are ''retroactive'' as typically understood. The pre-Proclamation goods at issue are unliquidated—that is, there has yet to be a ''final computation or ascertainment of duties.'' [56] In this final rule, Commerce is taking action now (*i.e.,* during the period of the emergency) to extend the period before it directs CBP to suspend liquidation and collect cash deposits and to waive any AD/CVD estimated duties and duties for these unliquidated goods.[57] In other words, the final rule is stating, ahead of any imposition of such duties, that there will be no such duties. Such a decision is prospective in its application.

In any event, Commerce believes that it has authority under section 318 and its general rulemaking authority to apply this final rule to relevant entries that entered the country prior to the date the Proclamation was signed, but that remain unliquidated today. The AD/CVD system in the United States is a retrospective one, under which ''final liability for [AD/CVD] duties is determined after merchandise is imported.'' [58] Under this retrospective system, if Commerce makes an affirmative preliminary determination as part of a circumvention inquiry, it will direct CBP to suspend liquidation of entries that entered on or after the date of publication of the initiation notice of the circumvention inquiry and to collect cash deposits on those entries, pending the final outcome of the circumvention inquiry.[59] Prior to a preliminary determination, upon initiation, Commerce also notifies CBP to continue suspending entries of products subject to the circumvention inquiry that were already suspended, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the order.[60]

In the ordinary course, if there is an affirmative final determination in a circumvention inquiry, suspension and collection of cash deposits will continue on the merchandise at issue until such time as there are affirmative final results issued in connection with an administrative review or on an annual basis, if no administrative review is requested, assessing duties on the relevant entries.[61] In other words, entries are suspended and cash deposits are collected to liquidate the entries (*i.e.,* the final ascertainment of duties) at a later point in time. Accordingly, because the declaration of an emergency in the Proclamation authorizes the waiver of ''duties and estimated duties'' under the AD and CVD laws, it also authorizes, as relief for the emergency, the waiver of the suspension of liquidation and collection of cash deposits and permits liquidation of entries without regard to AD and CVD duties.

In addition to the AD and CVD laws being part of the Tariff Act of 1930, as amended, so too is the emergency statute at issue—section 318. Therefore, if the President determines that an emergency exists under section 318 (as is the case here), and empowers agencies to take certain actions to alleviate the emergency under the AD and CVD laws, the passage by Congress of these provisions under the same Act supports reading them in harmony.[62] Accordingly, just as Commerce could take action today, under the AD/CVD system established under the Tariff Act, to affect the duty status of goods that previously entered the country but that are still unliquidated, section 318 of the Tariff Act likewise allows Commerce to take action today to affect the duty status of those same unliquidated

[55] The use of Part 358 would also unduly limit the scope of goods that would be eligible for relief. Part 358 requires that a party mail an advance request, in triplicate, to the Secretary asking for approval to import goods free of duty. If the Secretary approves the request, then any goods must be imported within 60 days of the party's notification of the Secretary's approval. 19 CFR 358.103(a), (b). So presumably any solar cells and modules that have entered up to this point—even cells and modules that entered after the Proclamation—would not be eligible for relief because they were not approved as duty-free prior to entry. Such an outcome here would upset the industry's reasonable reliance that at least post-Proclamation imports would be free of AD/CVD duties—and such reliance was an important policy objective of the Proclamation.

[56] *See* 19 CFR 159.1.

[57] With respect to the extension of actions, under section 318, whereby the Secretary of Commerce is authorized to ''extend . . . the time . . . for the performance of any act,'' Commerce is effectively extending the time period established by regulation to begin suspension of liquidation and cash deposit requirements. *See Proposed Rule,* 87 FR at 39429.

[58] 19 CFR 351.212(a); sections 703(d), 705(c), 706, 733(d), 735(c), and 736 of the Act (discussing suspension, collection of cash deposits, and assessment of duties).

[59] *See* 19 CFR 351.226(l)(2).

[60] *See* 19 CFR 351.226(l)(1).

[61] *See* section 751 of the Act.

[62] *See FDA* v. *Brown & Williamson Tobacco,* 529 U.S. 120, 132–133 (2000) (''It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. . . . A court must therefore interpret the statute as a symmetrical and coherent regulatory scheme, . . . and fit, if possible, all parts into an harmonious whole.'').

entries.[63] Moreover, the ''retrospective'' application of duties and estimated duties, as it relates specifically to circumvention proceedings under section 781 of the Tariff Act, is authorized by Commerce's implementing regulations.[64] Thus, Commerce may also use notice-and-comment rulemaking to address the declared emergency.[65]

10. Market Certainty

In the *Proposed Rule,* Commerce offered multiple policy reasons for applying the rule to pre-Proclamation entries, one of which was that it would help avoid market uncertainty and confusion. Three commenters dispute this rationale.

Three different commenters, who generally support the *Proposed Rule,* maintain that subjecting pre-June 6th entries to duties based on the Solar Circumvention Inquiries, would ''sow confusion in the market'' and discourage solar product production. Nine commenters generally indicate prevalent uncertainty in the solar market.

Response: The purpose of the Proclamation is to increase the supply of United States solar energy for electricity generation purposes. Commerce has determined that applying the final rule to pre-Proclamation entries will further that goal.

As noted in the *Proposed Rule,* the President has determined that an emergency exists that affects both current and potential future energy projects that depend on solar module imports. Consistent with the purpose of the Proclamation to allow for more imports, entities that use SA-Completed Cells and Modules should not be financially restricted from investing in near-term or future solar capacity additions because they had to pay cash deposits on merchandise that entered the United States just a few months, or even days, before the signing of the Proclamation. Indeed, as mentioned in the *Proposed Rule,* there may be ongoing projects that use some modules imported before the Proclamation's signing and other modules imported afterwards. It is consistent with the aims of the Proclamation to take steps to ensure that such firms have the capital needed to complete these projects and to otherwise build capacity.

Commerce acknowledges that concerns about potential market uncertainty or confusion are inherently speculative, but these concerns are not its only reason for its decision, and three commenters concur that applying duties to pre-Proclamation entries would ''sow confusion in the market'' and otherwise discourage production of crystalline silicon photovoltaic solar products. Given that the final assessment of duties may not be calculated immediately, firms that imported prior to the Proclamation might reasonably be uncertain as to how much they will ultimately owe, and this uncertainty might discourage further investment. Commerce thus agrees with commenters who argued that the application of the final rule to pre-Proclamation entries is likely to ''promot[e] the market stability that the President sought to achieve when he issued the Proclamation.''

Additionally, Commerce finds that the uniform treatment of merchandise covered by a circumvention inquiry is desirable because it is consistent with the broader trade system. Even as the invocation of section 318 is an unusual event, the application of the final rule to pre-Proclamation entries ensures that merchandise that is otherwise considered the same under the circumvention laws and regulations is treated the same.

Ultimately, based on the comments and submissions provided by commenting parties, Commerce concludes that applying this final rule to pre-Proclamation entries is reasonable considering the emergency declared by the President and as further discussed in the Preambles to the *Proposed Rule* and this final rule.

11. Merchandise That Entered Before Initiation of the Solar Circumvention Inquiries

Under 19 CFR 351.226(l)(1), upon notice of the initiation of a circumvention inquiry, Commerce is to also notify CBP of the initiation of the inquiry and ''direct the Customs Service to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the order.'' One commenter observes that, at the time of the initiation of the circumvention inquiries, Commerce instructed CBP only to continue to suspend entries that were already suspended according to the China Solar Orders underlying the circumvention inquiries. Its comments elaborate that, although 19 CFR 362.103(b)(1)(i) indicates that Commerce ''will instruct CBP to discontinue such suspension of liquidation and collection of cash deposits based on the circumvention inquiry,'' because Commerce sent its original instructions only with respect to entries that were already suspended pursuant to AD/CVD orders, directing CBP to lift suspension pursuant to 19 CFR 362.103(b)(1)(i), as formulated in the *Proposed Rule,* could create confusion and inadvertently result in CBP liquidating entries that should remain suspended under the AD/CVD orders. Accordingly, the commenter claims there is no need for 19 CFR 362.103(b)(1)(i).

Response: Section 19 CFR 351.226(l)(1) speaks to continuing the suspension of liquidation of, and collecting deposits on, entries subject to the circumvention inquiries that ''were already subject to suspension.'' [66] Consistent with the Proclamation, it is appropriate that Commerce notify CBP, pursuant to the final rule, that, if entries at this point are suspended solely as a result of the circumvention inquiries, then there is no longer a reason to continue suspension of the relevant entries.

After consideration of this commenter's concern, however, Commerce has clarified the final rule in 19 CFR 362.103(b)(1)(i) to reflect that the instructions Commerce issues to CBP will address only entries currently suspended pursuant to 19 CFR

[63] Notably, because there has not been any determination of circumvention, all of the SA-Completed Solar Cells and Modules, entering the United States post-initiation of the circumvention inquiries, are entering free of AD and CVD estimated duties and are not being suspended. This rule will maintain that status quo—whether it be through the non-collection of cash deposits and not ordering suspension in the first place or permitting liquidation, should all other reasons for suspension expire, for entries suspended under earlier instructions Commerce issued to CBP at the initiation of the circumvention inquiries. Thus, the rule avoids some of the typical concerns that can accompany ''retroactive'' applications of law.

[64] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52344, 52346 (September 20, 2021).

[65] Inasmuch as some commenters argue that the Proclamation did not intend to reach pre-Proclamation entries, Commerce notes that the President directed the Secretary to consider permitting duty-free importation of the relevant goods ''until 24 months after the date of this proclamation or until the emergency declared herein has terminated.'' While this language specifies an end date to consider for duty-free treatment, it does not specify a start date, and Commerce believes it is appropriate, as well as consistent with the usual operation of our circumvention proceedings, to treat the goods in a uniform fashion until the Date of Termination.

[66] *See* 19 CFR 351.226(l)(1) (''[Commerce] will notify [CBP] to continue suspension of liquidation of entries of products subject to a circumvention inquiry that were already subject to the suspension of liquidation'').

351.226(l)(1), rather than to any entries that were suspended pursuant to the China Solar Orders underlying the circumvention inquiries.

12. Commerce's Mission

Several commenters contend that this rulemaking is counter to Commerce's mission to ensure a level playing field for U.S. industries and establishes dangerous precedent for Commerce and potentially other agencies.

Response: We disagree that this rulemaking is counter to Commerce's mission or creates a dangerous precedent for the enforcement of AD/CVD laws or for other agencies. Separate from its usual administration of the AD/CVD laws under the Act, the same Act also authorizes Commerce to take steps in response to an emergency declaration by the President.

More broadly, Commerce's administration of the AD/CVD laws pursuant to the Act is robust, and enforcement is the key focus for each of the more than 650 AD/CVD orders in place. This final rule is limited to extending and waiving the application of certain regulations, if otherwise applicable, to certain solar cells and modules subject to circumvention inquiries currently before Commerce. The circumvention proceedings themselves continue uninterrupted, and if Commerce finds the existence of circumvention when the inquiries conclude, the remedies to the declared emergency will apply under this final rule only during the emergency period. In addition, as detailed above, we have made certain modifications to the regulations that require SA-Completed Cells and Modules that benefit from this rule be utilized (*i.e.,* will be used or installed in the United States) by the Utilization Expiration Date, which is 180 days following the Date of Termination.

13. Impact on Other Policies

Several commenters assert that the *Proposed Rule* undermines U.S. policies to counter China's harmful and predatory trade practices, such as violations of intellectual property rights and human rights abuses. One commenter also asserts that the *Proposed Rule* undermines the U.S. climate goal agenda because it allows unfairly traded Chinese solar modules and cells to dominate the U.S. market, and because China uses significant quantities of fossil fuels to produce solar modules and cells.

Response: We disagree that the final rule undermines U.S. policy with respect to China trade practices. U.S. trade policy reflects numerous initiatives to address unfairly traded imports, injurious import surges, intellectual property theft, human rights abuses, and forced labor practices. The final rule is a limited step to extend and waive the application of certain regulations, if otherwise applicable, to solar cells and modules, exported from identified Southeast Asian countries, that are subject to certain circumvention inquiries currently before Commerce. Even with respect to trade in solar cells and modules from these Southeast Asian countries, Commerce's conduct of the circumvention proceedings themselves continues uninterrupted.

With respect to U.S. climate agenda goals, the final rule is a temporary measure designed to address the Proclamation's declared electricity emergency by encouraging the further importation of solar cells and modules. Commerce would note that insofar as commenters argue that a strong domestic solar manufacturing industry will further the climate agenda over the long run, and that this final rule could detrimentally affect the development of the industry, Commerce believes that the final rule is tailored to provide the necessary remedy the United States needs to address the energy supply emergency at this moment in time, for the immediate future. The measure has been calibrated in both scope and duration and it is a part of a broader group of government actions designed to support the domestic solar manufacturing industry, while still pursuing climate-friendly energy goals.[67] In addition, we note, as discussed above, that even solar panels that are created using fossil fuels will offset their emissions within months of operation, while the average solar panel is expected to last decades.

Insofar as commenters express concerns regarding China's labor practices, those comments are outside the scope of this rulemaking. The application and enforcement of the Uyghur Forced Labor Prevention Act is unaffected by the invocation of section 318 or this final rule, as is CBP's broader authority to prevent merchandise produced using forced labor from being imported into the United States.[68]

14. Stockpiling

Three commentators expressed concerns that Commerce's decision to impose estimated duties prospectively has broad ramifications that could allow for unfairly traded imports to be stockpiled in the U.S.

Response: It is not Commerce's goal to have merchandise that enters before the Date of Termination be used in projects long into the future, as the emergency declared by the President exists at this very moment. Accordingly, Commerce has decided to make certain modifications to the regulations to address this issue.

First, Commerce has added a requirement that all merchandise that benefits from this rule must be utilized in the United States by the Utilization Expiration Date, which is 180 days following the Date of Termination. The final rule defines ''utilization'' and ''utilized'' to mean the SA-Completed Cells and Modules will be used or installed in the United States. The addition of this requirement to the definition of ''Applicable Entries'' makes clear that this rule is not intended to benefit those who would stockpile SA-Completed Cells and Modules for an extended period of time.

Furthermore, the final rule includes a provision which directs Commerce to issue instructions to CBP directing it to suspend liquidation and collect cash deposits following affirmative preliminary and final circumvention determinations if certain entries are subject to the Solar Circumvention Inquiries but will not be utilized in the United States by the Utilization Expiration Date. Only merchandise that is covered by the Solar Circumvention Inquiries, is utilized by the Utilization Expiration Date, and in most cases, enters before the Date of Termination, should benefit from this rule.

15. Certifications

One commenter expresses concern that the *Proposed Rule* imposes no certification or other documentation requirements to ensure that the duty-exempted imports of solar products qualify as supplies for use in emergency relief work.

[67] Several commenters incorporate evidence showing that much needed progress in solar panel deployment is critical to achieving the government's goals of decarbonization and addressing climate change. *See* U.S. Dept. of Energy, *Solar Futures Study,* (Sept. 2021), pages 1–22 (detailing the Biden Administration's goal of decarbonizing the electricity grid by 2035 and how solar plays a major role due to its uniquely modular characteristics with high deployment rates estimated to have long-term benefits in the trillions of dollars from climate change mitigation and avoided public health costs) *https://www.energy.gov/eere/solar/solar-futures-study; see also* American Clean Power, *Clean Power Annual Market Report 2021* (2022) (including diagrams showing that a 100 MW solar project avoids 139,000 metric tons of emissions each year and can power 20,000 American homes, and that all wind and solar capacity installed in 2021 can reduce annual emissions by an estimated 398 million metric tons) *https://cleanpower.org/wpcontent/uploads/2022/05/2021-ACP-Annual-Report-FinalPublic.pdf.*

[68] *See* 19 U.S.C. 1307.

Response: Consistent with the President's Proclamation and to provide relief from the emergency identified by the President, the final rule provides for the duty-free importation of SA-Completed Cells and Modules until the Date of Termination and extends the time for certain actions provided for in Commerce's regulations pertaining to circumvention inquiries. However, as detailed above, Commerce is making certain modifications to the regulations that now require the SA-Completed Cells and Modules that benefit from this rule to be utilized (*i.e.,* to be used or installed in the United States) by the Utilization Expiration Date, which is 180 days following the Date of Termination. In addition, this final rule at § 362.104 does not preclude Commerce from requiring a certification for SA-Completed Cells and Modules pursuant to § 351.228 in the event of an affirmative preliminary or final determination in the solar circumvention inquiries. Accordingly, Commerce does not find it necessary to impose the certification requirements requested by this commenter in this final rule.

16. Termination Before a Final Circumvention Inquiry, Early Termination, and Notice to CBP

Multiple commenters point out that the *Proposed Rule* did not address the scenario in which the President determines that the emergency is over before Commerce issues a final circumvention determination, following an affirmative preliminary circumvention determination.

One commenter requests Commerce clarify that, should the Date of Termination occur after publication of an affirmative preliminary determination, but before the publication of a final determination, Commerce should immediately instruct CBP to suspend liquidation of entries of merchandise determined to be circumventing the China Solar Orders and begin collecting cash deposits.

Five other commenters request that Commerce's final rule provide additional predictability in the event of an early termination of the emergency. They argue that the 24-month period to address the emergency is unlikely to change, because solar manufacturing and deployment require years of advance deployment, and the industry will not be able to solve the crisis in only two years. Still, they request that Commerce provide a ''wind down'' period to give purchasers time to adjust to a sudden change and avoid market uncertainty. They say that such a wind down period will help in an industry with long and complex project timelines. Specifically, they request that Commerce clarify in the final rule that in the event of a termination prior to June 6, 2024, no AD/CVD cash deposit requirements or duty liability would become effective as to entries made during the four months following the Date of Termination.

Finally, one commenter notes that the *Proposed Rule* does not speak to how CBP would be notified of the Date of Termination. They argue that a final rule should clarify that Commerce would be responsible for immediately notifying CBP of the Date of Termination and instructing CBP to take appropriate action triggered by the Date of Termination.

Response: Commerce has taken the concerns expressed by the commenters into consideration, and in § 362.103(b) has added a new subsection (3) and revised subsection (2). Section 362.103(b)(2) now addresses the scenario in which the emergency is declared terminated ''early,'' following an affirmative preliminary or final circumvention determination, while § 362.103(b)(3) addresses the scenario in which the emergency terminates on June 6, 2024, following an affirmative preliminary or final circumvention determination. Commerce agrees that whenever the emergency terminates, it should notify CBP as to the Date of Termination. Accordingly, in the final rule, § 362.103(b)(2) states that if the emergency described in the Proclamation is terminated before June 6, 2024, Commerce will direct CBP to suspend liquidation and collect cash deposits on merchandise that enter on or after an appropriate date which is on or after the Date of Termination.

Under that provision, Commerce would consider the implementation and direction of the President in terminating the emergency for purposes of determining an appropriate entry date on or after the Date of Termination for which liquidation of entries will be suspended and on which cash deposits will be collected on unliquidated entries of SA-Completed Cells and Modules.

Furthermore, in the final rule, § 362.103(b)(3) states that if the emergency is not terminated earlier than June 6, 2024, and there is an affirmative preliminary or final circumvention determination, Commerce will issue instructions to CBP informing it that June 6, 2024 is the Date of Termination, and directing CBP to begin suspending liquidation and requiring cash deposits for unliquidated entries of SA-Completed Cells and Modules that are entered, or withdrawn from warehouse, for consumption on or after that date.

With respect to the request for a ''grace period'' when an emergency is declared terminated on a date earlier than June 6, 2024, Commerce understands the need for market certainty and predictability for exporters and importers, but Commerce finds that this request is premature. The President determined in the Proclamation that an emergency exists, and we do not know at this time if the emergency will continue to exist through June 6, 2024 or will be terminated earlier than that date.

Furthermore, even if the emergency is terminated earlier than that date, we do not know the means by which the President would implement and direct such a termination. For example, six months after issuing Presidential Proclamation 2708, which declared an emergency and allowed for the duty-free importation of timber, lumber, and lumber products, President Truman subsequently issued Presidential Proclamation 2735 on June 28, 1947, which terminated the emergency.[69] Although he issued the Emergency Termination Proclamation on June 28, the Proclamation did not provide for the termination of the emergency until August 15, 1947—6 weeks later. In other words, President Truman granted the lumber industry 6 weeks to prepare for the end of duty-free importation. We understand that some commenters are requesting a similar type of notification ahead of time to get their affairs in order, should the President declare the emergency terminated before June 6, 2024.

If the President decides that the emergency should be terminated on a date before June 6, 2024, as explained above, Commerce has adjusted the language of § 362.103(b)(2) so that Commerce has greater flexibility to issue instructions to CBP that provide for an appropriate alternative date of entry for the application of suspension of liquidation and collection of cash deposits, if necessary, depending on the President's execution of any termination of the emergency.

17. Waiver of Both Duties and Estimated Duties

Three commenters request the final rule expressly waive both duties and estimated duties imposed under 19 U.S.C. 1671, 1673, 1675, and 1677j, consistent with the direction of the Proclamation.

Response: Upon consideration of these technical comments, Commerce

[69] *Proclamation No. 2735,* 12 FR 4255 (July 2, 1947) (Importation of Timber, Lumber and Lumber Products) (Emergency Termination Proclamation).

acknowledges that the heading to proposed § 362.103(a) was titled ''importation of applicable entries free of *duties,*'' but the text of the proposed provision itself speaks to ''the importation of Applicable Entries free of the collection of antidumping and countervailing *estimated duties* . . . .'' and the Proclamation says that Commerce may allow importation ''free of the collection of *duties* and *estimated duties.*'' In light of the inconsistent terms in the proposed § 362.103(a), Commerce has amended the header of § 362.103(a) in this final rule to read ''Importation of applicable entries free of duties *and estimated duties*'' (emphasis added). Furthermore, Commerce has also amended the text of § 362.103(a) to apply to both ''*duties and estimated duties,*'' consistent with the terms used in the Proclamation.

Waive All Duties and Estimated Duties, Including From Future Investigations

Three commenters support Commerce's *Proposed Rule* but argue that the final rule should more broadly and expressly waive duties and estimated duties under 19 U.S.C. 1671, 1673, 1675, and 1677j. These commenters argue that because the Proclamation expressly cited these authorities, the extension and waiver must apply to all AD/CVD measures and not only circumvention findings. These commenters also argue that because the Proclamation cited these authorities, it necessarily also means that the waiver must apply to any requirements resulting from new AD/CVD petitions on solar products from the four subject countries.

Response: In the *Proposed Rule,* and this final rule, Commerce has interpreted the Proclamation to call for action in connection with SA-Completed Cells and Modules. The Proclamation stated that immediate action is needed to ensure that the United States has access to a sufficient supply of solar modules to assist in meeting electricity generation needs. In that light, the Proclamation directed the Secretary to consider taking certain appropriate actions with respect to solar cells and modules exported from Cambodia, Malaysia, Thailand, and Vietnam that are not already subject to an antidumping or countervailing duty order as of the date of the Proclamation. At the time of the Proclamation, Commerce had, and continues to have, ongoing circumvention inquiries covering certain solar cells and modules exported from these Southeast Asian countries that were not already subject to an AD/CVD duty order as of the date of the Proclamation. There were not, and currently are not, AD and/or CVD petitions before Commerce involving certain solar cells and modules exported from these Southeast Asian countries. Accordingly, Commerce finds the question of hypothetical AD/CVD petitions to be beyond the scope of this final rule.

Additionally, Commerce disagrees that the inclusion of 19 U.S.C. 1671, 1673, 1675, and 1677j in the Proclamation requires the express waiver of duties related to all measures, including new investigations. The Proclamation directs Commerce to consider the waiver of ''duties and estimated duties, if applicable, under §§ 1671, 1673, 1675 and 1677j.'' The only duties and estimated duties that are potentially applicable in this circumstance—at least as more than a hypothetical—are those in connection with the ongoing circumvention inquiries, pursuant to section 1677j. Commerce does not believe that a citation to those provisions in the Proclamation necessitates addressing hypotheticals in the final rule.

19. Rules of Origin for CSPV Cells and Modules

Three commenters support Commerce's *Proposed Rule,* but specifically requested clarification and confirmation as to the applicable rules of origin for crystalline silicon photovoltaic cells and modules. They request that Commerce explicitly cite to existing precedent to avoid any confusion as to the correct rules. As the commenters note, Commerce has already analyzed the issue with respect to what stage of the manufacturing process is key for determining the ''essential character'' of a crystalline silicon photovoltaic cell and module. The commenters quote from Commerce's past scope rulings on the issue, which state that the ''positive/negative junction that is needed for the conversion of sunlight into electricity'' forms ''the essential component of the solar cell,'' which means that wafers are not solar cells. The commenters assert that industry reasonably relies on predictability in the interpretation and administration of AD/CVD orders, including with respect to rules of origin and scope.

Response: Commerce finds this summary to be an accurate representation of its practice with respect to the country-of-origin rules for Chinese crystalline silicon photovoltaic cells and modules, and we see no reason to otherwise restate our country-of-origin analysis for purposes of this final rule.

20. Expedited Liquidation

Two commenters state that the *Proposed Rule* should allow importers to request that Commerce instruct CBP to liquidate entries on an expedited basis. These commenters argue that, prior to liquidation, importers will be unsure of their final duty liability, causing uncertainty when investing in solar projects, and that requiring firms to wait 314 days or more for confirmation that these imports will not be retroactively subject to duties fails to address this need.

Response: Commerce disagrees with these commenters. To provide relief for the emergency declared by the Proclamation, the final rule makes clear that duties and estimated duties will not be collected on entries of SA-Completed Cells and Modules that entered the United States before the Date of Termination and that are used in the United States by the Utilization Expiration Date. It thus will provide sufficient certainty to market participants. The liquidation of any relevant entries will occur in the normal course, and there is no reason to expedite such liquidation.

21. Shipment Through Intermediary Countries

One commenter requests that the *Proposed Rule* clarify that duty-free treatment applies to the identified solar cells from the subject countries even if shipped through or assembled into modules in an intermediary country before importation to the United States. This commenter expressed concern that if imports from Cambodia, Malaysia, Thailand or Vietnam are shipped through or assembled in an intermediary country, they would not be considered ''exported from'' or ''completed in'' one of those four countries.

Response: The final rule provides for duty-free treatment of crystalline silicon photovoltaic cells, whether or not assembled into modules, which are completed in Cambodia, Malaysia, Thailand, or Vietnam using parts and components manufactured in China, and subsequently exported from Cambodia, Malaysia, Thailand or Vietnam to the United States and not already covered by the China Solar Orders. For merchandise to benefit from this rule, it must be exported from those four countries. If a product is completed in one country and exported through an intermediary country, it may retain the country of origin of the country in which it was completed. However, if it is further assembled in another country, that merchandise will not be considered

''exported from Cambodia, Malaysia, Thailand or Vietnam to the United States.'' Consistent with the normal course, CBP may request clarification of Commerce's instructions should questions about a particular entry arise. As such, Commerce does not find it necessary to revise the *Proposed Rule.* To be clear, if a SA-Completed Cell or Module is further assembled in a third country, that product will not be considered a SA-Completed Cell or Module for purposes of this final rule.

Classification

Executive Order 12866

The Office of Management and Budget has determined that this final rule is economically significant for purposes of Executive Order 12866. Commerce has considered the economic impact of this rulemaking, including information from commenters, as summarized below.

Regulatory Impact Analysis

The purpose of this final rule is to take action pursuant to the Proclamation under section 318(a) of the Act. The Proclamation identifies certain threats to the ability of the United States to provide sufficient electricity generation to serve expected demand, declares an emergency to exist, and states that immediate action is needed to ensure access to a sufficient supply of solar modules to assist in meeting the United States' electricity generation needs.

To address that need, this final rule is temporarily extending the time period for Commerce to direct CBP to suspend liquidation and collect cash deposits if there is a preliminary or final circumvention determination and is also temporarily removing the requirement that importers of SA-Completed Cells and Modules deposit estimated antidumping and countervailing duties, if otherwise applicable as a result of the circumvention inquiries. Further, this rule temporarily permits the importation of the SA-Completed Cells and Modules free of duties that may result from the ongoing circumvention inquiries under the antidumping and countervailing duty laws.

The EIA estimated in January 2022 that solar power would account for nearly half of new U.S. electric generating capacity for the year based on its expectation that U.S. utility-scale solar generating capacity would grow by 21.5 GW in 2022.[70] The EIA projects that the share of U.S. power generation from renewables will increase from 21 percent in 2021 to 44 percent by 2050, and that solar will account for approximately 50 percent of renewable energy generation.[71]

Additionally, in September 2021, the DOE released the Solar Futures Study [72] detailing the significant role solar will play in decarbonizing the nation's power grid. The study shows that, by 2035, solar energy has the potential to power 40 percent of the nation's electricity, drive deep decarbonization of the grid, and employ as many as 1.5 million people—without raising electricity prices. These longer-term projections, although not accounting for the additional effects of the Inflation Reduction Act, illustrate the growing importance of solar power. The new capacity additions provided by solar are essential to meeting the resource adequacy needs for the electricity system. However, the sum of domestic solar manufacturing plus solar imports is well below what the EIA predicts is necessary for electric utilities in the United States to meet the anticipated demand while domestic solar manufacturing scales up. According to the Department of Energy, continued shortage of solar equipment could reduce domestic solar deployment over the next year by 12–15 GW, enough to power over 2 million homes.[73] Most other power generation technologies cannot fill this void within such a short timeframe—for example, the time to build a natural gas plant ranges from 2 to 10 years.[74] Nor would conventional fossil-fuel plants provide the climate-impact benefits of solar power.

The United States is currently dependent on imports to enable solar capacity additions. As the Proclamation notes, the vast majority of solar modules installed in the United States in recent years were imported, with those from Southeast Asia making up approximately three-quarters of imported modules in 2020 alone [75] and two-thirds in 2020 and 2021 combined.[76] The nation's current domestic module production capacity comprises less than one-fourth of near-term market demand and less than one-tenth what would be required to meet the country's climate targets and energy security needs.[77]

A public report by the USITC, Publication 5266, published in December [78] provides useful information about importers of CSPV solar cells and modules, including information about the class of entities directly regulated by this final rule. USITC Publication 5266 further estimated the total value of imports of CSPV cells and modules from all sources at over $9 billion in 2020.[79] Information from USITC Publication 5266 shows that the leading sources of imported modules in both 2020 and 2021 were Malaysia, Vietnam, and Thailand.[80] Furthermore, USITC Publication 5266 and Census Bureau data show that Korea was the top source for imported CSPV cells in both 2020 and 2021, but CSPV cell imports from Malaysia, Vietnam and Thailand nearly doubled in 2021 compared to 2020,[81] indicating that U.S. panel manufacturers became more reliant on solar cells from those countries.

A recent decline in imports of CSPV modules from Southeast Asia has exacerbated the discrepancy between available components and projected needs. Census Data indicate that total imports of modules from the four Southeast Asian countries that are the subject of this rule declined over 30 percent over January to June 2022 compared to the same time frame in 2021.[82] Supply constraints on solar

[70] U.S. Energy Information Administration, *Solar Power Will Account for Nearly Half of New U.S. Electric Generating Capacity in 2022* (Jan. 10, 2022), *https://www.eia.gov/todayinenergy/detail.php?id=50818.*

[71] U.S. Energy Information Administration, *EIA Projects that Renewable Generation Will Supply 44% of U.S. Electricity by 2050* (Mar. 18, 2022), *https://www.eia.gov/todayinenergy/detail.php?id=51698#:~:text=In%20our%20Annual%20Energy%20Outlook,new%20wind%20and%20solar%20power.; see also* DOE report at 2.

[72] U.S. Dept. of Energy, *Solar Futures Study* (Sept. 2021), *https://www.energy.gov/eere/solar/solar-futures-study.*

[73] U.S. Dept. of Energy, *Acute Shortage of Solar Equipment Poses Risks to the Power Sector,* 1 (June 2022), available at *https://www.energy.gov/sites/default/files/2022-06/June%202022%20DOE%20Solar%20Market%20Update.pdf.*

[74] *See, e.g.,* Seth Blumsack, *Basic Economies of Power Generation, Transmission and Distribution,* The Pennsylvania State University, available at *https://www.e-education.psu.edu/eme801/node/530.*

[75] U.S. Dept. of Energy, *Solar Photovoltaics: Supply Chain Deep Dive Assessment,* 2–3 (Feb. 24, 2022), available at *https://www.energy.gov/sites/default/files/2022-02/Solar%20Energy%20Supply%20Chain%20Report%20-%20Final.pdf.*

[76] *See* DOE Report at 2.

[77] U.S. Dept. of Energy, *Acute Shortage of Solar Equipment Poses Risks to the Power Sector,* 1 (June 2022), available at *https://www.energy.gov/sites/default/files/2022-06/June%202022%20DOE%20Solar%20Market%20Update.pdf.*

[78] U.S. International Trade Commission (December 2021), *Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled Into Other Products* (hereinafter, USITC Publication 5266). *https://www.usitc.gov/publications/other/pub5266.pdf.*

[79] USITC Publication 5266 at I–42. Note that these figures pertained to imports from all sources and were not specific to imports from the four Southeast Asian countries at issue in this final rule.

[80] USITC Publication 5266 at page V–8.

[81] USITC Publication at page V–1 (2020 data only); *https://usatrade.census.gov/* for HS Code 8541.40.60.25 for 2020 and 2021.

[82] Census Bureau data available at *https://usatrade.census.gov* for HTS codes 8541.40.60.15

modules and module components have put at risk near-term solar capacity additions that could otherwise have the potential to help ensure the sufficiency of electricity generation to meet customer demands while domestic manufacturing capacity scales up. As noted previously, several large-scale solar installation projects have already reportedly been delayed due to an insufficient supply of components.[83] Although some commenters disputed the existence of an emergency, a number of other commenters representing the U.S. solar industry also reported that their or their members' projects had been delayed or that future projects were threatened.

USITC Publication 5266 provides information about solar projects that may be affected by difficulties in obtaining solar components and, more positively, by the measures in this final rule to address such difficulties. Based on questionnaire responses, purchasers of domestic and imported solar cells and modules were identified as utility companies/developers, commercial installers, residential installers, distributors, module assemblers, and ''other'' firms.[84] Among end user purchasers of solar cells and modules (*i.e.,* installers or utility firms), 84.5 percent of their total projects completed in 2020 were estimated to be in the utility sector, while 8.6 percent were in the commercial sector, and 6.1 percent were in the residential sector. For purchasers that were distributors, an estimated 48.7 percent of their 2020 resales were to residential installers, 35.0 percent were to commercial installers, and 16.3 percent were to utility installers/developers.[85] Moreover, as commenters pointed out, the solar projects that may be indirectly impacted by this final rule account for a significant amount of employment. According to the National Solar Jobs Census 2021 published by the Interstate Renewable Energy Council (IREC), a total of 255,038 full time jobs exist in the solar sector. Of these, IREC identified 168,960 in the category ''Installation and Project Development'' and 33,099 in ''Manufacturing.'' The majority of installation jobs, 85,305 jobs, are in the residential sector, while commercial and utility-scale each represent about 20 percent of the total installation and development jobs with 34,329 and 33,808 jobs, respectively.[86]

The intended impact of this final rule, with its temporary duration, is to encourage continued progress on such solar projects. In taking the actions in this final rule, Commerce is responding to the emergency declared by the Proclamation and removing uncertainty concerning potential antidumping and countervailing estimated duties or duties that might otherwise be owed on merchandise subject to the circumvention inquiries and entered before the Date of Termination. The uncertainty surrounding the potential antidumping and countervailing estimated duties or duties may be contributing to the insufficient imports of modules from Southeast Asia for future installations; DOE estimates that the current shortage of solar equipment could potentially reduce domestic solar deployment over the next year by 12–15 GW.[87] EIA data indicate that in the first half of 2022 only 4.2 GW of capacity for large-scale (1 megawatt or greater) solar photovoltaic installations became operational compared to 9.5 GW that were expected as of the end of 2021. The same data indicate that over 13 GW of large-scale solar PV is scheduled to be commissioned in the second half of 2022.[88] Meanwhile, in 2023 the capacity of solar additions could be over 25 GW, according to the data reported to the EIA.[89] Given the strong interest in ensuring access to a sufficient supply of solar modules to assist in meeting the United States' electricity generation needs in a manner that addresses the threat of climate change and reduces dependence on fossil fuels, this final rule removes this source of market uncertainty in order to encourage sufficient imports of modules from these Southeast Asian countries until the Date of Termination and while efforts are made to expand domestic capacity.

Thus, Commerce assesses that the benefits of this final rule derive from the need for immediate action to ensure access to a sufficient supply of solar modules to assist in meeting the United States' electricity generation needs while reducing the burning of fossil fuels, which drives climate change and presents a threat to national security. Helping ensure that planned solar projects can proceed also supports the jobs required for those projects.

Commerce has also assessed the anticipated costs that may accompany adoption of the rule.

The direct costs of this final rule on regulated entities, Commerce has concluded, are minimal. The rule provides for an exemption from the collection of cash deposits and duties, if applicable, on imports of certain SA-Completed Cells and Modules. The affected importers would not need to take additional action to come into compliance with this rule.

This final rule might result in decreased totals of AD or CVD duties collected, but the quantification of any such decrease would be speculative. At the time of publication of this final rule, Commerce is conducting circumvention inquiries involving certain cells and modules exported from the Southeast Asian countries of Cambodia, Malaysia, Thailand, and Vietnam. Commerce has not yet made any determinations regarding whether these cells and modules are circumventing existing antidumping and countervailing duty orders. Accordingly, whether antidumping or countervailing duties will apply to these cells and modules is unknown at the time of publication of this final rule. Even if there is a final determination that circumvention is taking place, the total antidumping and countervailing duties that would be collected from any such imports cannot, at this time, be calculated with any degree of precision.

and 8541.43.00.10, Second Unit of Quantity (watts) for the four selected countries.

[83] *See* response to Comment 4 and the cited sources: Tomich, Jeffrey, *Solar Market Turmoil Delays Ind. Coal Shutdown* (May 5, 2022), available at *https://www.eenews.net/articles/solar-market-turmoil-delays-ind-coal-shutdown/;* Salt River Project, *Coolidge Expansion Project FAQ, How does growing demand contribute to resource constraints?,* available at *https://www.srpnet.com/grid-water-management/grid-management/improvement-projects/coolidge-expansion-project-faq.* Office of the Governor of California, Letter to U.S. Department of Commerce Secretary Gina M. Raimondo (April 27, 2022), available at *https://s3.documentcloud.org/documents/21761581/newsom-letter.pdf.;* Mangieri, Gina, *Power Cost Hike, Supply Crunch Ahead as Last Hawaii Coal Plant Closes* (June 24,2022), available at *https://www.khon2.com/always-investigating/power-cost-hike-supply-crunch-ahead-as-last-hawaii-coal-plant-closes/.*

[84] USITC Publication 5266 at page I–45. ''Other'' firms included a developer/owner of commercial, residential, industrial and small-scale utility projects, a developer/owner of commercial, industrial and small-scale utility projects, a utility company/developer/financier, a solar project developer, a commercial an distributed generation developer, an end user and retailer, an engineering corporation, an ''operator,'' a module manufacturer, an importer/distributor, and an ''EPC of utility scale and rooftop solar.''

[85] *Id.* at page I–46.

[86] National Solar Jobs Census 2021, at page 19, available at *https://irecusa.org/programs/solar-jobs-census/.* A recent DOE study provides similar employment information for 2021, estimating 253,052 solar workers who spent 50 percent or more of their time on solar and 333,887 workers who spent any of their time on solar. See U.S. Dept. of Energy, *United States Energy and Employment Report* (June 2022) at 20, available at *https://www.energy.gov/sites/default/files/2022-06/USEER%202022%20National%20Report_1.pdf.*

[87] *See* DOE Report at 3.

[88] Preliminary Monthly Electric Generator Inventory (based on Form EIA–860M as a supplement to Form EIA–860), June 2022 (published July 26, 2022) and December 2021 (published February 24, 2022), available at *https://www.eia.gov/electricity/data/eia860m/.*

[89] *Id.*

Commerce also recognizes that there are likely to be costs associated with indirect impacts of this final rule, in particular those that may affect domestic producers of cells and modules, whose products compete with the imports at issue in this rule. Based on responses from 14 firms reporting domestic production of solar cells and/or modules, USITC Publication 5266 identified domestic manufacturers located across 11 states.[90] At the time of publication in 2021, there were approximately 20 domestic plants manufacturing solar modules, with nine additional plants having been publicly announced; [91] in addition, plans for three plants to manufacture solar cells had been announced or were under consideration.[92] A number of commenters pointed out the potential harm to domestic producers from allowing imports to enter the United States without otherwise applicable AD/CVD duties, including the possible loss of U.S. jobs.

The rule, however, has been crafted to limit these indirect costs. The rule's scope is constrained, applying only to solar cells and modules exported from the four identified countries that may be the subject of affirmative preliminary or final determinations in certain circumvention inquiries currently before Commerce. At least as significantly, the rule only temporarily extends the period for Commerce to direct CBP to suspend liquidation and collect cash deposits and further only temporarily lifts the requirements of importers to make deposits on relevant items and to pay otherwise applicable duties that may result from the ongoing circumvention inquiries; these measures will be in place for a maximum of 24 months from the date of the Proclamation, may be ended earlier if the emergency has terminated before that date. More than that, for entries that enter after the effective date of this rule, these measures will not apply if the entries are not used by the Utilization Expiration Date. These limitations reflect an effort to ensure a needed supply of solar components in the short-term while at the same time limiting costs to domestic producers and supporting efforts to expand domestic production capacity by the Date of Termination.

In conclusion, in evaluating the overall impact of this final rule, Commerce assesses that the benefits of the rule, which provides for immediate action to ensure access to a sufficient supply of solar modules, will help meet U.S. electricity generation needs while addressing threats posed by climate change and are likely to significantly outweigh the anticipated costs that may accompany adoption of the rule.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires agencies to consider the impact of their rules on small entities and to evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities when the rules impose a significant economic impact on a substantial number of small entities.

In the *Proposed Rule,* Commerce prepared an initial regulatory flexibility analysis, concluding that the proposed action was not expected to have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. Additionally, Commerce concluded there were no regulatory alternatives for reducing burdens on small entities. After considering the comments received in response to the initial regulatory flexibility analysis, Commerce's conclusions on these points remain unchanged in this final regulatory flexibility analysis.

Need for and Objectives of the Rule

A summary of the need for, objectives of, and legal basis for this rule is provided in the preamble of this final rule and is not repeated here.

Number of Small Entities to Which the Rule Will Apply

Commerce continues to expect that this rule will not have a significant economic impact on a substantial number of small entities directly regulated by the final rule. The direct economic impacts of the actions described in this rule are for importers of SA-Completed Cells and Modules for which certain regulations, if applicable, are extended and waived and who for a limited period of time need not pay AD/CVD duties and estimated duties, if otherwise owed as a result of the circumvention inquiries.

At the time the *Proposed Rule* was published, Commerce was unable to estimate the number of small entities to which the rule would apply. In this final regulatory flexibility analysis, Commerce relies on information about importers of solar CSPV cells and modules in USITC Publication 5266 to describe the class of entities directly regulated by the final rule.

Based on that report, Commerce has determined that importers of solar cells or modules may be classified as operating in one of the following industries as described by the 2020 North American Industry Classification System (NAICS): Power and communication line and related structures construction (NAICS code 237130); Semiconductor and related device manufacturing (NAICS code 334413); or Miscellaneous Electrical Component Manufacturing (NAICS code 335999).

Commerce reviewed the list of 50 importers in Table I–15 of USITC Publication 5266, and was able to identify the NAICS code for 48 importers as shown in Table 1 below, based on publicly available information about the companies. According to the USITC, the importers in Table I–15 accounted for 66.5 percent of total imports of cells and modules but were a subset of 264 firms identified as possible importers by the USITC.

TABLE 1—INDUSTRIES OF IMPORTERS OF CSPV CELLS AND MODULES

NAICS codes	334413	237130	335999
	Manufacturer	Developer	Miscellaneous electrical component manufacturer
Large	23	6	1
Small	13	0	5
Total	36	6	6

Source: Department of Commerce, International Trade Administration analysis of USITC Publication 5266 Table I–15.

[90] *Id.* at page I–37.

[91] *Id.* at page I–26 to I–28.

[92] *Id.* at page I–23 to I–24.

The Small Business Administration has determined that the size standard for identifying small entities in the Power and communication line and related structures construction industry (NAICS code 237130) is maximum annual receipts of $39.5 million. The small entity size standard for Semiconductor and related device manufacturing (NAICS code 3334413) is a maximum of 1,250 employees. The small entity size standard for Miscellaneous Electrical Component Manufacturer is 500 employees. When the parent company was a large entity, Commerce classified those importers as large entities.

As shown in Table 2 below, a breakdown of the comparison of large and small entities based on which products they imported shows that 30 were large entities and 18 were small entities. Importers of modules, had the lowest share of small entities, with roughly two-thirds of the importers being large companies.

TABLE 2—LARGE AND SMALL IMPORTERS, BY PRODUCTS IMPORTED

Products imported	Importers	
	Large	Small
Cells and Modules	4	2
Cells only	5	6
Modules only	21	10

Source: Department of Commerce, International Trade Administration analysis of USITC Publication 5266 Table I–15.

In addition to the 18 small entities Commerce identified in Table I–15, Commerce assumes that the remaining 214 importers initially identified by USITC as possible importers but not included in Table I–15 were all importers and accounted for the remaining 33.5 percent of imports of cells or modules. Commerce further assumes that all of these importers are small entities, bringing the total to 232 small entities, around 88 percent of all importers that USITC may have identified. Commerce believes that the estimate of small entities directly affected by this rule is based on conservative assumptions and that the actual number is likely to be smaller, as some of the 214 importers may not be importers of cells or modules and, among those who were importers, some may not be small entities.

Furthermore, the information in USITC Publication 5266 pertains to importers of cells and modules from all sources, while the entities directly affected by this rule are importers of cells and modules from the four Southeast Asian countries at issue and may be a subset of all importers.

To compare the USITC list to the total possible universe of importers for CSPV cells and modules, Commerce obtained from CBP a count of the importers during the same time frame. This information is summarized in Table 3 below:

TABLE 3—NUMBER OF IMPORTERS

[Harmonized tariff schedule data]

Product description	Number of importers
CSPV Assembled Modules/ Panels	397
CSPV Cells	147
CSPV Modules and Cells	45
Total Importers	499

Source: U.S. Customs and Border Protection analysis of Harmonized Tariff Schedule data Harmonized System Product Codes 8541406015 and 8541406025, Entry Date 2020.

In Table 3, the number of importers listed for the three categories does not sum to the total number of importers, because of the need to avoid double counting. Those who import both CPSV Modules and Cells are included in both ''CSPV Assembled Modules/Panels'' importers and ''CSPV Cells'' importers. Thus, the total number of importers is (397 + 147) − 45.

Taking into account that some companies imported both cells and modules, the total number of importers in 2020 for the two products combined is 499 entities. Assuming that, as for the importers identified in USITC Publication 5266, 88 percent of the importers are small businesses, approximately 440 of these importers would be small entities. Therefore, using both the analysis of importers from USITC Publication 5266 and the analysis of Harmonized Tariff Schedule data, Commerce estimates that the number of small entities directly impacted by this final rule ranges from 232 to 440 importers.

Description of Reporting, Recordkeeping and Other Compliance Requirements

This rule has no reporting, recordkeeping, and other compliance requirements and does not duplicate, overlap, or conflict with other Federal Rules.

Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities

Under this rule, Commerce will temporarily waive and extend the application of certain regulations, if otherwise applicable, involving SA-Completed Cells and Modules. Specifically, by temporarily removing the requirement that importers deposit estimated AD/CVD duties, if otherwise applicable as a result of the circumvention inquiries, Commerce removes actions that would otherwise be required from entities, including small entities, that are importing SA-Completed Cells and Modules. Further, this rule would temporarily permit the importation of certain solar cells and modules from the four Southeast Asian countries at issue free of duties that may result from the ongoing circumvention inquiries under the AD/CVD duty laws. In this way, until the Date of Termination, the rule provides importers with relief from possible AD/CVD duties and estimated duties that might otherwise be owed as a result of the ongoing circumvention inquiries. These benefits are speculative at this point, but even if they come to fruition, Commerce believes that there is no significant competitive disadvantage to importers of the products at issue in this rule, including importers that are small entities.

These actions under this rule do not add burden on importers, including importers that are small entities, in connection with their importation of certain solar cells and modules from the four Southeast Asian countries. Rather, they remove requirements that might otherwise be applicable and, therefore, do not result in significant economic impact to them. Further, this rule removes uncertainty as to whether AD/CVD duties may apply before the Date of Termination as a result of the ongoing circumvention inquiries. For all of these reasons, Commerce continues to believe that there is no significant, adverse economic impact on importers of the merchandise, including importers that are small entities.

The actions in this rule to respond to the emergency declared by the Proclamation apply specifically to SA-Completed Cells and Modules, which are the certain cells and modules identified in the Proclamation. Accordingly, Commerce is appropriately responding to the emergency declared in the Proclamation and uses the authorities provided in the Proclamation, as well as its own authorities, in a way tailored to the Proclamation and emergency declared therein. Commerce has taken appropriate steps to minimize any significant economic impact on small entities consistent with the stated objectives of the Proclamation and believes that there is no regulatory alternative that would reduce any such impact. Further, in the event that there

are impacts on small entities due to the importation free of AD/CVD duties or estimated duties, or due to the extension of time to perform any act, any such impact is provided for and contemplated in the relevant statutory authority, section 318(a) of the Act, and the Proclamation.

Significant Issues Raised by Comments on the Initial Regulatory Flexibility Analysis

1. *Impact on small entities other than importers:* Several commenters stated that the small entity analysis in the proposed rule failed to properly consider the impact of the rule on small entities other than importers and should have considered the impact on domestic producers of cells and modules or others in the supply chain. These commenters also suggested that Commerce failed to consider alternatives that would be less burdensome to such small entities, in particular, the use of the procedures set out in the regulations at 19 CFR part 358.

Response: The RFA's requirement to conduct initial and final regulatory flexibility analyses, including the requirements to ''describe the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirements'' and to describe ''the steps the agency has taken to minimize the significant economic impact on small entities'' [93] has been held to apply only to those small entities that are subject to the requirements of the rule and not to other entities on which the rule may have indirect effects.[94] In the case of this final rule, the directly regulated entities are importers of cells and modules, for whom this final rule represents the potential for relief from duties. Thus, the RFA does not require Commerce to consider in this Final Regulatory Flexibility Analysis the indirect effects on domestic producers of cell and modules or other small entities or whether regulatory alternatives such as application of the provisions at 19 CFR part 358 regulation would be less burdensome for such entities.

Nevertheless, Commerce has included a discussion of indirect impacts in the Regulatory Impact Analysis.

[93] 5 U.S.C. 603–604.

[94] *Mid-Tex Elec. Co-op, Inc.* v. *FERC,* 777 F.2d 327, 342 (D.C. Cir. 1985); *see also American Trucking Associations, Inc.,* v. *EPA,* 175 F.3d 1027, 1044 (D.C. Cir. 1999), *aff'd in part and rev'd in part on other grounds, Whitman* v. *American Trucking Ass'ns,* 531 U.S. 457 (2001).

2. *Number of small entities who are importers:* Several commenters also suggested that Commerce failed to conduct a sufficient analysis of the impact on small importers by stating that the number of small importers was unknown and by failing to recognize that some importers are large entities.

Response: In the proposed rule, Commerce requested information about the impact of the proposed rule on small entities, and several commenters provided additional information. In this Final Regulatory Flexibility Analysis, Commerce has provided an estimate of the number of small importers who may be directly impacted by this final rule.

Congressional Review Act

Pursuant to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has determined that this final rule is a major rule, as defined in 5 U.S.C. 804(2). Commerce is therefore delivering a report containing the rule and associated information to each House of Congress and to the Comptroller General and delaying the effective date of the rule for 60 days. *See* 5 U.S.C. 801(a).

Paperwork Reduction Act

This final rule contains no information collection subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act

This final rule will not produce a Federal mandate under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

List of Subjects in 19 CFR Part 362

Administrative practice and procedure, Antidumping duties, Countervailing duties, Emergency powers.

Dated: September 12, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

■ For the reasons stated in the preamble, the Department of Commerce amends 19 CFR chapter III by adding part 362 as follows:

PART 362—PROCEDURES COVERING SUSPENSION OF LIQUIDATION, DUTIES AND ESTIMATED DUTIES IN ACCORD WITH PRESIDENTIAL PROCLAMATION 10414

Sec.

Authority: 19 U.S.C. 1318; Proc. 10414, 87 FR 35067.

§ 362.101 Scope.

This part sets forth the actions the Secretary is taking to respond to the emergency declared in Presidential Proclamation 10414.

§ 362.102 Definitions.

For purposes of this part:

Act means the Tariff Act of 1930, as amended (19 U.S.C. 1202 *et seq.*).

Applicable Entries means the entries of Southeast Asian-Completed Cells and Modules that are entered into the United States, or withdrawn from warehouse, for consumption before the Date of Termination and, for entries that enter after November 15, 2022, are used in the United States by the Utilization Expiration Date.

CBP means U.S. Customs and Border Protection of the United States Department of Homeland Security.

Certain Solar Orders means Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order; Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Countervailing Duty Order; and Certain Crystalline Silicon Photovoltaic Products from Taiwan: Antidumping Duty Order.

Utilization and *utilized* means the Southeast Asian-Completed Cells and Modules will be used or installed in the United States. Merchandise which remains in inventory or a warehouse in the United States, is resold to another party, is subsequently exported, or is destroyed after importation is not considered utilized for purposes of these provisions.

Utilization Expiration Date means the date 180 days after the Date of Termination.

Date of Termination means June 6, 2024, or the date the emergency described in Presidential Proclamation 10414 has been terminated, whichever occurs first.

Secretary means the Secretary of Commerce or a designee.

Solar Circumvention Inquiries means some or all of the inquiries at issue in Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Initiation of Circumvention

Inquiry on the Antidumping Duty and Countervailing Duty Orders.

Southeast Asian-Completed Cells and Modules means crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells and modules), which are completed in the Kingdom of Cambodia, Malaysia, the Kingdom of Thailand, or the Socialist Republic of Vietnam using parts and components manufactured in the People's Republic of China, and subsequently exported from Cambodia, Malaysia, Thailand or Vietnam to the United States. These are cells and modules subject to the Solar Circumvention Inquiries. Southeast Asian-Completed Cells and Modules does not mean solar cells and modules that, on June 6, 2022, the date Proclamation 10414 was signed, were already subject to Certain Solar Orders.

§ 362.103 Actions being taken pursuant to Presidential Proclamation 10414 and Section 318(a) of the Act.

(a) *Importation of applicable entries free of duties and estimated duties.* The Secretary will permit the importation of Applicable Entries free of the collection of antidumping and countervailing duties and estimated duties under sections 701, 731, 751 and 781 of the Act until the Date of Termination. Part 358 of this chapter shall not apply to these imports.

(b) *Suspension of liquidation and collection of cash deposits.* (1) To facilitate the importation of certain Southeast Asian-Completed Cells and Modules without regard to estimated antidumping and countervailing duties, notwithstanding § 351.226(l) of this chapter, the Secretary shall do the following with respect to estimated duties:

(i) The Secretary shall instruct CBP to discontinue the suspension of liquidation of entries and collection of cash deposits for any Southeast Asian-Completed Cells and Modules that were suspended pursuant to § 351.226(l) of this chapter. If at the time instructions are conveyed to CBP the entries at issue are suspended and cash deposits collected only on the basis of the circumvention inquiries, then the Secretary will direct CBP to liquidate the entries without regard to antidumping and countervailing duties and to refund cash deposits collected on that basis.

(ii) In the event of an affirmative preliminary or final determination of circumvention in the Solar Circumvention Inquiries before the Date of Termination, the Secretary will not, at that time, direct CBP to suspend liquidation of Applicable Entries and collect cash deposits of estimated duties on those Applicable Entries.

(iii) In the event of an affirmative preliminary or final determination of circumvention in the Solar Circumvention Inquiries, the Secretary will direct CBP to suspend liquidation of entries of, and collect cash deposits of estimated duties on, imports of Southeast Asian-Completed Cells and Modules that are not Applicable Entries.

(2) In the event that the Secretary makes an affirmative preliminary or final determination of circumvention in the Solar Circumvention Inquiries, as applicable, and the emergency described in Presidential Proclamation 10414 is terminated before June 6, 2024, notwithstanding § 351.226(l) of this chapter, upon notification of the termination of the emergency the Secretary will thereafter issue instructions to CBP informing it of the Date of Termination and directing it to begin suspension of liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate for each unliquidated entry of Southeast Asian-Completed Cells and Modules that is entered, or withdrawn from warehouse, for consumption on or after an appropriate date that is on or after the Date of Termination. For purposes of this paragraph, Applicable Entries may also include certain entries of Southeast Asian-Completed Cells and Modules that are entered on or after the Date of Termination, as appropriate.

(3) In the event that the Secretary makes an affirmative preliminary or final determination of circumvention in the Solar Circumvention Inquiries, as applicable, and the Date of Termination is June 6, 2024, notwithstanding § 351.226(l) of this chapter, the Secretary will issue instructions to CBP informing it that the Date of Termination is June 6, 2024, and will direct CBP to begin suspension of liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of Southeast Asian-Completed Cells and Modules that is entered, or withdrawn from warehouse, for consumption on or after the Date of Termination.

(c) *Waiver of assessment of duties.* In the event the Secretary issues an affirmative final determination of circumvention in the Solar Circumvention Inquiries and thereafter, in accordance with other segments of the proceedings, pursuant to section 751 of the Act and § 351.212(b) of this chapter, issues liquidation instructions to CBP, the Secretary will direct CBP to liquidate Applicable Entries without regard to antidumping and countervailing duties that would otherwise apply pursuant to an affirmative final determination of circumvention.

§ 362.104 Certifications.

Nothing in this section shall preclude the Secretary from requiring certifications for Southeast Asian-Completed Cells and Modules pursuant to § 351.228 of this chapter in the event of an affirmative preliminary or final determination in the Solar Circumvention Inquiries.

[FR Doc. 2022–19953 Filed 9–15–22; 4:15 pm]

BILLING CODE 3510–DS–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0722]

RIN 1625–AA00

Safety Zone; Sunset Point, San Juan Island, WA

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 1000-yard radius of Sunset Point on San Juan Island, WA. This rule supplement a safety zone expiring on September 12, 2022. This safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the emergency response efforts and the recovery of a sunken vessel. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Puget Sound.

DATES: This rule is effective without actual notice from September 16, 2022, through September 26, 2022, at 10 p.m. For the purposes of enforcement, actual notice will be used from September 12, 2022, at 10 p.m., until September 16, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0722 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or

email Lieutenant Commander Samud I. Looney, Sector Puget Sound, Waterways Management Division, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
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

This is the third temporary rule the Coast Guard has published related to this sunken vessel. On August 18, 2022, the Coast Guard issued a temporary final rule establishing a temporary safety zone in effect through August 29, 2022 (87 FR 51909). On August 26, 2022, the Coast Guard issued a temporary final rule extending the safety zone to be in effect through September 12, 2022 (87 FR 54154). Due to the nature of the ongoing operations, additional time is needed to maintain safe navigation around response equipment and responders while additional damage assessments and salvage operations occur, and, as a result, the Coast Guard is establishing through temporary regulations a safety zone that will be in effect through September 26, 2022. 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 immediate action is needed to respond to the safety hazards associated with the response measures in product recovery of a sunken vessel. It is impracticable to publish an NPRM and hold a reasonable comment period for this rulemaking due to the emergent nature of the ongoing response and recovery operations.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Puget Sound (COTP) has determined that potential hazards associated with the emergency response and recovery operations will be a safety concern for anyone within a 1000-yard radius of Sunset Point, San Juan Island, WA. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the emergency response is ongoing and during the recovery of the sunken vessel.

IV. Discussion of the Rule

This rule establishes a temporary safety zone that will be enforced from September 12, 2022, at 10 p.m., through September 26, 2022, at 10 p.m. The safety zone will cover all navigable waters within 1,000-yard radius of Sunset Point, San Juan Island, WA. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the emergency response of the sunken vessel are ongoing. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The safety zone may be suspended early at the discretion of COTP Sector Puget Sound.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Sunset Point on San Juan Island for a total of 14 days and operations may be suspended early at the discretion of the COTP Sector Puget Sound. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 14 days that will prohibit entry within 1000 yards of Sunset Point while vessels, equipment, and personnel are being used in the emergency response and removal of a sunken vessel. It is categorically excluded from further review under paragraph L60[d] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0722 to read as follows:

§ 165.T13–0722 Safety Zone; Sunset Point, San Juan Island, WA.

(a) *Location.* The following area is a safety zones: all navigable waters within a 1,000 yard radius of the sunken vessel located at 48°33′16.1″ N, 123°10′28.9″ W off of Sunset Point, San Juan Island, WA. These coordinates are based 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, a *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP) Sector Puget Sound 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) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from September 12, 2022, at 10 p.m. through September 26, 2022, at 10 p.m. unless an earlier end is announced by Broadcast Notice to Mariners on VHF–FM marine channel 16.

Dated: September 12, 2022.

P.M. Hilbert,

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

[FR Doc. 2022–20057 Filed 9–15–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0273]

RIN 1625–AA00

Safety Zone; Black River, South of East Erie Avenue Bridge in Front of Black River

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Black River. This action is necessary to provide for the safety of life on these navigable waters near Black River Landing, Lorain, OH, during a dragon boat festival. This established rulemaking will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Buffalo or a designated representative.

DATES: This rule is effective from 8 a.m. through 5 p.m. on September 18, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0273 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Jared Stevens, Waterways Management Division, Marine Safety Unit Cleveland, U.S. Coast Guard; telephone 216–937–0124, email *Jared.M.Stevens@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 Cleveland Dragon Boat Festival has occurred annually for over a decade. In past years events were held on the Cuyahoga River in conjunction with the Head of the Cuyahoga regatta, for which the Captain of the Port Buffalo initiated a rulemaking in 2015 (80 FR 51943) to protect spectators, participants, and vessels from the hazards associated with the rowing event. Due to increased participation in the Dragon Boat Festival, the dragon boat event has been relocated to the Black River Landing in Lorain, OH, to preserve the safety of spectators and vessels.

On January 31, 2022, the Cleveland Dragon Boat Association notified the Coast Guard that it would be conducting a dragon boat festival from 8 a.m. through 5 p.m. on September 18, 2022. In response to this request the Coast Guard published a notice of proposed rulemaking (NPRM) on June 17, 2022 (87 FR 36430), with zero comments submitted. Typically, the event occurs on, or around, the first through third Saturday of September between the hours of 8 a.m. and 5 p.m. The Dragon Boat Festival is to occur south of the East Erie Avenue bridge in front of the Black River Landing in Lorain, OH. Hazards from the event include, but are not limited to, sponsor operated vessels needing to transit the area during the festival. These vessels are expected to accompany the vessels competing in the rowboat style races. The Captain of the Port Buffalo (COTP) has determined that potential hazards associated with the festival will be a safety concern for anyone within this portion of the Black River.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within this portion of the Black River before, during, and after the scheduled event. The Coast Guard is establishing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Buffalo (COTP) has determined that potential hazards associated with the festival on September 18, 2022, will be a safety concern for anyone that is not participating in the festival. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published June 17, 2022. There are minor changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 8 a.m. through 5 p.m. on September 18, 2022. The safety zone will cover all navigable waters of the Black River to include south of the East Erie Avenue Bridge in front of the Black River Landing in Lorain, OH. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 8 a.m. through 5 p.m. festival. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size, location, and duration of the rule. This safety zone will restrict navigation on and through a small designated portion of the Black River for nine hours on one day.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting nine hours that will prohibit entry within the area south of the East Erie Avenue Bridge in front of the Black River Landing. 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

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0273 to read as follows:

§ 165.T09–0273 Safety Zone, Black River, South of East Erie Avenue Bridge in Front of Black River Landing, Lorain, OH.

(a) *Location.* The following area is a safety zone: All navigable waters within the area south of the East Erie Avenue Bridge in front of the Black River Landing in Lorain, Ohio.

(b) *Enforcement period.* This section will be enforced from 8 a.m. through 5 p.m. on September 18, 2022.

(c) *Definitions. Official Patrol Vessel* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Buffalo (COTP) in the enforcement of the regulations in this section. *Participant* means all persons and vessels attending the event.

(d) *Regulations.* During the enforcement of the safety zone in paragraph (a) of this section, the following regulations, along with those contained in this part, apply:

(1) The Coast Guard may patrol the event area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM.''

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels designated or assigned by the Captain of the Port Buffalo to patrol the event.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a no wake speed in a manner which will not endanger participants in the event or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through transit of official patrol vessels in the regulated area from 8 a.m. through 5 p.m. on September 18, 2022, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated area specified in this section, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special regulations in this section at the conclusion of the event.

Dated: September 13, 2022.

M.I. Kuperman,

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

[FR Doc. 2022–20093 Filed 9–15–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0161; FRL–10173–01–R6]

Air Plan Approval; Texas; Revised Emissions Inventory for the Dallas-Fort Worth Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) applicable to the Dallas-Fort Worth (DFW) serious ozone nonattainment area for the 2008 ozone National Ambient Air Quality Standard (NAAQS). Specifically, the EPA is approving a revised 2011 base year emissions inventory (EI) for the DFW area.

DATES: This rule is effective on October 17, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2020–0161. 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 or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Clovis Steib, EPA Region 6 Office, Infrastructure & Ozone Section, 214–665–7566, *steib.clovis@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

I. Background

The background for this action is discussed in detail in our October 9, 2020, proposal (85 FR 64084). In that document we proposed to approve the Reasonable Further Progress (RFP) demonstration and associated motor vehicle emission budgets, contingency measures should the area fail to make RFP emissions reductions or attain the 2008 ozone NAAQS by the applicable attainment date, and a revised 2011 base year EI for the DFW area. In the October 2020 proposal, we also described the status of the adequacy determination for the DFW nitrogen oxides (NO_X) and volatile organic compounds (VOC) Motor Vehicle Emission Budgets (MVEBs) for 2020 in accordance with 40 CFR 93.118(f)(2).

Our October 2020 proposal provided a detailed description of the revisions and the rationale for the EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for our October 2020 proposal action closed on November 9, 2020. We received comments during the public comment period from two sources: Air Law for All, Ltd. (ALFA), on behalf of the Center for Biological Diversity and the Sierra Club; and the North Central Texas Council of Governments (NCTCOG). The comments received from the NCTCOG were supportive of the October 2020 proposal. The comments received from ALFA were adverse and addressed all elements in the October 2020 proposal, except the 2011 revised base year EI. The comments received are available for review in the docket for this rulemaking. The EPA is only finalizing the proposed approval of revisions that address the revised 2011 base year EI at this time. The other elements described in the October 2020 proposal will be addressed in a separate rulemaking.

II. Environmental Justice Considerations

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' [1] The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.'' [2] For this final action, the EPA conducted screening analyses using the EJScreen (Version 2.0) tool. We conducted the analyses for the purpose of providing information to the public, not as a basis of our proposed action. The EJScreen analysis reports are available in the docket for this rulemaking. The EPA found, based on the EJScreen analyses, that this final action will not have disproportionately high or adverse human health or environmental effects on communities with EJ concerns, as the changes to the EI will result in a more accurate EI for the area upon which the State and EPA can assess the RFP Plan requirements for the DFW area.

III. Final Action

We are approving revisions to the Texas SIP that address the base year EI requirements for the DFW serious ozone nonattainment area for the 2008 ozone NAAQS. Specifically, we are approving the revised 2011 base year EI for the DFW area. The EI we are approving is provided in the Texas Commission on Environmental Quality's (TCEQ) revisions to the Texas SIP submitted on May 13, 2020, and in Table 1 of our October 2020 proposal.[3] We are approving the EI because it contains a comprehensive, accurate, and current inventory of actual emissions for all relevant sources in accordance with CAA sections 172(c)(3) and 182(a)(1). Texas adopted the EIs consistent with the requirement for reasonable public notice and opportunity for a public hearing.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 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

[1] See *https://www.epa.gov/environmentaljustice/learn-about-environmental-justice.*

[2] *https://www.epa.gov/environmentaljustice/learn-about-environmental-justice.*

[3] 85 FR 64084.

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).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 9, 2022.

Earthea Nance,

Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. In § 52.2270(e), the table titled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding the entry ''Revised 2011 Base Year Emissions Inventory'' at the end of the table to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

EPA Approved Nonregulatory Provisions and Quasi–Regulatory Measures in the Texas SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/ effective date	EPA approval date	Comments
*	*	*	*	*
Revised 2011 Base Year Emissions Inventory.	Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties, TX.	3/4/2020	9/16/2022, [Insert **Federal Register** citation].	

* * * * *

[FR Doc. 2022–19957 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2021–0553; FRL–9736–02–R2]

Approval of Air Quality Implementation Plans; New York; Consumer Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan (SIP) for the purposes of implementing control of air pollution for volatile organic compounds (VOC). The SIP revision consists of amendments to New York's Codes, Rules and Regulations (NYCRR) that implement control measures for Consumer Products. The intended effect of this action is to approve control strategies which will result in VOC emission reductions that will help attain and maintain the national ambient air quality standards (NAAQS) for ozone. These actions are being taken in accordance with the requirements of the Clean Air Act.

DATES: This final rule is effective on October 17, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2021–0553. 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 electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Longo, Air Programs Branch, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212) 637–3565, or by email at *longo.linda@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What is the background for this action?

On June 3, 2022 (87 FR 33699), the EPA published a Notice of Proposed Rulemaking that proposed to approve a State Implementation Plan (SIP) revision submitted by the State of New York on March 2, 2021, for purposes of revising Title 6 NYCRR part 235, ''Consumer Products.'' The SIP revision applies to a group of household and commonly used products, referred to as ''consumer products,'' with the goal of limiting and reducing Volatile Organic Compounds (VOC) emissions statewide.

The EPA's June 3, 2022, evaluation recognizes that the SIP revision is consistent with the Ozone Transport Commission Model Rule for consumer products and will help the State attain the NAAQS by improving air quality through reduced VOC emissions and promoting regional consumer product consistency. The revisions to 6 NYCRR part 235 are expected to reduce VOC released to the air by 5.3 tons per day statewide. Since the use of consumer products is highest in population centers, the VOC reductions in the New York City metro area alone, where the 2008 ozone standard is exceeded, is expected to be 3.4 tons per day. To achieve these emission reductions, new product categories were added with new VOC limits and existing product categories were revised to reduce their VOC limits. In addition, revisions were made in the definitions section at 6 NYCRR section 235–2.1 to provide transitional language and to cite which emission standards apply before or after the January 1, 2022, compliance date.

The specific details of New York's SIP revision submittal and the rationale for the EPA's approval action are explained in the EPA's proposed rulemaking and are not restated in this final action. For this detailed information, the reader is referred to the EPA's June 3, 2022, proposed rulemaking (87 FR 33699).

II. What comments were received in response to the EPA's proposed action?

In response to the EPA's June 3, 2022, proposed rulemaking on New York's SIP revision submittal, the EPA received one comment during the 30-day public comment period. After reviewing the comment, the EPA has determined that the comment is outside the scope of our proposed action or fails to identify any material issue necessitating a response. The comment does not raise issues germane to the EPA's proposed action. For this reason, the EPA will not provide a specific response to the comment. The specific comment may be viewed under Docket ID Number EPA–R02–OAR–2021–0553 on the *https://www.regulations.gov* website.

III. What action is the EPA taking?

The EPA is approving New York's revisions to the New York SIP and amendment to 6 NYCRR part 235, ''Consumer Products'' with a State effective date of February 11, 2021. Specifically, this rulemaking will add nine new product categories and two new subcategories with new VOC emission limits and reduced VOC emission limits in ten existing product categories. The revisions will help the State to comply with federal requirements pertaining to attainment and maintenance of the ozone NAAQS. The attendant revisions to 6 NYCRR section 200, ''General Provisions,'' section 200.9, Table 1, ''Referenced material'', for 6 NYCRR part 235 has been addressed under a separate rulemaking at 87 FR 52337, effective September 26, 2022.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the 6 NYCRR part 235, ''Consumer Products,'' regulations described in the amendments to 40 CFR part 52 as discussed in sections I. and III. of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

VI. 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, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and the Comptroller General of the United States. This action

[1] 62 FR 27968 (May 22, 1997).

is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

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

Lisa Garcia,

Regional Administrator, Region 2.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart HH—New York

■ 2. In § 52.1670, paragraph (c) is amended in the table by revising the entry for ''Title 6, Part 235'' to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW YORK STATE REGULATIONS AND LAWS

State citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	* * *
Title 6, Part 235	Consumer Products	2/11/2021	9/16/2022	• EPA approval finalized at [insert **Federal Register** citation].
*	*	*	*	* * *

* * * * *

[FR Doc. 2022–19831 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0522; FRL–10130–01–OCSPP]

Eugenol; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of eugenol (2-methoxy-4-(-2-propenyl)phenol) in or on all food commodities when used in accordance with good agricultural practices. SciReg, Inc., on behalf of Eden Research PLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of eugenol when used in accordance with this exemption.

DATES: This regulation is effective September 16, 2022. Objections and requests for hearings must be received on or before November 15, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0522, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0522 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before November 15, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0522, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets.*

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

II. Background and Statutory Findings

In the **Federal Register** of August 24, 2018 (83 FR 42818) (FRL–9982–37), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP8F8681) by Eden Research PLC, 6 Priory Ct., Priory Court Business Park, Poulton, Cirencester, GL7 5JB, United Kingdom (c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192). The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of eugenol (2-methoxy-4-(-2-propenyl)phenol) in or on raw agricultural commodities and processed foods when used in accordance with good agricultural practices. That document referenced a summary of the petition prepared by the petitioner Eden Research plc, c/o SciReg Inc., which is available in the docket, *https://www.regulations.gov.* There were no substantive comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. If EPA is able to determine that a tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, an exemption from the requirement of a tolerance may be established.

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

IV. Toxicological Profile

Eugenol is a naturally occurring allyl chain-substituted guaiacol and a member of the phenylpropanoid class of chemicals. Eugenol is also the main constituent of clove bud oil (80 to 90%) and clove leaf oil (82 to 88%), and is also found in cinnamon bark and leaves, Tulsi leaves, turmeric, pepper, ginger, oregano and thyme and various other herbs. As such, eugenol has long been part of the normal human diet. It is currently approved by the U.S. Food and Drug Administration (FDA) for use as a food additive and generally recognized as safe (GRAS) by the FDA (21 CFR 184.1257).

In conducting its hazard assessment for eugenol, EPA relied on data from the open scientific literature which includes (1) a 19-week dietary study in rats, (2) a 13-week dietary study in rats, (3) five prenatal developmental toxicity studies, and (4) several mutagenicity studies. In these data, no adverse effects were seen at the highest dose test of 300 mg/kg/day. For guideline studies, EPA generally recommends testing at a limit dose of 1000 mg/kg/day. However, based on the data reviewed from the open literature along with a body of knowledge regarding eugenol such as its low toxicity; rapid degradation into the environment; natural occurrence and widespread use in herbs and a part of the human diet; EPA would not expect to see adverse effects at higher doses.

With regard to the overall toxicological profile of eugenol, the active ingredient is of minimal toxicity. Where data was not available on eugenol for acute inhalation and primary eye irritation toxicity, it was provided on isoeugenol. Isoeugenol is structurally and physiochemically

similar to eugenol. Based on data provided for eugenol and isoeugenol, eugenol is of low acute oral toxicity (Toxicity Category III) and inhalation toxicity (Toxicity Category III). The active ingredient shows moderate dermal toxicity (Toxicity Category II). It is a mild eye (Toxicity Category III), a severe dermal irritant (Toxicity Category II), and a weak dermal sensitizer.

With regard to subchronic toxicity, developmental toxicity, reproductive toxicity and mutagenicity data requirements for the active ingredient eugenol, all data requirements were satisfied by a combination of guideline and non-guideline studies, data waivers, and citations to studies from the Agency database as well as to the open literature. For the 90-day oral data requirement, data was provided on isoeugenol. There were no adverse subchronic effects for any oral or dermal routes of exposure. Regarding subchronic dermal and subchronic inhalation, EPA granted waivers for these data requirements based on weight of evidence approach (WOE). Specific to subchronic dermal, eugenol is the main constituent of clove bud oil and clove leaf oil. It is used extensively in dentistry for its analgesic and anti-inflammatory activities. In addition, the dermal margin of exposure (MOE) is based on a 300 mg/kg/day point of departure (POD) range from 460–33,000. This is well above the Agency's Level of Concern (LOC) of 100.

In terms of subchronic inhalation toxicity, eugenol has low inhalation toxicity. Eugenol is used in spray perfumes up to a concentration of 10%, in air fresheners up to 5%, and oil of clove in massage products and perfumes up to 30%. Despite its broad usage in cosmetics and air fresheners, no or few adverse incidents have been reported. Lastly, the occupational handler inhalation MOEs are more than ten times the LOC of 100, ranging from 550,000 to 12,000,000.

In terms of mutagenicity, the active ingredient was determined to be non-mutagenic, and no adverse effects were identified relative to either developmental toxicity or reproductive toxicity.

In conclusion, there were no adverse subchronic effects for any oral, dermal, inhalation, or developmental routes of exposure and as stated previously, EPA has granted a waiver of these data requirements based on a WOE approach for the subchronic toxicity testing considering all the available eugenol hazard and exposure data. This WOE approach includes the following rationale:

1. Exposure from all routes and in all scenarios is considered to be negligible due to the following reasons: (1) eugenol is moderately volatile with a vapor pressure of 2.7 Pa @25oC; volatilization from both moist and dry soil surfaces is expected due to thymol's Henry's Law Constant of 1.92 x 10–6 atm-cu m/mol and vapor pressure; eugenol is expected to exist solely as a vapor in the ambient atmosphere, which would be readily degraded in the atmosphere by reaction with photochemically-produced hydroxyl radicals; the half-life for this reaction in the air is estimated to be 5.9 hours; vapor phase eugenol is also degraded in the atmosphere by reaction with ozone, the half-life for this reaction is estimated to be 23 hours; Eugenol also absorbs UV light and therefore is likely susceptible to direct photolysis by sunlight; and (2) eugenol is expected to readily biodegrade as demonstrated in guideline ready biodegradability studies.

2. Eugenol is naturally occurring and has long been part of the normal human diet. It is currently FDA-approved for use as a food additive (21 CFR 175.105). FDA also considers eugenol as GRAS (21 CFR 184.1257). Eugenol is commonly used in foods, air fresheners, cosmetics, and perfumes.

3. Eugenol demonstrates low toxicity throughout its toxicity database. No adverse effects were observed to highest dose tested (300 mg/kg/day) (exception is one eugenol study with no-observed-adverse-effect level (NOAEL) of 300 mg/kg/day and lowest-observed-adverse-effect-level (LOAEL) of 625 mg/kg/day based on decreased body weight) in the eugenol toxicity database. The database includes a 19-week dietary study in rats, a 13-week dietary study in rats, five prenatal developmental toxicity studies, and several genotoxicity studies. Data from the open literature indicates that eugenol is rapidly metabolized as well as rapidly excreted.

A. Toxicological Points of Departure/ Levels of Concern

Based on the toxicological profile, EPA did not identify any toxicological endpoints of concern for eugenol.

B. Exposure Assessment

1. *Dietary exposure from food, feed uses, and drinking water.* Eugenol is naturally occurring and has long been part of the normal human diet. As part of its qualitative risk assessment for eugenol, the Agency considered the potential for any additional dietary exposure to residues of eugenol from its proposed use as a fungicide and nematicide on agricultural use sites. EPA expects dietary (food and drinking water) exposures from the proposed use of eugenol to be negligible due to its short half-life and biodegradable nature. A quantitative dietary exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

2. *Residential exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure. Eugenol is not proposed to be registered for any pesticidal uses that would result in residential exposure. Residential exposure may occur from non-pesticidal uses such as air fresheners, cosmetics, and perfumes. However, a quantitative residential exposure assessment was not conducted since a toxicological endpoint for risk assessment was not identified.

3. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish a tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found that eugenol shares a common mechanism of toxicity with any other substances, and eugenol does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed eugenol does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

C. Safety Factor for Infants and Children

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

a qualitative risk assessment rather than a quantitative risk assessment would be most appropriate for the proposed use based on the toxicity profiles of eugenol along with its long history of human exposure. For this reason, a FQPA safety factor is not required at this time. EPA has concluded there are no toxicological endpoints of concern for the U.S. population, including infants and children.

D. Aggregate Risks

Based on the available data and information, EPA has concluded that a qualitative aggregate risk assessment is appropriate to support this action, and that risks of concern are not anticipated from aggregate exposure to eugenol. This conclusion is based on the low toxicity of eugenol, long history of human exposure to eugenol via the normal human diet and expected rapid degradation of eugenol in the environment.

A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found in the December 15, 2021, document entitled ''Risk Assessment for FIFRA Section 3 Registrations of Eugenol Technical Containing 99.62% Eugenol as an Active Ingredient, Mevalone, Containing 3.21% Eugenol as an Active Ingredient. Tolerance Exemption Petition for Eugenol''. This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

V. Determination of Safety for U.S. Population, Infants and Children

Based on the Agency's assessment, EPA concludes that there is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of eugenol. Therefore, the establishment of an exemption from the requirement of a tolerance for residues of eugenol (2-methoxy-4-(-2-propenyl)phenol) in or on all food commodities when used in accordance with good agricultural practices is safe under FFDCA section 408.

VI. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VII. Conclusions

Therefore, an exemption from the requirement of a tolerance is established for residues of eugenol (2-methoxy-4-(-2-propenyl)phenol) in or on all food commodities when used in accordance with good agricultural practices.

VIII. Statutory and Executive Order Reviews

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

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply. This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

IX. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 12, 2022.

Edward Messina,

Director, Office of Pesticide Programs.

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

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

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

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

■ 2. Add § 180.1395 to subpart D to read as follows:

§ 180.1395 Eugenol; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for eugenol (2-methoxy-4-(-2-propenyl)phenol) in or on all food commodities when used in accordance with good agricultural practices.

[FR Doc. 2022–20041 Filed 9–15–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0323; FRL–9934–01–OCSPP]

Oxirane, 2-Methyl-, Polymer With Oxirane, Mono-C9-11-Isoalkyl Ethers, C10-Rich, Phosphates, Potassium Salts; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts (CAS Reg. No. 2275654–37–8), when used as an inert ingredient (surfactant, related adjuvants of surfactant) in pesticide formulations used pre- and post-harvest as well as in formulations applied to livestock. Spring Regulatory Sciences, on behalf of Nouryon Chemicals LLC (USA), submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a tolerance for residues of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts (CAS Reg. No. 2275654–37–8), on food or feed commodities or when applied to livestock.

DATES: This regulation is effective September 16, 2022. Objections and requests for hearings must be received on or before November 15, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0323, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0323 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before November 15, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0323, by one of the following methods.

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets.*

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

II. Background and Statutory Findings

In the **Federal Register** of June 1, 2021 (86 FR 29231) (FRL–10023–95), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11515) filed by Spring Regulatory Sciences, 6620 Cypresswood Dr., Suite 250, Spring, TX 77379, on behalf of Nouryon Chemicals LLC, (USA), 131 S Dearborn, Suite 1000, Chicago, IL 60603–5566. The petition requested that 40 CFR 180.910 and 180.930 be amended by adding oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts (CAS Reg. No. 2275654–37–8) for use as an inert ingredient at no more than 30% by weight of the final pesticide formulation to the current tolerance exemption for alkyl alcohol alkoxylate phosphate and sulfate derivatives (AAAPSDs). That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any public comments.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(c)(2)(B) requires EPA to take into account the factors identified in section 408(b)(2)(C) and (D) when determining whether an exemption is safe.

Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.'' Section 408(b)(2)(D) lists other factors for consideration when making a safety determination.

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure to oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts follows.

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

EPA issued a rule in July 2009 exempting alkyl alcohol alkoxylate phosphate derivatives (AAAPDs) and alkyl alcohol alkoxylate sulfate derivatives (AAASDs), collectively referred to as AAAPSDs. Oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts (CAS No. 2275654–37–8) is an AAAPD that is synthesized as a mixture. Based on the structural and physicochemical similarities between oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts and other AAAPSDs previously assessed by EPA, the data used in the 2009 risk assessment for AAAPSDs is considered appropriate to assess oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts.

A. Toxicological Profile

The toxicological profile of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts remain unchanged from the Toxicological Profile for the AAAPSDs in Unit IV.A. of the July 29, 2009, rulemaking (74 FR 37571) (FRL–8424–6). Refer to that section for a discussion of the Toxicological Profile of AAAPSDs.

B. Toxicological Points of Departure/ Levels of Concern

The Toxicological Points of Departure/Levels of Concern of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts remain unchanged because the toxicological database remains the same for the AAAPSDs in Unit IV.B. of the July 29, 2009, rulemaking (74 FR 37571) (FRL–8424–6). Refer to that section for a discussion of the Toxicological Points of Departure/Levels of Concern of AAAPSDs.

C. Exposure Assessment

The exposure assessment for oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts remains unchanged from the July 29, 2009, rulemaking and supporting human health risk assessment for the AAAPSDs (D365210, June 8, 2009), because the PODs and use limitation remain the same.

D. Cumulative Effects From Substances With a Common Mechanism of Toxicity

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

EPA has not determined that oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts share a common mechanism of toxicity with any other substances, and oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts do not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

E. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. EPA continues to conclude that there is reliable data showing that the safety of infants and children would be adequately protected if the Food Quality Protection Act (FQPA) safety factor were reduced from 10x to 1x. The reasons for that decision are articulated in Unit IV.D. of the July 29, 2009, rulemaking.

F. Determination of Safety

As noted in the July 29, 2009, rulemaking, provided that the AAAPSDs are limited to no more than 30% by weight in the final formulation, there were no dietary, residential, or aggregate risks of concern for the U.S. population and all subpopulations. Based on its assessment of human health risk, EPA established exemptions from the requirement of a tolerance under 40 CFR 180.910, 180.920, and 180.930 for use of the AAAPSDs as inert ingredients at no more than 30% by weight in pesticide end-use products. Similarly, provided oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts, which is a AAAPD, is limited to no more than 30% by weight in the final formulation, EPA concludes that there are no dietary, residential, or aggregate risks of concern for the U.S. population and all subpopulations. Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts. More detailed information about the Agency's analysis can be found at *https://www.regulations.gov* in the documents titled ''Alkyl Alcohol Alkoxylate Phosphate and Sulfate Derivatives (AAAPDs and AAASDs—JITF CST 2 Inert Ingredients); Human Health Risk Assessment to Support Proposed Exemption from the Requirement of a Tolerance When Used as Inert Ingredients in Pesticide Formulations''; and ''IN–11515; Petition to Add oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts (CAS Reg. No. 2275654–37–8), to the Current Tolerance Exemption for Alkyl Alcohol Alkoxylate Phosphate and Sulfate Derivatives (AAAPSDs).'' These documents can be found in docket ID numbers EPA–HQ–OPP–2009–0131 and EPA–HQ–OPP–2021–0323.

V. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts in or on any food commodities. EPA is establishing a limitation on the amount of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts that may be used in pesticide formulations. This limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 30% by weight of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts in the final pesticide formulation.

VI. Conclusion

EPA determines that residues of oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts when limited to no more than 30% by weight in pesticide formulations are safe. Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 and 180.930 for oxirane, 2-methyl-, polymer with oxirane, mono-C9-11-isoalkyl ethers, C10-rich, phosphates, potassium salts, when used as an inert ingredient at no more than 30% by weight in pesticide formulations.

VII. Statutory and Executive Order Reviews

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

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

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

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

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 12, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

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

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

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

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

■ 2. In § 180.910, amend Table 1 to 180.910 by adding the entry ''α-alkyl (minimum C6 linear, branched, saturated and/or unsaturated)-ω-hydroxypolyoxyethylene polymer with or without polyoxypropylene, mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; minimum oxyethylene content is 2 moles; minimum oxypropylene content is 0 moles (CAS Reg. Nos.: 9004–80–2, 9046–01–9, 26982–05–8, 31800–89–2, 37280–82–3, 37281–86–0, 39341–09–8, 39341–65–6, 39464–66–9, 39464–69–2, 42612–52–2, 50643–20–4, 50668–50–3, 51325–10–1, 51884–64–1, 52019–36–0, 57486–09–6, 58206–38–5, 58318–92–6, 58857–49–1, 59112–71–9, 60267–55–2, 61837–79–4, 62362–49–6, 62482–61–5, 63747–86–4, 63887–54–7, 63887–55–8, 66020–37–9, 66272–25–1, 66281–20–7, 67711–84–6, 67786–06–5, 67989–06–4, 68070–99–5, 68071–17–0, 68071–35–2, 68071–37–4, 68130–44–9, 68130–45–0, 68130–46–1, 68130–47–2, 68186–29–8, 68186–34–5, 68186–36–7, 68186–37–8, 68238–84–6, 68311–02–4, 68311–04–6, 68332–75–2, 68389–72–0, 68400–75–9, 68413–78–5, 68425–73–0, 68425–75–2, 68439–39–4, 68458–48–0, 68511–15–9, 68511–36–4, 68511–37–5, 68551–05–3, 68585–15–9, 68585–16–0, 68585–17–1, 68585–36–4, 68585–39–7, 68603–24–7, 68607–14–7, 68610–64–0, 68610–65–1, 68649–29–6, 68649–30–9, 68650–84–0, 68815–11–2, 68855–46–9, 68856–03–1, 68890–90–4, 68890–91–5, 68891–12–3, 68891–13–4, 68891–26–9, 68908–64–5, 68909–65–9, 68909–67–1, 68909–69–3, 68921–24–4, 68921–60–8, 68954–87–0, 68954–88–1, 68954–92–7, 68987–35–9, 69029–43–2, 69980–69–4, 70247–99–3, 70248–14–5, 70844–96–1, 70903–63–8, 71965–23–6, 71965–24–7, 72480–27–4, 72623–67–7, 72623–68–8, 72828–56–9, 72828–57–0, 73018–34–5, 73038–25–2, 73050–08–5, 73050–09–6, 73361–29–2, 73378–71–9, 73378–72–0, 73559–42–9, 73559–43–0, 73559–44–1, 73559–45–2, 74499–76–6, 76930–25–1, 78041–18–6, 78330–22–0, 78330–24–2, 82465–25–6, 84843–37–8, 91254–26–1, 93925–54–3, 95014–34–9, 96416–89–6, 99924–51–3, 103170–31–6, 103170–32–7, 106233–09–4, 106233–10–7, 108818–88–8, 110392–49–9, 111798–26–6, 111905–50–1, 116671–23–9, 117584–36–8, 119415–05–3, 120913–45–3, 121158–61–0, 121158–63–2, 123339–53–7, 125139–13–1, 125301–86–2, 125301–87–3, 126646–03–5, 129208–04–4, 129870–77–5, 129870–80–0, 130354–37–9, 136504–88–6, 143372–50–3, 143372–51–4, 144336–75–4, 146815–57–8, 151688–56–1, 154518–39–5, 154518–40–8, 155240–11–2, 157627–92–4, 159704–69–5, 160498–49–7, 160611–24–5, 171543–66–1, 172027–16–6, 172274–69–0, 176707–42–9, 181963–82–6, 188741–55–1, 191940–53–1, 210493–60–0, 210993–53–6, 2275654–37–8, 246159–55–7, 251298–11–0, 261627–68–3, 290348–69–5, 290348–70–8, 317833–96–8, 340681–28–9, 422563–19–7, 422563–26–6, 522613–09–8, 717140–06–2, 717140–09–5, 717827–29–7, 762245–80–7, 762245–81–8, 866538–89–8, 866538–90–1, 873662–29–4, 913068–96–9, 936100–29–7, 936100–30–0, 1072943–56–6, 1087209–87–7, 1174313–54–2, 1187742–89–7, 1187743–35–6, 1205632–03–6, 1233235–49–8, 1451002–50–8, 1456802–88–2, 1456802–89–3, 1456803–12–5)'' in alphabetical order to read as follows.

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

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TABLE 1 TO 180.910

Inert ingredients	Limits	Uses
* * * * * * *		
α-alkyl (minimum C_6 linear, branched, saturated and/or unsaturated)-ωhydroxypolyoxyethylene polymer with or without polyoxypropylene, mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; minimum oxyethylene content is 2 moles; minimum oxypropylene content is 0 moles (CAS Reg. Nos.: 9004–80–2, 9046–01–9, 26982–05–8, 31800–89–2, 37280–82–3, 37281–86–0, 39341–09–8, 39341–65–6, 39464–66–9, 39464–69–2, 42612–52–2, 50643–20–4, 50668–50–3, 51325–10–1, 51884–64–1, 52019–36–0, 57486–09–6, 58206–38–5, 58318–92–6, 58857–49–1, 59112–71–9, 60267–55–2, 61837–79–4, 62362–49–6, 62482–61–5, 63747–86–4, 63887–54–7, 63887–55–8, 66020–37–9, 66272–25–1, 66281–20–7, 67711–84–6, 67786–06–5, 67989–06–4, 68070–99–5, 68071–17–0, 68071–35–2, 68071–37–4, 68130–44–9, 68130–45–0, 68130–46–1, 68130–47–2, 68186–29–8, 68186–34–5, 68186–36–7, 68186–37–8, 68238–84–6, 68311–02–4, 68311–04–6, 68332–75–2, 68389–72–0, 68400–75–9, 68413–78–5, 68425–73–0, 68425–75–2, 68439–39–4, 68458–48–0, 68511–15–9, 68511–36–4, 68511–37–5, 68551–05–3, 68585–15–9, 68585–16–0, 68585–17–1, 68585–36–4, 68585–39–7, 68603–24–7, 68607–14–7, 68610–64–0, 68610–65–1, 68649–29–6, 68649–30–9, 68650–84–0, 68815–11–2, 68855–46–9, 68856–03–1, 68890–90–4, 68890–91–5, 68891–12–3, 68891–13–4, 68891–26–9, 68908–64–5, 68909–65–9, 68909–67–1, 68909–69–3, 68921–24–4, 68921–60–8, 68954–87–0, 68954–88–1, 68954–92–7, 68987–35–9, 69029–43–2, 69980–69–4, 70247–99–3, 70248–14–5, 70844–96–1, 70903–63–8, 71965–23–6, 71965–24–7, 72480–27–4, 72623–67–7, 72623–68–8, 72828–56–9, 72828–57–0, 73018–34–5, 73038–25–2, 73050–08–5, 73050–09–6, 73361–29–2, 73378–71–9, 73378–72–0, 73559–42–9, 73559–43–0, 73559–44–1, 73559–45–2, 74499–76–6, 76930–25–1, 78041–18–6, 78330–22–0, 78330–24–2, 82465–25–6, 84843–37–8, 91254–26–1, 93925–54–3, 95014–34–9, 96416–89–6, 99924–51–3, 103170–31–6, 103170–32–7, 106233–09–4, 106233–10–7, 108818–88–8, 110392–49–9, 111798–26–6, 111905–50–1, 116671–23–9, 117584–36–8, 119415–05–3, 120913–45–3, 121158–61–0, 121158–63–2, 123339–53–7, 125139–13–1, 125301–86–2, 125301–87–3, 126646–03–5, 129208–04–4, 129870–77–5, 129870–80–0, 130354–37–9, 136504–88–6, 143372–50–3, 143372–51–4, 144336–75–4, 146815–57–8, 151688–56–1, 154518–39–5, 154518–40–8, 155240–11–2, 157627–92–4, 159704–69–5, 160498–49–7, 160611–24–5, 171543–66–1, 172027–16–6, 172274–69–0, 176707–42–9, 181963–82–6, 188741–55–1, 191940–53–1, 210493–60–0, 210993–53–6, 2275654–37–8, 246159–55–7, 251298–11–0, 261627–68–3, 290348–69–5, 290348–70–8, 317833–96–8, 340681–28–9 , 422563–19–7, 422563–26–6, 522613–09–8, 717140–06–2, 717140–09–5, 717827–29–7, 762245–80–7, 762245–81–8, 866538–89–8, 866538–90–1, 873662–29–4, 913068–96–9, 936100–29–7, 936100–30–0, 1072943–56–6, 1087209–87–7, 1174313–54–2, 1187742–89–7, 1187743–35–6, 1205632–03–6, 1233235–49–8, 1451002–50–8, 1456802–88–2, 1456802–89–3, 1456803–12–5).	Not to exceed 30% by weight in pesticide formulations.	Surfactants, related adjuvants of surfactants.
* * * * * * *		

■ 3. In § 180.930, amend Table 1 to 180.930 by adding the entry ''α-alkyl (minimum C6 linear, branched, saturated and/or unsaturated)-ω-hydroxypolyoxyethylene polymer with or without polyoxypropylene, mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; minimum oxyethylene content is 2 moles; minimum oxypropylene content is 0 moles (CAS Reg. Nos.: 9004–80–2, 9046–01–9, 26982–05–8, 31800–89–2, 37280–82–3, 37281–86–0, 39341–09–8, 39341–65–6, 39464–66–9, 39464–69–2, 42612–52–2, 50643–20–4, 50668–50–3, 51325–10–1, 51884–64–1, 52019–36–0, 57486–09–6, 58206–38–5, 58318–92–6, 58857–49–1, 59112–71–9, 60267–55–2, 61837–79–4, 62362–49–6, 62482–61–5, 63747–86–4, 63887–54–7, 63887–55–8, 66020–37–9, 66272–25–1, 66281–20–7, 67711–84–6, 67786–06–5, 67989–06–4, 68070–99–5, 68071–17–0, 68071–35–2, 68071–37–4, 68130–44–9, 68130–45–0, 68130–46–1, 68130–47–2, 68186–29–8, 68186–34–5, 68186–36–7, 68186–37–8, 68238–84–6, 68311–02–4, 68311–04–6, 68332–75–2, 68389–72–0, 68400–75–9, 68413–78–5, 68425–73–0, 68425–75–2, 68439–39–4, 68458–48–0, 68511–15–9, 68511–36–4, 68511–37–5, 68551–05–3, 68585–15–9, 68585–16–0, 68585–17–1, 68585–36–4, 68585–39–7, 68603–24–7, 68607–14–7, 68610–64–0, 68610–65–1, 68649–29–6, 68649–30–9, 68650–84–0, 68815–11–2, 68855–46–9, 68856–03–1, 68890–90–4, 68890–91–5, 68891–12–3, 68891–13–4, 68891–26–9, 68908–64–5, 68909–65–9, 68909–67–1, 68909–69–3, 68921–24–4, 68921–60–8, 68954–87–0, 68954–88–1, 68954–92–7, 68987–35–9, 69029–43–2, 69980–69–4, 70247–99–3, 70248–14–5, 70844–96–1, 70903–63–8, 71965–23–6, 71965–24–7, 72480–27–4, 72623–67–7, 72623–68–8, 72828–56–9, 72828–57–0, 73018–34–5, 73038–25–2, 73050–08–5, 73050–09–6, 73361–29–2, 73378–71–9, 73378–72–0, 73559–42–9, 73559–43–0, 73559–44–1, 73559–45–2, 74499–76–6, 76930–25–1, 78041–18–6, 78330–22–0, 78330–24–2, 82465–25–6, 84843–37–8, 91254–26–1, 93925–54–3, 95014–34–9, 96416–89–6, 99924–51–3, 103170–31–6, 103170–32–7, 106233–09–4, 106233–10–7, 108818–88–8, 110392–49–9, 111798–26–6, 111905–50–1, 116671–23–9, 117584–36–8, 119415–05–3, 120913–45–3, 121158–61–0, 121158–63–2, 123339–53–7, 125139–13–1, 125301–86–2, 125301–87–3, 126646–03–5, 129208–04–4, 129870–77–5, 129870–80–0, 130354–37–9, 136504–88–6, 143372–50–3, 143372–51–4, 144336–75–4, 146815–57–8, 151688–56–1, 154518–39–5, 154518–40–8, 155240–11–2, 157627–92–4, 159704–69–5, 160498–49–7, 160611–24–5, 171543–66–1, 172027–16–6, 172274–69–0, 176707–42–9, 181963–82–6, 188741–55–1, 191940–53–1, 210493–60–0, 210993–53–6, 2275654–37–8, 246159–55–7, 251298–11–0, 261627–68–3, 290348–69–5, 290348–70–8, 317833–96–8, 340681–28–9, 422563–19–7, 422563–26–6, 522613–09–8, 717140–06–2, 717140–09–5, 717827–29–7, 762245–80–7, 762245–81–8, 866538–89–8, 866538–90–1, 873662–29–4, 913068–96–9, 936100–29–7, 936100–30–0, 1072943–56–6, 1087209–87–7, 1174313–54–2, 1187742–89–7, 1187743–35–6, 1205632–03–6, 1233235–49–8, 1451002–50–8, 1456802–88–2, 1456802–89–3, 1456803–12–5)'' in alphabetical order to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

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TABLE 1 TO 180.930

Inert ingredients	Limits	Uses
* * * *	* *	*
α-alkyl (minimum C6 linear, branched, saturated and/or unsaturated)-ω-hydroxypolyoxyethylene polymer with or without polyoxypropylene, mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; minimum oxyethylene content is 2 moles; minimum oxypropylene content is 0 moles (CAS Reg. Nos.: 9004–80–2, 9046–01–9, 26982–05–8, 31800–89–2, 37280–82–3, 37281–86–0, 39341–09–8, 39341–65–6, 39464–66–9, 39464–69–2, 42612–52–2, 50643–20–4, 50668–50–3, 51325–10–1, 51884–64–1, 52019–36–0, 57486–09–6, 58206–38–5, 58318–92–6, 58857–49–1, 59112–71–9, 60267–55–2, 61837–79–4, 62362–49–6, 62482–61–5, 63747–86–4, 63887–54–7, 63887–55–8, 66020–37–9, 66272–25–1, 66281–20–7, 67711–84–6, 67786–06–5, 67989–06–4, 68070–99–5, 68071–17–0, 68071–35–2, 68071–37–4, 68130–44–9, 68130–45–0, 68130–46–1, 68130–47–2, 68186–29–8, 68186–34–5, 68186–36–7, 68186–37–8, 68238–84–6, 68311–02–4, 68311–04–6, 68332–75–2, 68389–72–0, 68400–75–9, 68413–78–5, 68425–73–0, 68425–75–2, 68439–39–4, 68458–48–0, 68511–15–9, 68511–36–4, 68511–37–5, 68551–05–3, 68585–15–9, 68585–16–0, 68585–17–1, 68585–36–4, 68585–39–7, 68603–24–7, 68607–14–7, 68610–64–0, 68610–65–1, 68649–29–6, 68649–30–9, 68650–84–0, 68815–11–2, 68855–46–9, 68856–03–1, 68890–90–4, 68890–91–5, 68891–12–3, 68891–13–4, 68891–26–9, 68908–64–5, 68909–65–9, 68909–67–1, 68909–69–3, 68921–24–4, 68921–60–8, 68954–87–0, 68954–88–1, 68954–92–7, 68987–35–9, 69029–43–2, 69980–69–4, 70247–99–3, 70248–14–5, 70844–96–1, 70903–63–8, 71965–23–6, 71965–24–7, 72480–27–4, 72623–67–7, 72623–68–8, 72828–56–9, 72828–57–0, 73018–34–5, 73038–25–2, 73050–08–5, 73050–09–6, 73361–29–2, 73378–71–9, 73378–72–0, 73559–42–9, 73559–43–0, 73559–44–1, 73559–45–2, 74499–76–6, 76930–25–1, 78041–18–6, 78330–22–0, 78330–24–2, 82465–25–6, 84843–37–8, 91254–26–1, 93925–54–3, 95014–34–9, 96416–89–6, 99924–51–3, 103170–31–6, 103170–32–7, 106233–09–4, 106233–10–7, 108818–88–8, 110392–49–9, 111798–26–6, 111905–50–1, 116671–23–9, 117584–36–8, 119415–05–3, 120913–45–3, 121158–61–0, 121158–63–2, 123339–53–7, 125139–13–1, 125301–86–2, 125301–87–3, 126646–03–5, 129208–04–4, 129870–77–5, 129870–80–0, 130354–37–9, 136504–88–6, 143372–50–3, 143372–51–4, 144336–75–4, 146815–57–8, 151688–56–1, 154518–39–5, 154518–40–8, 155240–11–2, 157627–92–4, 159704–69–5, 160498–49–7, 160611–24–5, 171543–66–1, 172027–16–6, 172274–69–0, 176707–42–9, 181963–82–6, 188741–55–1, 191940–53–1, 210493–60–0, 210993–53–6, 2275654–37–8, 246159–55–7, 251298–11–0, 261627–68–3, 290348–69–5, 290348–70–8, 317833–96–8, 340681–28–9 , 422563–19–7, 422563–26–6, 522613–09–8, 717140–06–2, 717140–09–5, 717827–29–7, 762245–80–7, 762245–81–8, 866538–89–8, 866538–90–1, 873662–29–4, 913068–96–9, 936100–29–7, 936100–30–0, 1072943–56–6, 1087209–87–7, 1174313–54–2, 1187742–89–7, 1187743–35–6, 1205632–03–6, 1233235–49–8, 1451002–50–8, 1456802–88–2, 1456802–89–3, 1456803–12–5).	Not to exceed 30% by weight in pesticide formulations.	Surfactants, related adjuvants of surfactants.
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[FR Doc. 2022–20040 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 87, No. 179
Friday, September 16, 2022

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Chapter I

RIN 3206–AO45

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Chapter I

RIN 1545–BQ37

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Chapter XXV

RIN 1210–AC14

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Subchapter B

[CMS–9900–NC]

RIN 0938–AU98

Request for Information; Advanced Explanation of Benefits and Good Faith Estimate for Covered Individuals

AGENCY: Office of Personnel Management (OPM); Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration (EBSA), Department of Labor (DOL); and Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: This document is a request for information (RFI) to inform DOL, HHS, and the Treasury (collectively, the Departments) and OPM's rulemaking for advanced explanation of benefits (AEOB) and good faith estimate (GFE) requirements of the No Surprises Act, which was enacted as part of the Consolidated Appropriations Act, 2021 (CAA). This RFI seeks information and recommendations on transferring data from providers and facilities to plans, issuers, and carriers; other policy approaches; and the economic impacts of implementing these requirements.

DATES: To be assured consideration, comments must be received at one of the addresses provided below by November 15, 2022.

ADDRESSES: In commenting, refer to file code CMS–9900–NC.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *https://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9900–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9900–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Padma Babubhai Shah, Office of Personnel Management (OPM), (202) 606–4056.

Emily Ames, Centers for Medicare & Medicaid Services (CMS), (301) 492–4246.

William Fischer, Internal Revenue Service (IRS), (202) 317–5500.

Elizabeth Schumacher or Frank Kolb, Employee Benefits Security Administration (EBSA), (202) 693–8335.

Customer Service Information: Information from OPM on health benefits plans offered under the FEHB Program can be found on the OPM website (*www.opm.gov/healthcare-insurance/healthcare/*). Individuals interested in obtaining information from the Department of Labor (DOL) concerning employment-based health coverage laws may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit DOL's website (*www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the CMS website (*www.cms.gov/cciio*) and information on the No Surprises Act can be found at *www.cms.gov/NoSurprises.*

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. The Departments and OPM post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *www.regulations.gov.* Follow the search instructions on that website to view public comments. The Departments and OPM will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that an individual will take actions to harm another individual. The Departments and OPM continue to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

On December 27, 2020, the Consolidated Appropriations Act, 2021 (CAA), which includes the No Surprises Act, was enacted.[1] The No Surprises Act provides Federal protections against surprise billing and limits out-of-network cost sharing under many of the circumstances in which surprise bills arise most frequently. Surprise billing occurs when an individual receives an unexpected medical bill from a health care provider or facility, including providers of air ambulance services, after receiving medical services from a provider or facility that, usually unknown to the covered individual, is a nonparticipating provider or facility in the individual's health plan or health insurance coverage.

Public Health Service (PHS) Act section 2799B–6, as added by section

[1] Public Law 116–260 (December 27, 2020).

112 of title I of Division BB of the CAA, requires providers and facilities,[2] upon an individual's scheduling of an item or service, or upon an individual's request, to inquire if the individual is enrolled in a group health plan or group or individual health insurance coverage. If the individual is enrolled in a plan or coverage and is seeking to have a claim for such item or service submitted to such plan or coverage, providers and facilities must provide to the plan, issuer, or carrier, a good faith estimate (GFE) of the expected charges for furnishing the scheduled item or service (and any items or services reasonably expected to be provided in conjunction with those items or services, including those provided by another provider or facility), along with the expected billing and diagnostic codes for these items or services. If the individual is not enrolled or is not seeking to have a claim for such item or service submitted to such plan or coverage (that is, an uninsured or self-pay individual), providers and facilities must provide the GFE directly to the individual, as described in PHS Act section 2799B–6 and implementing regulations at 45 CFR 149.610. The Department of Health and Human Services (HHS) interprets the requirements described in PHS Act section 2799B–6 to apply to providers and facilities furnishing items or services to individuals covered by the Federal Employees Health Benefits (FEHB) Program in the same manner as for individuals enrolled in a group health plan or group or individual health insurance coverage.[3]

If the uninsured (or self-pay) individual schedules an item or service to be furnished by the provider or facility at least 3 business days in advance of the date the item or service is expected to be furnished, the GFE must be provided within 1 business day after the date of scheduling the item or service. However, if the item or service is scheduled at least 10 business days in advance of the date the item or service is expected to be furnished, or if the uninsured (or self-pay) individual requests the information, the GFE must be provided no later than 3 business days after the date of the request.[4] These provisions apply beginning on January 1, 2022.

Internal Revenue Code (Code) section 9816(f), Employee Retirement Income Security Act of 1974 (ERISA) section 716(f), and PHS Act section 2799A–1(f), as added by section 111 of title I of Division BB of the CAA, require group health plans and health insurance issuers offering group or individual health insurance coverage, upon receiving a GFE regarding an item or service as described in PHS Act section 2799B–6, to send a covered individual, through mail or electronic means, as requested by the covered individual, an advanced explanation of benefits (AEOB) in clear and understandable language. Pursuant to 5 U.S.C. 8902(p), FEHB carriers must comply with AEOB requirements in the same manner as those provisions apply to a group health plan or health insurance issuer offering group or individual health insurance coverage. The plan, issuer, or carrier must provide an AEOB to the covered individual no later than 1 business day after the plan, issuer, or carrier receives the GFE. However, if such item or service was scheduled at least 10 business days before such item or service is to be furnished (or if the covered individual requested the information) the plan, issuer, or carrier must provide an AEOB to the covered individual within 3 business days after the date on which the plan, issuer, or carrier receives the GFE or request. The AEOB must include the following information: (1) the network status of the provider or facility; (2) the contracted rate for the item or service, or if the provider or facility is not a participating provider or facility, a description of how the covered individual can obtain information on providers and facilities that are participating; (3) the GFE received from the provider or facility; (4) a GFE of the amount the plan or coverage is responsible for paying; (5) the amount of any cost sharing which the covered individual would be responsible for paying with respect to the GFE received from the provider or facility; (6) a GFE of the amount that the covered individual has incurred towards meeting the limit of the financial responsibility (including with respect to deductibles and out-of-pocket maximums) under the plan or coverage as of the date of the AEOB; and (7) disclaimers indicating whether coverage is subject to any medical management techniques (including concurrent review, prior authorization, and step-therapy or fail-first protocols). The AEOB must also indicate that the information provided is only an estimate based on the items and services reasonably expected to be furnished, at the time of scheduling (or requesting) the item or service, and is subject to change; and any other information or disclaimer the plan, issuer, or carrier determines is appropriate and that is consistent with information and disclaimers required under this section of the statute. These provisions apply with respect to plan years (in the individual market, policy years) beginning on or after January 1, 2022.

HHS issued regulations implementing PHS Act section 2799B–6 related to GFEs for uninsured (or self-pay) individuals in interim final rulemaking that was published in the **Federal Register** on October 7, 2021, but deferred enforcement of the portion of PHS Act section 2799B–6 related to GFEs for covered individuals who are seeking to have a claim submitted to their plan or issuer for scheduled items or services.[5] In the preamble to that rule (and as stated in guidance issued by the Departments), the Departments also deferred enforcement of Code section 9816(f), ERISA section 716(f), and PHS Act section 2799A–1(f) related to the requirement that plans and issuers provide an AEOB.[6] The decision to defer enforcement was made in response to stakeholder requests that the Departments first establish standards for the data transfer from providers and facilities to plans and issuers, and give plans, issuers, providers, and facilities enough time to build the infrastructure necessary to support the transfers. The Departments agreed that compliance with these sections was likely not possible by January 1, 2022, and indicated an intent to undertake notice and comment rulemaking in the future to implement these provisions, including establishing appropriate data transfer standards. Until that time, HHS is deferring enforcement of the

[2] Under 45 CFR 149.610(a)(2)(vii) through (viii), ''[h]ealth care provider (provider)'' is defined for purposes of the GFE requirements as ''a physician or other health care provider who is acting within the scope of practice of that provider's license or certification under applicable State law, including a provider of air ambulance services.'' ''Health care facility (facility)'' is defined for purposes of the GFE requirements as ''an institution (such as a hospital or hospital outpatient department, critical access hospital, ambulatory surgical center, rural health center, federally qualified health center, laboratory, or imaging center) in any State in which State or applicable local law provides for the licensing of such an institution, that is licensed as such an institution pursuant to such law or is approved by the agency of such State or locality responsible for licensing such institution as meeting the standards established for such licensing.''

[3] *See* 86 FR 55980, 55983 at FN 12.

[4] PHS Act section 2799B–6.

[5] Requirements Related to Surprise Billing; Part II, 86 FR 55980, 55983 (October 7, 2021), available at *https://www.federalregister.gov/documents/2021/10/07/2021-21441/requirements-related-to-surprise-billing-part-ii*.

[6] *Id.;* FAQs about Affordable Care Act and Consolidated Appropriations Act, 2021 Implementation Part 49 (August 20, 2021), Q6, available at *https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-49.pdf* and *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/FAQs-Part-49.pdf*.

requirement that providers and facilities must provide a GFE to plans and issuers for covered individuals enrolled in a health plan or coverage and seeking to have a claim submitted for scheduled (or requested) items or services to their plan or coverage, and the Departments are deferring enforcement of the requirement that plans and issuers must provide these covered individuals with an AEOB. FEHB carriers' compliance will be concurrent and consistent with implementing regulations issued by the Departments, subject to OPM regulation and FEHB contract terms.

II. Solicitation of Public Comments

Recognizing the complex issues involved in developing regulations to implement Code section 9816(f), ERISA section 716(f), and PHS Act sections 2799A–1(f) and 2799B–6, the Departments and OPM are requesting information from the public on a range of issues to better inform future rulemaking. The Departments and OPM welcome comments from all interested members of the public, including individuals potentially eligible to receive an AEOB, organizations serving or representing the interests of such individuals, health care providers and facilities, group health plans and health insurance issuers, carriers, third-party vendors, states, standards development organizations, and other health programs.

A. Transferring Data From Providers and Facilities to Plans, Issuers, and Carriers

As noted previously, the Departments and OPM have not yet established regulatory standards for the transfer of GFE data from providers and facilities to plans, issuers, and carriers. However, as CMS indicated in a blog post on December 8, 2021,[7] the Health Level 7 (HL7®) Fast Healthcare Interoperability Resources (FHIR®) standard holds potential for supporting interoperability and enabling new entrants and competition throughout the health care industry. FHIR is a standard that was developed specifically to support interoperability and securely facilitate the exchange of health care information between systems. In the time since the FHIR standard was first created, the health care industry has rapidly embraced the standard through substantial investments in industry pilots, specification development, and the deployment of FHIR-based Application Programming Interfaces (APIs) supporting a variety of business needs.[8] Some industry-led FHIR Accelerator™ programs, such as Da Vinci and CARIN,[9] have created implementation guides (IGs) that CMS has recommended for use in meeting the requirements of the *CMS Interoperability and Patient Access* final rule for Patient Access and Provider Directory APIs.[10] In 2021, the Da Vinci FHIR Accelerator™ program launched a Patient Cost Transparency project dedicated to developing an IG that could be used to exchange AEOB and GFE information. This IG uses a FHIR-based API for exchange of AEOB and GFE data from providers to payers and is currently published as a Standard for Trial Use (STU). The current version of the STU is useable by industry today, and the Patient Cost Transparency workgroup continues to revise and update draft standard versions based on public comments received through the ballot process. The ballot process supports industry consensus on the IG and ensures its usability by all stakeholders—including payers, providers, and vendors—to ultimately serve patients and ensure they have access to the information they need.

The Departments and OPM invite the public to use their expertise and the information in this section to respond to the questions in this RFI in their comments. The input may help inform development of future regulations.

- What issues should the Departments and OPM consider as they weigh policies to encourage the use of a FHIR-based API for the real-time exchange of AEOB and GFE data?

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires the Secretary of HHS to adopt standards and operating rules for certain transactions that apply to covered entities (health plans, health care clearinghouses, and certain health care providers). The types of transactions to which these requirements apply are specified in section 1173(a)(2) of the Social Security Act. However, transactions related to advance cost estimates, such as exchanges of AEOB and GFE data, are not contemplated in section 1173(a)(2) of the Social Security Act and are therefore not among the financial and administrative transactions for which the Secretary of HHS must adopt HIPAA standards. As such, no law or regulation currently requires plans, issuers, carriers, providers, or facilities to use a specific transaction standard to exchange AEOB or GFE data. Instead, the Secretaries of the Treasury, Labor, and HHS (the Secretaries) have general rulemaking authority to establish standards necessary to implement the provisions of Code section 9816(f), ERISA section 716(f), and PHS Act section 2799A–1(f).

Although HIPAA Administrative Simplification provisions do not apply to the exchange of AEOB and GFE data, HIPAA Privacy and Security requirements do. Plans, issuers, carriers, providers, and facilities that conduct certain health care transactions electronically are generally considered covered entities under the HIPAA Privacy and Security Rules and must comply with HIPAA Privacy and Security requirements in exchanging AEOB and GFE data.[11]

The Departments and OPM solicit feedback on the following:

- What privacy concerns does the transfer of AEOB and GFE data raise, considering these transfers would list the individual's scheduled (or requested) item or service, including the expected billing and diagnostic codes for that item or service? Does the exchange of AEOB and GFE data create new or unique privacy concerns for individuals enrolled in a plan or coverage? Are there any special considerations that Departments should take into account regarding individuals who are enrolled in a plan or coverage along with other members of their household? How should the Departments and OPM address these concerns?

Additionally, the Office of the National Coordinator for Health Information Technology (ONC) Health IT Certification Program[12] consists of specified standards, implementation specifications, and certification criteria that health IT modules, including electronic health records systems, can meet.

[7] Interoperability and the Connected Health Care System (December 8, 2021), available at *https://www.cms.gov/blog/interoperability-and-connected-health-care-system*.

[8] Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges, and Health Care Providers (CMS Interoperability and Patient Access final rule), 85 FR 25510 (May 1, 2020), available at *https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-05050.pdf*.

[9] CMS supports Da Vinci and CARIN by funding contracts to build implementation guides (IGs). CARIN is an accelerator project responsible for the IG used for the Patient Access API. Other accelerators include Gravity (social risk data), Codex (Cancer), and Helios (Public Health).

[10] 85 FR 25510.

[11] 45 CFR part 160 and subparts A and E of 45 CFR part 164.

[12] *See* ONC Health IT Certification Program, available at *https://www.healthit.gov/topic/certification-ehrs/certification-health-it*.

• How could updates to this program support the ability of providers and facilities to exchange GFE information with plans, issuers, and carriers or support alignment between the exchange of GFE information and the other processes providers and facilities may engage in involving the exchange of clinical and administrative data, such as electronic prior authorization?

• Would the availability of certification criteria under the ONC Health IT Certification Program for use by plans, issuers, and carriers, or health IT developers serving plans, issuers, and carriers, help to enable interoperability of API technology adopted by these entities?

Many providers and facilities exchange information with plans, issuers, and carriers using manual or paper-based technologies, such as portals, fax machines, or call centers. Up to 46 percent of prior authorization requests are still submitted by fax, and 60 percent require a telephone call during the prior authorization process.[13] The Departments and OPM are also interested in understanding if there are plans, issuers, and carriers that are small, rural, or have other characteristics (such as being new or financially vulnerable, or operating only in the individual or small group market), such that deploying standards-based API technology might pose a significant barrier to the plan's, issuer's, or carrier's ability to provide coverage to consumers.

• What, if any, burdens or barriers would be encountered by small, rural, or other providers, facilities, plans, issuers, and carriers in complying with industry-wide standards-based API technology requirements for the exchange of AEOB and GFE data? How many small, rural, or other providers, facilities, plans, issuers, and carriers would encounter these burdens or barriers in complying with such technology requirements?

• Are there any approaches that the Departments and OPM should consider, or flexibility that should be provided (such as an exception or a phased-in approach to requiring providers and payers to adopt a standards-based API to exchange AEOB and GFE data), to account for small, rural, or other providers, facilities, plans, issuers, and carriers?

• If the Departments and OPM were to provide such flexibility, what factors should they consider in defining eligible providers, facilities, plans, issuers, and carriers?

B. Other Policy Considerations

In addition to issues related to how providers and facilities would transfer GFEs to plans, issuers, and carriers, there are also issues related to ensuring that providers and facilities transfer the necessary data for plans, issuers, and carriers to prepare accurate AEOBs that take into account how the No Surprises Act's or a State's surprise billing laws may affect an individual's benefits related to the items or services specified in the AEOB, and the individual's financial responsibility for these items or services.[14] Under the No Surprises Act and its implementing regulations, nonparticipating providers of nonemergency items or services performed with respect to a visit to certain participating facilities are generally prohibited from charging individuals cost-sharing amounts greater than those that would apply in-network, and are prohibited from balance billing the individual; and, for these services, plans and issuers must count this cost sharing toward any in-network deductibles and out-of-pocket maximums. The same general standards also apply with respect to emergency services (including post-stabilization services, under certain circumstances) performed by nonparticipating providers and facilities, and to air ambulance services furnished by nonparticipating air ambulance service providers.

Additionally, with respect to post-stabilization services furnished by nonparticipating providers or facilities, and nonemergency services performed by nonparticipating providers with respect to patient visits to certain participating facilities, the nonparticipating provider or facility under certain circumstances may seek the individual's consent to waive those protections.[15] The Departments and OPM request comment on the following questions in order to understand how to ensure that plans, issuers, and carriers have the requisite information to prepare an AEOB that takes into account an individual's consent, or lack of consent, to waiving balance billing and cost-sharing protections.[16]

• Should a nonparticipating provider of nonemergency services be required to inform a plan, issuer, or carrier, as part of or concurrently with the GFE, whether the requested or scheduled items or services would be furnished with respect to the individual's visit to a participating facility? Should this requirement depend on whether the GFE was requested, as opposed to whether the furnishing of the items or services has been scheduled?

• In instances in which it is permissible for a nonparticipating provider or facility to request consent from an individual to waive the No Surprises Act's balance billing and cost-sharing protections, should the provider or facility be required to inform a plan, issuer, or carrier of the individual's consent, as part of or concurrently with providing the GFE, if it has already obtained the individual's consent? Should the nonparticipating provider or facility also be required to inform a plan, issuer, or carrier if the provider or facility intends to seek consent, or if the individual has already declined to give consent?

• If a nonparticipating provider is required to inform a plan, issuer, or carrier about the facility in which services are scheduled to be furnished, or if a nonparticipating provider or facility is required to inform a plan, issuer, or carrier about the status of a consent to waive the No Surprises Act's balance billing and cost-sharing protections, how should the nonparticipating provider or facility communicate the information? For example, should it be communicated as part of the GFE or in a separate document?

• In some cases in which an appointment for a nonparticipating provider or facility to furnish items or services at a facility is scheduled at least 72 hours prior to the date on which the individual is to be furnished the items or services, the provider (or the participating facility on behalf on the provider) or facility may provide notice and seek the patient's consent to waive the No Surprises Act's balance billing and cost-sharing protections not later than 72 hours prior to the date on which the individual is to be furnished the items or services. In cases in which the appointment is scheduled within 72 hours prior to the date on which the items or services are to be furnished,

[13] America's Health Insurance Plans (AHIP), New Fast PATH Initiative Aims to Improve Prior Authorization for Patients and Doctors (January 6, 2020), available at *https://www.ahip.org/new-fast-path-initiative-aims-to-improve-prior-authorization-for-patients-and-doctors/*.

[14] Code section 9816(f), ERISA section 716(f), and PHS Act section 2799A–1(f).

[15] For more detailed information on these requirements, see 86 FR 36872.

[16] References to the GFE in these questions refer to the GFE that providers and facilities must provide to plans, issuers, and carriers with respect to individuals enrolled in a plan or coverage (and seeking to have a claim for the item or service submitted to such plan or coverage) upon scheduling an item or service or requesting a GFE, as specified in section 2799B–6 of the PHS Act, as opposed to the GFE required to be included in the notice and consent to be treated by a nonparticipating provider under section 2799B–2(d)(2)(B) of the PHS Act and 45 CFR 149.420(d)(2).

providers and facilities are required to provide the notice on the date the appointment to furnish the items or services is scheduled. When an individual is provided the notice on the same date that the items or services are to be furnished, providers and facilities are required to provide the notice no later than 3 hours prior to furnishing items or services to which the notice and consent requirements apply. If a nonparticipating provider or facility is required to inform a plan, issuer, or carrier, as part of or concurrently with the GFE, about the status of a consent to waive the No Surprises Act's balance billing and cost-sharing protections, how should the notice and consent timing requirement be coordinated with AEOB and GFE timing requirements?

Additionally, provisions of the No Surprises Act's or a State's surprise billing laws may affect an individual's benefits related to the items and services specified in an AEOB, as well as the individual's financial responsibility for those items or services. Therefore, the Departments and OPM seek information on the following:

- Generally, how should the AEOB reflect the way in which the No Surprises Act's or a State's surprise billing and cost-sharing protections may affect an individual's benefits related to the items or services specified in an AEOB, and the individual's financial responsibility for these items or services?
- In instances in which a plan, issuer, or carrier has been notified by a provider or facility that consent has been obtained from an individual to waive the No Surprises Act's or a State's surprise billing and cost-sharing protections, should the cost and benefit data in the AEOB explicitly reflect that those protections do not apply? Should the AEOB specifically state that the data is premised on the relevant provisions not applying as a result of the individual's consent? Should the AEOB reflect two different sets of cost and benefit data instead, one set reflecting that the No Surprises Act's or a State's surprise billing and cost-sharing protections do not apply, and one set reflecting the application of these protections (to account for the possibility that the individual might later revoke consent [17])?
- In instances in which the plan, issuer, or carrier, at the time it is preparing the AEOB, has knowledge that the No Surprises Act's or a State's surprise billing and cost-sharing protections would apply unless individual consent has been given, but the plan, issuer, or carrier does not know whether consent has been given by the individual to waive those protections, should the AEOB include two sets of cost and benefit data, one set that would apply if consent is given, and one set that would apply if consent is not given?

The AEOB content requirements are similar to the Transparency in Coverage internet-based self-service tool requirements.[18] Under those Transparency in Coverage requirements, plans, issuers, and carriers [19] must make available to covered individuals (or an authorized representative) personalized enrollee cost-sharing information, including, when applicable, in-network rates for all covered health care items and services through an internet-based self-service tool and in paper form upon request. This information must be available for plan years (in the individual market, policy years) beginning on or after January 1, 2023, with respect to the 500 items and services identified by the Departments in Table 1 in the preamble to the *Transparency in Coverage* final rule; [20] and with respect to all covered items and services, for plan or policy years beginning on or after January 1, 2024.[21] The Departments and OPM request input on how these requirements interact, or could interact, with AEOB requirements.

- To what extent could the Departments' and OPM's coordination of the internet-based self-service tool requirements with AEOB requirements help minimize the burden on plans, issuers, and carriers in implementing both requirements?
- Can plans, issuers, and carriers leverage technical work done to comply with the internet-based self-service tool requirements to help streamline the process for complying with AEOB requirements?
- What, if any, obstacles would be encountered if plans, issuers, and carriers were required to provide AEOBs to covered individuals for all covered items or services (rather than a specified subset, similar to the rule for the first year of the internet-based self-service tool requirement) beginning with the first year of implementation of the AEOB provisions?

Some stakeholders have commented that a plan, issuer, or carrier providing a covered individual with an AEOB should also be required to provide a copy of the AEOB to the provider or facility that furnished the plan, issuer, or carrier with the GFE.

- Are there reasons why the Departments and OPM should or should not propose a requirement that plans, issuers, and carriers provide a copy of the AEOB to the provider or facility, as opposed to allowing such a transfer but not requiring it?

Code section 9816(f), ERISA section 716(f), and PHS Act section 2799A–1(f) allow covered individuals to make a request for an AEOB directly to their plan, issuer, or carrier. The plan, issuer, or carrier must provide an AEOB upon request to the covered individual no later than 3 business days after the date on which the plan, issuer, or carrier receives the request.[22] The Departments and OPM are interested in recommendations for implementing this provision without placing unnecessary burden on plans, issuers, carriers, providers, and facilities.

- What, if any, burdens or barriers should be considered if the Departments and OPM propose to require plans, issuers, and carriers to communicate a covered individual's request for an AEOB to a particular provider or facility in order to receive GFE information from the provider or facility for use in formulating the requested AEOB?

Many individuals have multiple forms of health insurance coverage, including those to which AEOB requirements do not apply (such as Federal health care programs like Medicare, Medicaid, and TRICARE; [23]

[17] *See* 86 FR 36909 (discussing individuals' right to revoke consent regarding items and services not yet furnished).

[18] Transparency in Coverage, 85 FR 72158 (November 12, 2020), available at *https://www.govinfo.gov/content/pkg/FR-2020-11-12/pdf/2020-24591.pdf*; 26 CFR 54.9815–2715A2(b); 29 CFR 2590.715–2715A2(b); and 45 CFR 147.211(b).

[19] OPM instructed FEHB carriers to comply with the Transparency in Coverage Final Rule in Carrier Letter 2021–03 (February 17, 2021), available at *https://www.opm.gov/healthcare-insurance/healthcare/carriers/2021/2021-03.pdf.*

[20] 85 FR 72182 through 72190.

[21] 26 CFR 54.9815–2715A2(c)(1); 29 CFR 2590.715–2715A2(c)(1); and 45 CFR 147.211(c)(1).

[22] The plan, issuer, or carrier must provide the AEOB no later than 1 business day after the plan, issuer, or carrier receives the GFE, or if such item or service was scheduled at least 10 business days before such item or service is to be furnished (or if the covered individual requested the information), the plan, issuer, or carrier must provide an AEOB to the covered individual within 3 business days after the date on which the plan, issuer, or carrier receives the GFE or request. Code section 9816(f), ERISA section 716(f), and PHS Act section 2799A–1(f).

[23] A Federal health care program (as defined in section 1128B(f) of the Social Security Act) is not considered to be a ''group health plan,'' ''health insurance coverage,'' ''individual health insurance coverage,'' ''group health insurance coverage,'' or a ''health insurance issuer,'' as referenced in Code section 9832, ERISA section 733, and PHS Act section 2791.

and excepted benefits such as limited-scope dental and vision benefits).[24]

- What approaches should be considered when proposing requirements related to the AEOB and GFE that account for, or do not account for, secondary and tertiary payers?
- What approaches should be considered to address application of the requirements related to the AEOB and GFE that account for, or do not account for, unique benefit designs, such as account-based plans?

Code section 9816(f)(2), ERISA section 716(f)(2), and PHS Act section 2799A–1(f)(2) provide that in the case of a covered individual scheduled to receive an item or service that is a specified item or service, the Secretaries may modify any timing requirements relating to the provision of the AEOB to such covered individual with respect to such specified item or service. Under the statute, the term ''specified item or service'' means an item or service that has low utilization or significant variation in costs (such as when furnished as part of a complex treatment), as specified by the Secretaries.[25] The statute also provides that any modification made by the Secretaries may not result in the provision of the notification after the covered individual has been furnished the specified item or service.[26] The Director of OPM (Director) may modify any timing requirements relating to the provision of the AEOB to a FEHB covered individual in the same manner as any modification is authorized to be made by the Secretaries, subject to OPM regulation and FEHB contract terms.

- What factors should the Departments and OPM consider when determining what items or services have low utilization or significant variation in costs (such as when furnished as part of a complex treatment) for the purposes of modifying AEOB timing requirements, and why?
- What are some examples of items or services that have low utilization or significant variation in costs (such as when furnished as part of a complex treatment) that the Departments and OPM should consider designating as specified items or services? Would designation of items or services as specified items or services vary by provider or facility type, or other variables, and why?
- How should AEOB timing requirements be modified with respect to the specified items or services, and why?

PHS Act section 2799B–6 requires GFEs, among other things, to include the expected billing and diagnostic codes for such items or services. Code section 9816(f)(1), ERISA section 716(f)(1), and PHS Act section 2799A–1(f)(1) require AEOBs to include the contracted rate under a plan or coverage for items or services (based on the billing and diagnostic codes provided by the provider or facility) expected to be provided by participating providers or participating facilities. Following issuance of interim final rules for GFEs for uninsured (or self-pay) individuals, HHS received feedback from providers and facilities that it is not always possible to provide a diagnosis code without first seeing and evaluating an individual, particularly with respect to initial screening visits or evaluation and management visits; or if there is not a relevant diagnosis code for an item or service, such as for certain dental screenings or procedures. In response to this feedback, HHS indicated in guidance that a provider or facility is required to provide a diagnosis code only where one is required for the calculation of the GFE for an uninsured (or self-pay) individual.[27]

- The Departments and OPM are interested in plans', issuers', and carriers' perspectives on whether a diagnosis code would be required for the calculation of the AEOB. Are there items or services for which a plan, issuer, or carrier would not be able to determine points of information such as: (1) the contracted rate; (2) the coverage level (that is, if the plan or issuer covers an item or service associated with one diagnosis at a higher rate than an item or service associated with another); or (3) whether an item or service is covered (that is, if the item or service is covered for one diagnosis but not another) for an item or service based on the service code and other information in the GFE in the absence of a diagnosis code?

In developing processes for the AEOB and GFE for covered individuals, some industry groups have suggested that the provider or facility should verify the individual's enrollment status in a health plan or coverage for the scheduled (or requested) items or services with the plan, issuer, or carrier. Based on the results of this verification, the provider or facility would either provide the individual with a GFE that meets the requirements for GFEs for uninsured (or self-pay) individuals under 45 CFR 149.610, or provide a GFE for covered individuals to the individual's plan, issuer, or carrier.[28] The Departments and OPM are interested in feedback on the potential impacts on providers, facilities, plans, issuers, or carriers if this verification were to be required.

- What, if any, additional burden would be created by requiring providers, facilities, plans, issuers, and carriers to conduct (1) verification to determine whether an individual is uninsured, self-pay, or enrolled in a health plan or coverage for AEOB and GFE purposes; (2) verification of coverage for each item or service expected to be included in an AEOB or GFE; or (3) verification of coverage from multiple payers? Do providers and facilities already perform these types of verifications in the regular course of business, such that minimal additional burden would be imposed?
- Would it alleviate burden to allow providers and facilities, for purposes of verifying coverage, to rely on an individual's representation regarding whether the individual is enrolled in a health plan or coverage and seeking to have a claim for the items or services submitted to the plan or coverage? What might be the implications of taking this approach?

On January 20, 2021, President Biden issued Executive Order 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' [29] directing that as a policy matter, ''the Federal government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically

[24] Code section 9832(c)(2), ERISA section 733(c)(2), PHS Act section 2791(c)(2) exclude limited-scope dental or vision benefits, if offered separately, from the Code, ERISA, and PHS Act requirements, respectively.

[25] Code section 9816(f)(2)(B), ERISA section 716(f)(2)(B), and PHS Act section 2799A–1(f)(2)(B).

[26] Code section 9816(f)(2)(A), ERISA section 716(f)(2)(A), and PHS Act section 2799A–1(f)(2)(A).

[27] FAQs About Consolidated Appropriations Act, 2021 Implementation—Good Faith Estimates (GFE) for Uninsured (or Self-Pay) Individuals—Part 2 (April 5, 2022), available at *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Good-Faith-Estimates-FAQ-Part-2.pdf.*

[28] *See* Council for Affordable Quality Healthcare, Inc. (CAQH) Committee on Operating Rules for Information Exchange (CORE), Establishing the Building Blocks for Price Transparency: Industry Guidance on Provider to Payer Approaches for Good Faith Estimate Exchanges (2021), available at *https://www.caqh.org/sites/default/files/CORE%20-%20Price%20Transparency%20Whitepaper_v4.pdf.*

[29] 86 FR 7009 (January 20, 2021), available at *https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf.*

underserved, marginalized, and adversely affected by persistent poverty and inequality.'' Executive Order 13985 also directs each agency to assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved communities.

Consistent with Executive Order 13985, the Departments and OPM are exploring how best to ensure that plans', issuers', and carriers' communication to covered individuals is accessible, linguistically tailored, and at an appropriate literacy level. The Departments and OPM also remind plans, issuers, and carriers of any existing obligations to comply with requirements to provide effective communication (including materials disseminated by way of electronic and information technology for individuals with disabilities) under the Americans with Disabilities Act of 1990 and section 504 of the Rehabilitation Act of 1973, to provide meaningful access for individuals with limited English proficiency under title VI of the Civil Rights Act of 1964, and to comply with nondiscrimination requirements under section 1557 of the Affordable Care Act.

The Departments and OPM request public comment and feedback on the following questions:

- What unique barriers and challenges do underserved and marginalized communities face in understanding and accessing health care that the Departments and OPM should account for in implementing the AEOB and GFE requirements for covered individuals?
- What steps should the Departments and OPM consider to help ensure that all covered individuals, particularly those from underserved and marginalized communities, are aware of the opportunity to request AEOBs and GFEs and are able to utilize the information they receive in order to facilitate meaningful decision-making regarding their health care?
- Code section 9816(f), ERISA section 716(f), and PHS Act sections 2799A–1(f) and 2799B–6 require the AEOB and GFE to be provided in clear and understandable language. What additional approaches should be considered that would facilitate the provision of AEOBs and GFEs that are accessible, linguistically tailored, and at an appropriate literacy level for covered individuals, particularly those from underserved and marginalized communities and those with disabilities or limited English proficiency? Is there any specific language or phrasing that should be used to help mitigate any potential consumer confusion?
- Should the Departments and OPM consider adopting AEOB language access requirements that are similar to the Departments' existing requirements for group health plans and health insurance issuers, such as the internal claims and appeals and external review and Summary of Benefits and Coverage (SBC) requirements to provide oral language services, notices in non-English languages, and non-English language statements in English versions of notices indicating how to access language services? [30] If so, what is the best way to ensure that information about language access services is communicated far enough in advance to facilitate the provision of the AEOB in the language that is most accessible to the individual?

C. Economic Impacts

The Departments and OPM are interested in understanding the potential economic impacts of implementing requirements related to the AEOB and GFE for covered individuals.

- Specifically, the Departments and OPM are interested in estimates of the time and cost burdens on providers and facilities, and separately on plans, issuers, and carriers, for building and maintaining a standards-based API for the real-time exchange of AEOB and GFE data.
- The Departments and OPM also seek comment on the extent to which providers, facilities, plans, issuers, and carriers are building and maintaining standards-based APIs for multiple purposes, or already have standards-based APIs in place that they can leverage to implement AEOB and GFE requirements. The Departments and OPM are also interested in how establishing standards-based APIs for these purposes may align with other HHS program requirements to implement standards-based APIs, such as requirements for certain payers covered under the CMS *Interoperability and Patient Access* final rule [31] to use specific standards to implement the Patient and Provider Access APIs, as well as requirements applicable to health IT developers with health IT modules certified to certain criteria under the ONC Health IT Certification Program that provide standards-based API technology to providers and facilities as part of certified health IT products. In circumstances in which providers, facilities, plans, issuers, and carriers use or plan to use standards-based API technology for multiple purposes, the Departments and OPM are interested in estimates of the time and cost burden specifically related to AEOB and GFE implementation, separated out from the total cost of implementing and using this technology for multiple purposes, to accurately reflect the burden of implementing AEOB and GFE requirements.
- What would be the costs for purchasing and implementing a standards-based API for the real-time exchange of AEOB and GFE data from a third-party vendor, compared to building standards-based API functionality in-house? What percent of providers, facilities, plans, issuers, and carriers are likely to either purchase and implement the API via a third-party vendor compared to building and implementing the API in-house? How do these costs compare to alternative methods of exchanging AEOB and GFE data, such as through an internet portal or by fax?

[30] For example, the rules governing internal claims and appeals and external review processes under 26 CFR 54.9815–2719(e), 29 CFR 2590.715–2719(e), and 45 CFR 147.136(e) require plans and issuers to provide oral language services, notices in non-English languages, and non-English language statements in English versions of notices indicating how to access language services, with respect to notices sent to an address in a United States county where ten percent or more of the population residing in the county is literate only in the same non-English language. Additionally, the SBC and Uniform Glossary regulations at 26 CFR 54.9815–2715(a)(5), 29 CFR 2590.715–2715(a)(5), and 45 CFR 147.200(a)(5) require group health plans and health insurance issuers to provide the SBC in a culturally and linguistically appropriate manner, in accordance with the thresholds and standards of 26 CFR 54.9815–2719(e), 29 CFR 2590.715–2719(e), and 45 CFR 147.136(e). The regulations governing the style and format of summary plan descriptions (SPD) under ERISA at 29 CFR 2520.102–2 require the SPD to be provided in non-English languages if, for a plan that covers fewer than 100 participants, 25 percent or more of all plan participants are literate only in the same non-English language; or, for a plan that covers 100 or more participants, if the lesser of: (1) 500 or more participants; or (2) 10 percent or more of all plan participants are literate only in the same non-English language.

[31] Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges, and Health Care Providers Final Rule, 85 FR 25510 (May 1, 2020), available at *https://www.govinfo.gov/content/pkg/FR-2020-05-01/pdf/2020-05050.pdf*.

In the *Requirements Related to Surprise Billing; Part II* interim final rule, HHS estimated that a total of 511,748 providers associated with health care facilities, individual physician practitioners, and wholly physician-owned private practices would incur the burden and costs associated with generating a GFE for uninsured (or self-pay) individuals.[32]

- Are there factors that should be considered that might alter the number of providers and facilities that would incur the burden and cost of providing a GFE to plans, issuers, and carriers for covered individuals?

Some states have adopted laws requiring providers and facilities; or plans and issuers; or both providers and facilities and payers, to provide cost estimates to consumers before health care items or services are furnished. These laws vary with respect to the entities covered, the items or services to which requirements apply, how individualized the estimates must be, the format and timing of the estimates, the contents of the estimates, other accompanying requirements, and enforcement of these requirements. The Departments and OPM request feedback on the potential impacts of these policies.

- The Departments and OPM are interested in studies or other evidence related to the implementation and any effects of State laws that require entities to provide expected charges for health care items or services to consumers in advance of receiving these items or services. The Departments and OPM are particularly interested in publicly available studies or evidence.
- Is there other information that the Departments and OPM could find useful for quantifying the benefits of implementing requirements related to AEOB and GFE for covered individuals?

III. Collection of Information Requirements

Please note, this is a request for information (RFI) only. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, the Departments and OPM are not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. The Departments and OPM note that not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. In addition, the Departments and OPM will not respond to questions about the policy issues raised in this RFI.

The Departments and OPM will actively consider all input as the Departments and OPM develop future regulatory proposals or future subregulatory policy guidance. The Departments and OPM may or may not choose to contact individual responders. These communications would be for the sole purpose of clarifying statements in the responders' written responses. Contractor support personnel may be used to review responses to this RFI. Responses to this notice are not offers and cannot be accepted by the U.S. Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the U.S. Government for program planning on a non-attribution basis. Responders should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned. In addition, the Departments and OPM may publicly post the public comments received, or a summary of those public comments.

[32] 86 FR 56080 (October 7, 2021).

Signed at Washington DC.

Laurie Bodenheimer,

Associate Director, Healthcare and Insurance, Office of Personnel Management.

Signed at Washington DC.

Rachel D. Levy,

Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) Internal Revenue Service, Department of the Treasury.

Signed at Washington DC.

Carol A. Weiser,

Benefits Tax Counsel, Department of the Treasury.

Signed at Washington DC.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Xavier Becerra,

Secretary, Department of Health and Human Services.

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

[Application No. D–12022]

Z–RIN 1210 ZA07

Initial Regulatory Flexibility Analysis for Proposed Amendment to Prohibited Transaction Class Exemption 84–14 (the QPAM Exemption)

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of Initial Regulatory Flexibility Analysis for the proposed amendment to the QPAM Exemption.

SUMMARY: This document gives notice of the Department's Initial Regulatory Flexibility Analysis for a proposed amendment to prohibited transaction class exemption 84–14 (the QPAM Exemption).

DATES: Written comments must be submitted to the Department by October 11, 2022.

ADDRESSES: All written comments concerning the Initial Regulatory Flexibility Analysis should be sent to the Office of Exemption Determinations through the Federal eRulemaking Portal and identified by Application No. D–12022:

Federal eRulemaking Portal: https://www.regulations.gov at Docket ID

number: EBSA–2022–0008. Follow the instructions for submitting comments.

See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: James Butikofer, telephone (202) 693–8434, Office of Research and Analysis, Employee Benefits Security Administration, U.S. Department of Labor (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Comment Instructions

All comments must be received by the end of the comment period. In light of the current circumstances surrounding the COVID–19 pandemic, persons are encouraged to submit all comments electronically and not to submit paper copies. The comments may be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue NW, Washington, DC 20210; however, the Public Disclosure Room may be closed for all or a portion of the comment period due to circumstances surrounding the COVID–19 pandemic. Comments will also be available online at *https://www.regulations.gov,* at Docket ID number: EBSA–2022–0008 and *https://www.dol.gov/ebsa,* at no charge.

Warning: All comments received will be included in the public record without change and will be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, EBSA recommends that you include your name and other contact information, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or unlisted phone number), or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the *https://www.regulations.gov* website is an ''anonymous access'' system, which means EBSA will not know your identity or contact information unless you provide it.

Reason for the Supplemental Initial Regulatory Flexibility Analysis

The Department published a proposed amendment to PTE 84–14 (the QPAM Exemption) on July 27, 2022 (the Proposed QPAM Amendment).[1] The Department originally provided a 60-day comment period in the Proposed QPAM Amendment, which was scheduled to expire on September 26, 2022. The Department then extended this initial comment period until October 11, 2022, in a **Federal Register** notice published on September 7, 2022.[2] In the same notice, the Department announced that it is scheduling a virtual public hearing regarding the Proposed Amendment on November 17, 2022 (and if necessary, November 18, 2022). In connection with the hearing, the Department will also provide a supplementary comment period that will end approximately 14 days after the hearing transcript is posted on EBSA's website.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA),[3] the Acting Assistant Secretary of the Employee Benefits Security Administration certified that the Proposed QPAM amendment would not have a significant economic impact on a substantial number of small entities. After consulting with the Small Business Administration's Office of Advocacy, however, the Department has decided to publish this Initial Regulatory Flexibility Analysis (IRFA) explaining its possible impact on small entities. The Department requests comments by October 11, 2022, the same deadline as the extended comment period for the Proposed QPAM amendment. Although the Department is aligning the deadlines for comments regarding the supplemental IRFA and the Proposed QPAM amendment, the Department will provide additional time for public input on all aspects of the Proposed QPAM Amendment (including the supplemental IRFA) when the comment period reopens on the hearing date.

Regulatory Flexibility Act (RFA)

The RFA imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act and are likely to have a significant economic impact on a substantial number of small entities.[4] Unless an agency determines that a proposal is not expected to have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an IRFA of the Proposed QPAM Amendment.

The Department emphasizes that the QPAM Exemption has always been premised on the QPAM being an entity of sufficient size to withstand undue influence from parties in interest. The Department clearly stated this position in the preamble to the initial proposal in 1982:

> The minimum capital and funds-under-management standards of the proposed exemption are intended to [ensure] that the eligible fiduciaries managing the accounts or funds (''investment funds'') . . . are established institutions which are large enough to discourage the exercise of undue influence upon their decision-making processes by parties in interest.[5]

When the exemption was granted in 1984, the Department declined to reduce or delete the minimum asset and equity thresholds as requested by some commenters.[6] Furthermore, when the Department raised the thresholds for investment advisers in 2005, it stated that the thresholds had ''not been revised since 1984 and may no longer provide significant protections for plans in the current financial marketplace.'' [7]

Despite the importance of a QPAM being sufficiently large to withstand undue influence from parties in interest, in an abundance of caution, the Department is issuing this supplemental IRFA, which analyzes and seeks public comment on potential economic impacts of the Proposed QPAM Amendment on small entities.

Need for and Objectives of the Proposed QPAM Amendment

As noted in the preamble of the Proposed QPAM Amendment, substantial changes have occurred in the financial services industry since the Department granted the QPAM Exemption in 1984. These changes include industry consolidation caused by a variety of factors and an increasingly global reach for financial services institutions, both in their affiliations and in their investment strategies, including those for Plan assets.

An amendment to the QPAM Exemption is needed to address ambiguity as to whether foreign convictions are included in the scope of the ineligibility provision under Section I(g). QPAMs today often have corporate

[1] 87 FR 45204.

[2] 87 FR 54715.

[3] 5 U.S.C. 601 *et seq.* (1980).

[4] 5 U.S.C. 551 *et seq.* (1946).

[5] 47 FR 56945, 56947 (Dec. 21, 1982).

[6] *See* 49 FR 9494, 9502 (Mar. 13, 1984).

[7] *See* Proposed QPAM Amendment, 68 FR 52419, 52423 (Sept. 3, 2003).

or relationship ties to a broad range of entities, some of which are located internationally. Additionally, some global financial service institutions are headquartered or have parent entities that reside in foreign jurisdictions. These entities may have significant control and influence over the operation and management of all entities within a large financial institution's organizational structure, including those operating as QPAMs for some Plans. Additionally, the international ties of QPAMs come not just from their affiliations and parent entities, but also their investment strategies, including those involving Plan assets.

The Department is also concerned about corporate families and entities that engage in significant misconduct of a similar type and quality as the conduct that might lead to a Criminal Conviction,[8] but which ultimately does not result in a conviction. The amendment is needed to ensure that QPAMs are not able to avoid the conditions related to integrity and ineligibility under Section I(g) simply by entering into non-prosecution and deferred prosecution agreements with prosecutors to side-step the consequences that otherwise would result from a Criminal Conviction. Plans may suffer significant harm if they are exposed to serious misconduct committed by unscrupulous firms or individuals that ultimately results in a deferred or non-prosecution agreement rather than Criminal Conviction and consequent ineligibility under Section I(g). Likewise, intentionally or systematically violating the conditions of the exemption exposes Plans to significant potential harm at the hands of those with influence or control over their assets. In the Department's view, QPAMs and those in a position to influence or control a QPAM's policies that repeatedly engage in these types of serious misconduct do not display the requisite standards of integrity necessary to provide the protection intended for Plans under the exemption.

Through its administration of the individual exemption program, the Department also determined that certain aspects of the QPAM Exemption would benefit from a focus on mitigating potential costs and disruption to Plans when a QPAM becomes ineligible for the exemptive relief because of a conviction under Section I(g). Two major ways in which the amendment would reduce the harmful impact on Plans is by requiring penalty-free withdrawal and indemnification terms to be included in the QPAM's Written Management Agreement with its client Plans and including a one-year winding-down period to avoid unnecessary disruptions to Plans upon a Criminal Conviction or receipt of an Ineligibility Notice due to other Prohibited Misconduct.[9] The winding-down period would help bridge the gap between the QPAM Exemption and the Department's administration of its individual exemption program in connection with Section I(g) ineligibility.

The Proposed QPAM Amendment is also needed to update asset management and equity thresholds to current values in the definition of ''QPAM'' in Section VI(a). Some of the thresholds that establish the requisite independence upon which the QPAM Exemption is based have not been updated since 1984, and the thresholds for registered investment advisers have not been updated since 2005. The Proposed QPAM Amendment would standardize all the thresholds to current values using the Bureau of Labor Statistics Consumer Price Index.

Finally, the QPAM Exemption currently lacks a recordkeeping requirement which the Department generally includes in its administrative exemptions. The Proposed QPAM Amendment would add a recordkeeping requirement to ensure QPAMs would be able to demonstrate, and the Department would be able to verify, compliance with the exemption conditions.

Together, the Department believes these updates are necessary to ensure the QPAM Exemption remains in the interest of and protective of the rights of Plans, their participants and beneficiaries, and individual retirement account (IRA) owners as required by section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975(c)(2) of the Internal Revenue Code (Code).

Affected Small Entities

Qualified Professional Asset Managers (QPAMs)

The following entities generally qualify or would qualify for the relief set out in the QPAM Exemption and Proposed QPAM Amendment:

(1) *Banks*—as defined in section 202(a)(2) of the Investment Advisers Act of 1940, with equity capital in excess of $1,000,000 (proposed increase to $2,720,000);

(2) *Savings and loan associations*—the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, with equity capital or net worth in excess of $1,000,000 (proposed increase to $2,720,000);

(3) *Insurance companies*—subject to supervision under state law, with net worth in excess of $1,000,000 (proposed increase to $2,720,000); and

(4) *Investment advisers*—registered under the Investment Advisers Act of 1940 with total client assets under management in excess of $85,000,000 (proposed increase to $135,870,00) and either (1) shareholders' or partners' equity in excess of $1,000,000 (proposed increase to $2,040,000) or (2) payment of liabilities guaranteed by an affiliate, another entity that could qualify as a QPAM, or a broker-dealer with net worth of more than $1,000,000 (proposed increase to $2,040,000).

The Proposed QPAM Amendment also provides that the Department would make subsequent annual inflation adjustments to these thresholds, rounded to the nearest $10,000, no later than January 31 of each year and announce the increased thresholds in a **Federal Register** notice.

Estimates of QPAMs

The Department estimates that there are 616 potential QPAMs by approximating the total number of service providers who in 2019 provided ''Investment Management'' and ''Named Fiduciary'' services simultaneously to at least one plan as reported on Schedule C of the 2019 Form 5500, and whose

[8] The Proposed QPAM Amendment defines ''Criminal Conviction'' to mean the person or entity: (1) is convicted in a U.S. Federal or state court or released from imprisonment, whichever is later, as a result of any felony involving abuse or misuse of such person's Plan position or employment, or position or employment with a labor organization; any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company or fiduciary; income tax evasion; any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or a crime identified in ERISA section 411; or (2) is convicted by a foreign court of competent jurisdiction as a result of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense described in (1), above. *See* 87 FR 45204, 45231–32.

[9] The Proposed QPAM Amendment defines ''Prohibited Misconduct'' to mean: (1) any conduct that forms the basis for a non-prosecution or deferred prosecution agreement that, if successfully prosecuted, would have constituted a crime described in Section VI(r); (2) any conduct that forms the basis for an agreement, however denominated by the laws of the relevant foreign government, that is substantially equivalent to a non-prosecution agreement or deferred prosecution agreement described in (1); (3) engaging in a systematic pattern or practice of violating the conditions of this exemption in connection with otherwise non-exempt prohibited transactions; (4) intentionally violating the conditions of this exemption in connection with otherwise non-exempt prohibited transactions; or (5) providing materially misleading information to the Department in connection with the conditions of the exemption. *See* 87 FR at 45232.

North American Industry Classification System (NAICS) codes start with the 2-digit 52, which corresponds to Finance and Insurance Institutions.[10] There are about 234,440 small firms that report a NAICS code of 52.[11] Because the SBA's small entity definitions are generally based upon revenues and not asset management or equity thresholds, the Department does not know how many QPAMs fit the SBA's small entity definitions for the finance and insurance sector nor how many of those would be affected by the Proposed QPAM Amendment. However, the Department acknowledges that it is possible that some small entities that meet the SBA's definitions could be significantly impacted by the Proposed QPAM Amendment.

The Department expects that small entities remaining eligible to rely upon the amended exemption as proposed should expect to be impacted the same as entities described in the Department's Regulatory Impact Analysis for the Proposed QPAM Amendment, which begins at 87 FR 45214. However, due to the proposed increases to asset management and equity thresholds in the definition of ''QPAM'' in Section VI(a) of the amendment, if finalized, some entities may not satisfy this definition. In that case, they would no longer be able to rely upon the QPAM Exemption. Those entities may fall within the SBA's small entity definitions. Additionally, to the extent plans that are small entities are more likely to hire a QPAM that is a small entity, the Proposed QPAM Amendment could also impact them. The Department requests comments regarding how likely this is to occur.

Plans With Assets in an Investment Fund Managed by a QPAM

The Proposed QPAM Amendment would affect Plans whose assets are held by an Investment Fund that is managed by a QPAM. The Department does not collect data on Plans that use QPAMs to manage their assets. Nevertheless, the Department estimates that on average, a single QPAM services 32 client Plans.[12] Therefore, the Department estimates that there are 19,712 client Plans (616 QPAMs * 32 client Plans per QPAM) in total. The Department also estimates there could be approximately 60.4 million participants in plans serviced by potential QPAMs, with most being in large plans.[13]

The Department estimates that three percent of client Plans are small.[14] The Department does not view this as a substantial number of small plans. For purposes of this IRFA, the Department considers a small entity to be an employee benefit plan with fewer than 100 participants.[15] The basis of this definition is found in ERISA section 104(a)(2), which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for exemptions or simplified annual reporting and disclosure for welfare benefit plans. Pursuant to the authority of section 104(a)(3), the Department has previously issued certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans.[16] While some large employers may have small plans, in general small employers maintain small plans. Thus, EBSA believes that assessing the impact of the Proposed QPAM Amendment on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (SBA)[17] pursuant to the Small Business Act.[18]

The Department requests comment on the number of plans that may need to find an alternative asset manager or investment fund(s) as a result of the proposed increased thresholds and other amendments.

Impacts of the Exemption

All QPAMs must acknowledge that they are fiduciaries within the meaning of Title I of ERISA and/or the Code with respect to each Plan that has retained the QPAM. In analyzing compliance costs associated with the Proposed QPAM Amendment, the Department considers the regulatory baseline that QPAMs already are required to comply with—primarily ERISA's fiduciary duty requirements (to the extent applicable), the other existing conditions in the QPAM Exemption, and the individual exemption process as well as related individual exemptions granted in connection with Section I(g) ineligibility. The Department does not expect the Proposed QPAM Amendment to increase, more than marginally, existing costs associated with QPAM ineligibility and individual exemption requests related to Criminal Convictions. The Department is uncertain, however, regarding the number of QPAMs that would become ineligible under the proposed expansion of the ineligibility provision related to participating in Prohibited Misconduct. The Department is also uncertain about the extent to which the proposed changes in asset management and equity thresholds would give rise to new costs because some QPAMs that meet the current thresholds no longer would be able to rely on the exemption if they do not meet the proposed increased thresholds.

The following analysis considers the impact on all QPAMs, except that the analysis of the cost of the winding-down provision is only considered for ineligible QPAMs. Although the Department has provided a cost analysis below, the heightened standards proposed in the Proposed QPAM Amendment may result in entities being more careful about ensuring that their compliance programs are sufficiently robust to prevent Prohibited Misconduct or Convictions from occurring. In this respect, the proposed exemption would provide clear guardrails that would make the costs associated with QPAMs becoming ineligible clearly avoidable.

[10] Using 2019 Form 5500 data, the Department counted in total 1390 service providers who provided services of ''Investment Management'' and ''Named Fiduciary,'' of which only 765 reported their business code. Out of these 765 providers, 339 reported their business code starting with the 2-digit NAICS code 52, yielding a ratio of 0.44 of potential QPAMs to other providers. Therefore, the Department estimates that there were 0.44 * 1390 = 616 potential QPAMs in 2019.

[11] Source: Small Business Administration calculations of the number of firms reporting a NAICS code of 52 from the 2017 Statistics of U.S. Businesses.

[12] Although the Department estimates there are 616 QPAMs, it can only observe and count the number of client Plans corresponding to 339 QPAMs. The Department counted 10,719 Plans served by these 339 observable QPAMs, yielding an average of 32 client Plans per QPAM in 2019. The Department acknowledges that these entities do not necessarily act as QPAMs to their client Plans, and, therefore, considers this average as an upper limit for the number of client Plans served by a QPAM.

[13] The Department estimated an average of 3,151 participants per plan among the 10,719 Plans served by the 339 observable potential QPAMs. Applying this average to all estimated 19,712 client plans leads to 60.4 million participants in affected plans (19,712 client Plans * 3,151 participants per client Plan).

[14] Using the 2019 Form 5500 the Department estimates that only three percent of the 10,719 Plans served by the 339 observable potential QPAMs are small plans, having less than 100 participants.

[15] The Department consulted with the Small Business Administration's Office of Advocacy before making this determination, as required by 5 U.S.C. 603(c) and 13 CFR 121.903(c). Memorandum received from the U.S. Small Business Administration, Office of Advocacy on July 10, 2020.

[16] *See* 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46, and 2520.104b–10. Such plans include unfunded or insured welfare plans covering fewer than 100 participants and satisfying certain other requirements.

[17] 13 CFR 121.201.

[18] 15 U.S.C. 631 *et seq.*

Reporting Reliance on the QPAM Exemption—Subsection I(g)(1)

The Department believes that the one-time requirement to report reliance on the QPAM Exemption via email to *QPAM@dol.gov* would result in a minor additional clerical cost. The information required under subsection I(g)(1) is limited to the legal name of the entity relying upon the exemption and any name the QPAM may be operating under.

This notification would occur only once for most QPAMs. Therefore, the Department expects it would take 15 minutes, on average, for each QPAM to prepare and send this electronic notification. This cost is estimated to be approximately $14 per entity.[19] The Department requests comments on this estimate.

Written Management Agreement—Subsection I(g)(2)

The Department believes that the cost associated with adding the required terms under subsection I(g)(2) to a QPAM's Written Management Agreement only would impose costs related to updating existing management agreements. QPAMs would need to send the update to each of their client Plans, but the QPAM likely would be able to prepare a single standard form with identical language and then send it to each client Plan. For each QPAM, the Department estimates it would take one hour of in-house legal professional time to update and supplement their existent standard management agreements, and two minutes of clerical time to prepare and mail a one-page addition to the agreement to each client Plan. Including mailing costs, the total estimated cost of this requirement amounts to approximately $220 per entity.[20]

Ineligibility Due to Foreign Convictions—Subsection I(g)(3)(A) and Subsection VI(r)(2)

The Department and QPAMs have treated foreign convictions as causing ineligibility under Section I(g) since at least 2000.[21] Therefore, the Department believes that the clarifying reference that includes foreign convictions within the scope of Section I(g) would not change the costs of the exemption as compared to the current costs.

Mandatory One-Year Winding-Down Period—Section I(j)

The Department estimated that eight QPAMs each year would be subject to the one-year winding-down period after a Criminal Conviction. The number of QPAMs affected in any given year is a function of the number of convictions covered by Section I(g) and the number of entities within a corporate family operating as QPAMs. Therefore, in some years, the number of affected QPAMs impacted by ineligibility due to a Criminal Conviction could be higher than eight, and in other years it could be lower. The Department's proposed expansion of the ineligibility provision to include Prohibited Misconduct that leads to an Ineligibility Notice likely would increase the number of QPAMs that become ineligible due to Section I(g). Although the Department does not have the data to determine the exact number of QPAMs that would become ineligible due to this proposed expansion, the Department has assumed the additional number of ineligible QPAMs to be equal to the eight QPAMs that experience ineligibility due to a conviction under current Section I(g), resulting in a total of 16 ineligible QPAMs. The Department requests comments on this assumption and data or other information that would allow the Department to more precisely estimate the number of QPAMs that would lose eligibility due to this proposed expansion.

Because the conditions of the winding-down provision borrow from the conditions included in the Department's existing individual Section I(g) exemptions, the Department does not believe there would be any added cost with respect to the proposed winding-down period for QPAMs that become ineligible due to a Criminal Conviction relative to the current baseline of obtaining an individual exemption covering this same time period. However, an additional eight QPAMs, on average, may become ineligible each year for participating in Prohibited Misconduct, implicating the winding-down period and the conditions related to proposed provisions that are required to be included in the Written Management Agreement. As a result, QPAMs would possibly have to bear the costs associated with indemnifying their client Plans for losses that would occur if they move to a new asset manager. The Department lacks sufficient data at this time to estimate these costs associated with the winding-down period and requests comments regarding these costs. The Department welcomes comments that would provide data to assist in calculating an estimate. The Department also lacks data to estimate the number of ineligible QPAMs that would be small entities, and requests comments regarding this number.

Notice to Plans—Subsection I(j)(1)

Within 30 days after the conviction date, the QPAM must provide notice to the Department at *QPAM@dol.gov* and each of its client Plans stating (i) its failure to satisfy subsection I(g)(3); and (ii) that it agrees, as required by subsection I(g)(2), not to restrict the ability of a client Plan to terminate or withdraw from its arrangement with the QPAM. QPAMs that violate Section I(g) under the current QPAM Exemption are required to provide this type of notice when they obtain an individual exemption, so no incremental burden is attributed to this requirement for QPAMs that become ineligible due to a Criminal Conviction. However, due to the expanded proposed scope of ineligibility, QPAMs that become ineligible after receiving an Ineligibility Notice due to participating in Prohibited Misconduct would incur the cost of sending notices to their client Plans for the first time. The Department estimates that total incremental cost related to ineligibility after receiving an

[19] The cost is based upon the expenditure of 0.25 hours for each QPAM: To calculate the cost, an hourly labor rate of $55.23 is used for a clerical worker. Therefore, the total cost amounts to: (0.25 hours * $55.23) = $14 (rounded). The Department estimates of labor costs by occupation reflect estimates of total compensation and overhead costs. Estimates for total compensation are based on mean hourly wages by occupation from the 2020 Occupational Employment Statistics and estimates of wages and salaries as a percentage of total compensation by occupation from the 2020 National Compensation Survey's Employee Cost for Employee Compensation. Estimates for overhead costs for services are imputed from the 2017 Service Annual Survey. To estimate overhead cost on an occupational basis, the Office of Research and Analysis allocates total industry overhead cost to unique occupations using a matrix of detailed occupational employment for each NAICS industry. All values are presented in 2020 dollars.

[20] This cost is based upon the expenditure of one hour of a legal professional for each QPAM using an hourly labor rate of $140.96. As specified in the PRA section, the Department estimates each QPAM serves 32 client Plans on average. The Department also expects each QPAM would have to append one page to their existing management agreements and that it would take each QPAM two minutes of clerical time to prepare and mail this one-page addition to each client Plan. This labor cost is then estimated as (32 client Plans * (2/60) hours * $55.23) = $58.90 for clerical time (rounded). The Department estimates that the costs of printing and mailing one page are $0.05 and $0.58, respectively. Therefore, adding one page to all management agreements amounts the total printing and mailing cost to 32 client per Plans * 1 page * ($0.05 + $0.58) = $ 20 (rounded). The estimated total cost of the provision is therefore $141 + $58.90 + $20 = $220 (rounded).

[21] *See, e.g.,* Prohibited Transaction Exemption (PTE) 2020–01, 85 FR 8020 (Feb. 12, 2020); PTE 2019–01, 84 FR 6163 (Feb. 26, 2019); PTE 2016–11, 81 FR 75150 (Oct. 28, 2016); PTE 2016–10, 81 FR 75147 (Oct. 28, 2016); PTE 2012–08, 77 FR 19344 (March 30, 2012); PTE 2004–13, 69 FR 54812 (Sept. 10, 2004); and PTE 96–62 (''EXPRO'') Final Authorization Numbers 2003–10E, 2001–02E, and 2000–30E, available at *https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/exemptions/expro-exemptions-under-pte-96-62.*

Ineligibility Notice is $135 per entity (including mailing expenses).[22]

The Department believes the cost of sending this notice to the Department would be negligible because the QPAM would have already prepared and sent the notice to client Plans and the notice to the Department is required to be sent electronically.

Warning and Opportunity To Be Heard in Connection With Prohibited Misconduct—Section I(i)

As described above, the Department estimates eight QPAMs could experience ineligibility due to participating in Prohibited Misconduct. Before QPAMs become ineligible, they would be provided with a written warning and an opportunity to be heard under Section I(i). As a result, QPAMs would possibly have to bear the costs associated with this process. The Department estimates that this process would occur twice each year, with each process covering four QPAMs that are part of the same corporate family. The Department estimates that preparing a response to the ineligibility notice and for a conference with the Department would require 10 in-house legal professional hours (two preparations * 10 hours) resulting in 20 total hours at an equivalent cost of approximately $352.[23] The Department estimates that preparing a response and preparing for the conference would also require two total outside legal professional hours for each QPAM resulting in a cost of $988.[24] Thus, the total labor cost of preparing a response and preparing for a conference amounts to $1,340 per entity. The Department requests comment on this cost estimate.

Requesting an Individual Exemption—Section I(k)

Proposed new Section I(k) provides that a QPAM that is ineligible or anticipates that it would become ineligible due to an actual or possible Criminal Conviction may apply for an individual exemption from the Department to continue to rely on the relief provided in the QPAM Exemption for a longer period than the one-year winding-down period. In such an event, the exemption provides that an applicant should review the Department's most recently granted individual exemptions involving Section I(g) ineligibility. If an applicant requests the Department to exclude any term or condition from its exemption that is included in a recently granted individual exemption, the applicant must include a detailed statement with its exemption application explaining the reason(s) why the proposed variation is necessary and in the interest and protective of affected Plans, their participants and beneficiaries, and IRA owners. Such applicants also should provide detailed information in their applications quantifying the specific cost in dollar amounts, if any, of any harm its client Plans would suffer if a QPAM could not rely on the exemption after the winding-down period, including the specific dollar amounts of investment losses resulting from foregone investment opportunities and any evidence supporting the proposition that investment opportunities would only be available to Plans on less advantageous terms.

Due to the proposed expansion of the scope of ineligibility to include participating in Prohibited Misconduct, the Department estimates that two additional applicants each year would apply for an individual exemption, each covering four ineligible QPAMs. The Department estimates that each of these two new applicants would spend 12 hours of in-house legal professional and 13 hours of in-house clerical time preparing the required documentation for the application that would be used by an outside legal professional. The Department estimates the per entity cost associated with document preparation for the application at approximately $2,410.[25] Further, the Department estimates that, on average, 25 hours of outside legal professional time would be spent preparing the documentation for the application per QPAM application, with a labor rate for outside legal professionals averaging $494.00 per hour resulting in a total of $12,350 in outside legal costs per application.[26] Thus, the total labor cost of each application preparation amounts to nearly $15,000.

For applications that reach the stage of publication of a proposed exemption in the **Federal Register**, a notice must be prepared and distributed to interested parties. If both applications are published annually, approximately 256 notices would be distributed (this corresponds to 32 client Plans per each of the eight QPAMs affected by two applications). Similarly, if the proposed exemptions are ultimately granted, each of these eight QPAMs would be required to send an objective description of the facts and circumstances upon which the misconduct is based to each client Plan. The Department estimates that the distribution for notices and objective descriptions would require 10 minutes for each of the 32 plans the QPAM serves, totaling approximately 10.67 hours at a cost of approximately $295.[27] In addition, material and mailing costs for these notices totals approximately $55 per QPAM.[28] Therefore, the Department estimates that the total costs per QPAM associated with notice distribution would be approximately $350.

The Department anticipates that few small entities would be impacted by the ineligibility provision based on its past applicants. Additionally, the Department expects that a small entity would be more likely to fall below the average of 32 client Plans. Therefore, the expected cost to small entity QPAMs would be lower than the estimated average cost.

Additional Requirement for QPAMs Requesting an Individual Exemption

If an applicant requests the Department to exclude any term or condition from its exemption that is included in a recently granted individual exemption, the applicant must include a detailed statement with its exemption application explaining the reason(s) why the proposed variation is necessary and in the interest and protective of affected Plans, their participants and beneficiaries, and IRA

[22] The burden is estimated assuming each QPAM services (on average) 32 plans. Notice preparation and distribution is estimated to require 0.5 hours of professional legal time and roughly 0.85 hours of clerical time. The Department also assumes that 80 percent of all notices would be delivered by regular mail and would consist of two pages. Therefore, the total per entity cost associated with this requirement is (0.5 hours legal professional labor rate of $140.96) + (0.85 hours * clerical labor rate of $55.23) + [80% mailed * (2 pages * $0.05 per page + $0.58 postage)] = $135 (rounded). Any discrepancies in the calculations are a result of rounding.

[23] This cost is based upon an hourly labor rate of $140.96 for an in-house legal professional. 2020 National Compensation Survey's Employee Cost for Employee Compensation.

[24] The outside legal professional labor rate is a composite weighted average of the Laffey Matrix for Wage Rates (*http://www.laffeymatrix.com/see.html,* Year: 6/01/21–5/31/22): ($381 * 0.4) + ($468 * 0.35) + ($676 * 0.15) + ($764 * 0.1) = $494.

[25] 12 in-house legal professional hours at $140.96 per hour yields $1,692 (rounded), and the 13 in-house clerical hours are estimated to cost $718 (rounded). This totals to $2,410 (rounded). Any discrepancies in the calculations are a result of rounding.

[26] *See supra,* note 24.

[27] The total cost is calculated as: [(10/60) hours * 32 interested parties * $55.23 hourly clerical rate] = $295 (rounded).

[28] The Department estimates that 80% (26) of these notices, would be delivered by regular mail. The Department further assumes that notices and the descriptions of facts and circumstances would be delivered separately, comprising 15 and 5 pages, respectively. Therefore, with a printing cost of $0.05 per page and a mailing cost of $0.58 per notice, the Department estimates the total mailing cost as (26 * (15 * $0.05) + $0.58) + (26 * (5 * $0.05) + $0.58) = $55 (rounded).

owners. In these applications, detailed information would be required quantifying the specific cost to Plans, in dollar amounts, of the harm its client Plans would suffer if a QPAM could not rely on the exemption after the winding-down period. This should include dollar amounts of investment losses resulting from foregone investment opportunities and any evidence supporting the proposition that investment opportunities would only be available to Plans on less advantageous terms.

The Department assumes the eight QPAMs that are estimated to become ineligible due to the receipt of a written Ineligibility Notice would incur incremental costs due to the cost quantification requirement described above and also the requirement to review the Department's most recently granted individual exemptions involving Section I(g) ineligibility. To satisfy the requirement to review the Department's most recently granted individual exemptions, the Department estimates that it would require three hours of outside legal professional time to review past individual exemptions and draft this addition to the individual exemption application. Therefore, the Department estimates the cost associated with the additional requirement totals $2,144 per application, or roughly $536 per affected QPAM.[29]

The eight QPAMs that would become ineligible due to a Criminal Conviction would only incur an incremental cost to ensure they include in their exemption applications the specific dollar amounts of investment losses resulting from foregone investment opportunities and any evidence supporting the proposition that investment opportunities would only be available to client Plans on less advantageous terms. For this requirement, the Department assumes it would require four hours of a financial professional's time to prepare such a report. Therefore, each of two applications covering the eight ineligible QPAMs due to a Criminal Conviction is estimated to cost $662, which amounts to $165 per affected QPAM.[30]

The impact could be less as the Department anticipates that few small entities would be impacted by the ineligibility provision based on its past applicants. Additionally, the Department expects that a small entity would be more likely to fall below the average of 32 client Plans.

Involvement in Investment Decisions by Parties in Interest—Section I(c)

The Department anticipates that the modifications to Section I(c) would not change the costs of the exemption as compared to the cost of the current QPAM Exemption because the types of transactions that were intended to be excluded by current Section I(c) are the same types of transactions intended to be excluded by modified Section I(c).

Asset Management and Equity Thresholds—Section VI(a)

As a result of the proposed adjustments to the asset management and equity thresholds to the QPAM definition in Section VI(a), the Department acknowledges some QPAMs may not meet the new threshold requirements, and, consequently, would no longer be able to rely on the QPAM Exemption. The Department expects QPAMs and Plans that utilize these QPAMs to incur costs due to this transition but lacks strong data to estimate the impact.[31] The Department has requested similar data in connection with individual applications for exemptions following convictions covered by Section I(g), but the data provided by applicants has been limited, as have been the costs identified by the applicants. The Department seeks comments and data on the number of QPAMs, including those that meet the SBA definitions of a small entity, who would potentially become unable to rely upon the exemption (along with the number of Plans and value of Plan assets) that would be impacted by the increase in asset management and equity thresholds.

Change in Revenue Due to Adjustments to the Asset Management and Equity Thresholds

If an asset manager is no longer eligible for relief under the QPAM Exemption (*i.e.,* because it no longer satisfies the asset management and equity thresholds), its client plans may choose to transfer assets and the related revenue away from the asset manager to its competitors. From the Plan's perspective, the reduction in assets entrusted to the original asset manager (and associated revenue reduction) are offset by the increase in assets managed by another asset manager or managers (and associated revenue increase). Even if the impact of the switch is minimal or neutral from the plan's perspective, it may lead to lost revenue for small QPAMs if plans move assets away from a small QPAM or lead to revenue gains if a small QPAM received some of these assets that are moved.[32]

The Department does not have sufficient data to quantify the likely size of such asset and revenue changes or the number of impacted small QPAMs. These revenue changes could have a significant impact on small QPAMs experiencing revenue gains or losses from assets that are moved. The Department also does not have sufficient data to estimate whether the assets being transferred away from small QPAMs will be transferred to large entities or to other small entities that are able to meet the proposed increases to asset management and equity thresholds. However, this proposed requirement would promote the protective nature of the exemption by ensuring a QPAM is of a sufficient size to resist undue influence from parties in interest (*i.e.,* maintain independence).

The Department is interested in receiving comments addressing whether a QPAM's client Plans would be likely to move all or some their assets to an alternative asset manager if the QPAM that manages their assets no longer meets the asset management and equity thresholds.

[29] At an hourly rate of $165.45 for financial professional time, the cost associated with the cost quantification requirement is estimated as: (4 hours * $165.45 financial professional rate) = $662 (rounded). For the cost associated with the review of past exemptions, a composite wage rate is used for the outside legal professional by employing a weighted average of the legal fees reported in the Laffey Matrix for Wage Rates (*http://www.laffeymatrix.com/see.html,* Year: 6/01/21- 5/31/22): ($381 * 0.4) + ($468 * 0.35) + ($676 * 0.15) + ($764 * 0.1) = $494. The total cost associated with reviewing past exemptions is estimated as (3 hours * $494 outside legal professional rate) = $1,482 (rounded). Therefore, the total cost associated with the additional requirement for QPAMs ineligible due to receiving a written Ineligibility Notice is ($662 + $1,482) = $2,144 (rounded).

[30] At an hourly rate of $165.45 for financial professional time, the cost per application is estimated as: (4 hours * $165.45 financial professional rate) = $662 (rounded). Assuming each application covers 4 QPAMs yields 165 ($662/4 = $165).

[31] Some QPAMs have suggested in the past that there could be costs associated with unwinding transactions that relied on the QPAM Exemption and reinvesting assets in other ways. The loss of QPAM status could also require an asset manager to keep lists of parties in interest to its client Plans to ensure the asset manager does not engage in prohibited transactions. However, even without the QPAM Exemption, a wide variety of investments are available that do not involve non-exempt prohibited transactions.

[32] Although a QPAM's client Plans could be expected to move some or all of its assets to another asset manager if the QPAM that manages their assets is convicted of an enumerated crime, this discussion does not address these transfers. The Department has long viewed both domestic and foreign convictions as causing ineligibility under the existing exemption. Consequently, the regulatory baseline already includes the impact of such convictions.

Recordkeeping—Section VI(t)

The Proposed QPAM Amendment would also add a new recordkeeping provision that would apply to all QPAMs. Due to the fiduciary status of QPAMs and the existing regulatory environment, the Department assumes that QPAMs already maintain such records as part of their regular business practices. In addition, the recordkeeping requirements correspond to the six-year period in ERISA sections 107 and 413. Therefore, the Department expects that the recordkeeping requirement would impose a negligible burden. The Department welcomes comments regarding the burden associated with the recordkeeping requirement.

If a QPAM refuses to disclose information to any of the parties listed in Section VI(t), on the basis that information is exempt from disclosure, the QPAM must provide a written notice advising the requestor of the reason for the refusal and that the Department may request such information. The Department does not have data on how often such a refusal is likely to occur; however, the Department believes such instances would be rare. As a result, the Department believes this requirement would impose negligible cost. The Department requests comments about whether this may happen more frequently and the possible costs.

Rule Familiarization Costs

The Department estimates that it would take 60 minutes, on average, for each QPAM to become familiar with the Proposed QPAM Amendment. The familiarization cost is estimated to be approximately $494 per QPAM.[33] The Department seeks comment on this estimate.

Summary of Quantified Costs

The total, per entity, quantified annual costs associated with the Proposed QPAM Amendment would be $728 in the first year and $220 in subsequent years for plans in compliance with the exemption. Table 1 summarizes the per entity costs for each requirement and the estimated annual costs associated with the amendment for QPAMs in compliance with the exemption, QPAMs with prohibited misconduct, and QPAMs with convictions.

TABLE 1—INCREMENTAL COSTS ASSOCIATED WITH PROPOSED QPAM AMENDMENT, PER ENTITY

Requirement	Cost for QPAMs in compliance with exemption	Cost for QPAMs with prohibited misconduct (estimated 8 per year)	Cost for QPAMS with a conviction (estimated 8 per year)
Reporting Reliance on the QPAM Exemption	$14	$14	$14
Written Management Agreement	220	220	220
Notice to Plans	.....	135	.....
Written Warning and Opportunity to be Heard	.....	1,340	.....
Requesting an Individual Exemption Costs:	.....	.....	.....
Preparation Labor Cost	.....	.....	.....
Notices Distribution	.....	350	.....
Additional Requirement-Criminal Conviction QPAMs	.....	.....	165
Additional Requirement-Prohibited Misconduct QPAMs	.....	536	.....
Rule Familiarization Costs	494	494	494
First Year Total Estimated Annual Cost	728	3,089	893
Subsequent Years Total Estimated Annual Cost [1]	0	2,361	165

Notes: Only quantifiable costs are displayed.
Additionally, two individual exemption applications associated with ineligible QPAMs (caused by either prohibited misconduct or a conviction) are estimated each year at an estimated cost of approximately $15,000 per entity.
[1] Excludes rule familiarization and the initial reporting reliance costs.

Alternatives

In order to make the statutory findings for issuing exemptions dictated by ERISA section 408(a) and Code section 4975(c)(2), the Department must find that an exemption is in the interest of and protective of the rights of plans, their participants and beneficiaries, and IRA owners. Therefore, the Department provides alternatives, as discussed below, that were considered in connection with the statutorily mandated exemption requirements.

Phase-In and Incremental Increases to Asset Management and Equity Thresholds Over Longer Period

The Department considered a longer phase-in period and incremental increases for the proposed updates to the asset management and equity thresholds. This alternative could reduce the likelihood that a small entity QPAM would no longer be able to satisfy the definition of QPAM and lose the corresponding ability to rely upon the exemption.[34]

The Department determined that a significant lag in updating the thresholds to current CPI-adjusted values had the potential to deprive Plans of the important protective nature of these aspects of the QPAM definition. The Department requests comments on alternative effective dates for the increases and/or appropriately protective incremental increases and time periods for such increases.

[33] The cost is based upon the expenditure of 1.0 hours for each QPAM to become familiar with the Proposed QPAM Amendment. To calculate the cost a composite wage rate is used by employing a weighted average of the legal fees reported in the Laffey Matrix for Wage Rates. (*http://www.laffeymatrix.com/see.html,* Year: 6/01/21–5/31/22): ($381 * 0.4) + ($468 * 0.35) + ($676 * 0.15) + ($764 * 0.1) = $494. This amounts to: (1 hour * $494) = $494. Note that QPAMs likely rely on outside specialized legal counsel to help keep them in compliance with the QPAM Exemption. The specialized outside legal counsel likely would review the amendment and present updates to their clients, which means that the costs would be spread out over multiple clients.

[34] For instance, an incremental increase over a longer period might allow a small entity to increase the size of its business in tandem with the increases to the asset management and equity thresholds.

Amend the QPAM Exemption To Remove Asset Management and Equity Thresholds

As an alternative to updating the asset management and equity thresholds, the Department revisited whether such thresholds could be removed entirely from the exemption. Doing so could have avoided any cost impact or revenue loss to small entities associated with losing eligibility to rely on the QPAM exemption due to the increased thresholds.

The Department determined that this approach would be inconsistent with one of the core concepts upon which the QPAM Exemption was based (*i.e.,* independence of the QPAM). As the Department noted in the preamble of the Proposed QPAM Amendment, the QPAM Exemption was originally granted, in part, on the premise that *large* financial institutions would be able to withstand undue influence from parties in interest.[35] Some of the thresholds that establish the requisite independence upon which the QPAM Exemption is based have not been updated since 1984, and the thresholds for registered investment advisers have not been updated since 2005.[36]

In the absence of an appropriate alternative ensuring that a QPAM would remain an independent decision-maker, free from influence of other insiders to the Plan and Plan sponsor, the Department is unable to justify the removal of the thresholds. The Department requests comments on alternatives that could minimize the potential impact of the Proposed QPAM Amendment on small entities, especially with respect to the increased asset management and equity thresholds.

Duplicate, Overlapping, or Relevant Federal Rules

The Department has attempted to avoid duplication of requirements. The required policies and procedures and exemption audit are unique to the circumstances of the particular transactions covered by the exemption and do not replicate any other requirements by state or Federal regulations.[37] The exemption permits respondents to satisfy the requirements for written guidelines between the QPAM and a property manager with documents that are already in existence due to ordinary and customary business practices, provided such documents contain the required disclosures.[38]

Signed at Washington, DC, this 13th day of September, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

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[35] *See* the Proposed QPAM Amendment, 87 FR 45213 (emphasis added).

[36] *Id.* at 45215.

[37] *See* Section V of the current QPAM Exemption. The requirements of Section V were not discussed in this IRFA because the Proposed QPAM Amendment would not change the existing requirements of Section V.

[38] *See* Section I(c) of the current QPAM Exemption and Proposed QPAM Amendment. The amendment would not modify this aspect of Section I(c).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0325; FRL–10118–03–R3]

Air Plan Approval; Maryland; Clean Data Determination and Approval of Select Attainment Plan Elements for the Anne Arundel County and Baltimore County, Maryland Sulfur Dioxide Nonattainment Area; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On August 19, 2022, the U.S. Environmental Protection Agency (EPA) published a proposed rule determining that the Anne Arundel County and Baltimore County, Maryland sulfur dioxide (SO_2) nonattainment area attained the 2010 primary SO_2 national ambient air quality standard (2010 SO_2 NAAQS) under EPA's Clean Data Policy using a clean data determination (CDD). EPA simultaneously proposed to approve certain elements of the attainment plan contained in Maryland's state implementation plan (SIP) revision for the Anne Arundel County and Baltimore County SO_2 nonattainment area, submitted to EPA on January 31, 2020. Additionally, EPA proposed to approve as SIP strengthening measures certain emission limit requirements on large SO_2 emission sources that were submitted as part of Maryland's attainment plan for the nonattainment area. EPA inadvertently failed to upload the supporting and related materials in the docket simultaneously with the publication of the notice of proposed rulemaking (NPRM) on August 19, 2022 (87 FR 51006). The supporting and related materials were added to the docket on August 29, 2022. To ensure that the public has adequate time and information to submit comments, EPA is extending the comment period for ten days to September 29, 2022. This action is being taken under the Clean Air Act (CAA).

DATES: The public comment period for the proposal published in the **Federal Register** on August 19, 2022 (87 FR 51006) is extended from September 19, 2022 to September 29, 2022. Written comments must be received on or before September 29, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0325 at *www.regulations.gov,* or via email to *gordon.mike@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the For Further Information Contact section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Brian Rehn, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2176. Mr. Rehn can also be reached via electronic mail at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

On August 19, 2022, the EPA published a proposed rule taking several actions (87 FR 51006). First, the EPA proposed under its Clean Data Policy to determine that the Anne Arundel County and Baltimore County, Maryland SO_2 nonattainment area has

attained the 2010 SO_2 NAAQS through a CDD. If finalized, this proposed CDD would suspend the obligation to submit certain attainment planning requirements for the nonattainment area for as long as the area continues to attain the 2010 SO_2 NAAQS. Second, the EPA proposed to approve certain elements of the attainment plan contained in Maryland's SIP revision for the Anne Arundel County and Baltimore County SO_2 nonattainment area, submitted to EPA on January 31, 2020. The requirement to submit the elements that EPA is proposing to approve would not be suspended under this proposed CDD, as set forth in EPA's Clean Data Policy, because EPA considers them to be independent of attaining the NAAQS under the CAA. Finally, EPA is approving as SIP strengthening measures certain emission limit requirements on large SO_2 emission sources that were submitted as part of Maryland's attainment plan for the nonattainment area. This determination of attainment and approval of certain elements and emissions limitations into the SIP does not redesignate the Area to attainment or constitute a full approval of the submitted attainment plan or of a maintenance plan.

The NPRM was published on August 19, 2022, and specified that the comment period would end on September 19, 2022. However, the supporting materials were not made available in the docket until August 29, 2022 (ten days after publication).

To ensure the public and interested parties have sufficient time to review the associated docket materials and submit comment on the NPRM, the EPA is extending the comment period an additional 10 days to September 29, 2022 to account for the delay in posting the supporting and related materials.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2022–20080 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 386, 390, and 395

[Docket No. FMCSA–2022–0078]

RIN 2126–AC50

Electronic Logging Device Revisions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: FMCSA solicits public comment on ways to improve the clarity of current regulations on the use of electronic logging devices (ELD) and address certain concerns about the technical specifications raised by industry stakeholders. The Agency seeks comment in five specific areas in which the Agency is considering changes: applicability to pre-2000 engines; addressing ELD malfunctions; the process for removing ELD products from FMCSA's list of certified devices; technical specifications; and ELD certification.

DATES: Comments on this notice must be received on or before November 15, 2022.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2022–0078 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/docket/FMCSA-2022-0078/document*. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., 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.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Christopher, Office of Enforcement and Compliance, (785) 230–1376; *Andrew.Christopher@dot.gov.* Office hours are from 7:30 a.m. to 3:30 p.m., CT, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, call Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

This advance notice of proposed rulemaking (ANPRM) is organized as follows:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this ANPRM, indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2022-0078/document*, click on this ANPRM, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the ANPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the ANPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. FMCSA will treat such marked submissions as

confidential under the Freedom of Information Act, and they will not be placed in the public docket of the ANPRM. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to *https://www.regulations.gov/docket/FMCSA-2022-0078/document* and choose the document to review. To view comments, click this ANPRM, then 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., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). 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—Federal Docket Management System), which can be reviewed at *https://www.govinfo.gov/content/pkg/FR-2008-01-17/pdf/E8-785.pdf.*

II. Abbreviations

ANPRM Advance Notice of Proposed Rulemaking
CBI Confidential Business Information
CFR Code of Federal Regulations
CMV Commercial Motor Vehicle
DOT Department of Transportation
ECM Engine Control Module
ELD Electronic Logging Device
E.O. Executive Order
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
FR Federal Register
HMTAA Hazardous Materials Transportation Authorization Act of 1994
HOS Hours of Service
MAP–21 Moving Ahead for Progress in the 21st Century Act
NPRM Notice of Proposed Rulemaking
OMB The Office of Management and Budget
RODS Records of Duty Status
The Secretary Secretary of Transportation
SNPRM Supplemental Notice of Proposed Rulemaking
U.S.C. United States Code

III. Legal Basis for the Rulemaking

FMCSA's authority for this rulemaking is derived from several statutes, which are discussed below.

Under 49 U.S.C. 31502(b) (originally enacted as part of the Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543, Aug. 9, 1935), ''[t]he Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation''. The rule requiring the use of electronic logging devices (ELDs) increases compliance with the hours of service (HOS) regulations and addresses the ''safety of operation'' of motor carriers subject to this statute.

Under 49 U.S.C. 31136(a) (originally enacted as part of the Motor Carrier Safety Act of 1984 (Pub. L. 98–554, Title II, 98 Stat. 2832, Oct. 30, 1984)),) the Secretary of Transportation (Secretary) is authorized to regulate drivers, motor carriers, and vehicle equipment. The statute requires the Secretary to prescribe minimum safety standards for commercial motor vehicles (CMVs) to ensure that—(1) CMVs are maintained, equipped, loaded, and operated safely; (2) responsibilities imposed on CMV drivers do not impair their ability to operate the vehicles safely; (3) drivers' physical condition is adequate to operate the vehicles safely; (4) the operation of CMVs does not have a deleterious effect on drivers' physical condition; and (5) CMV drivers are not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a CMV in violation of regulations promulgated under 49 U.S.C. 31136 or under chapter 51 or chapter 313 of 49 U.S.C.. Under 49 U.S.C. 31133(a)(8) and (10), the Secretary has broad power in carrying out motor carrier safety statutes and regulations to ''prescribe recordkeeping and reporting requirements'' and to ''perform other acts the Secretary considers appropriate''. The HOS regulations, and the ELDs used to track compliance with them, ensure that driving time—one of the principal ''responsibilities imposed on the operators of commercial motor vehicles''—does ''not impair their ability to operate the vehicles safely'' (49 U.S.C. 31136(a)(2)). Driver and motor carrier compliance with the HOS rules, as tracked by ELDs, also helps to ensure that drivers are provided time to obtain restorative rest and thus that ''the physical condition of [CMV drivers] is adequate to enable them to operate the vehicles safely'' (49 U.S.C. 31136(a)(3)).

FMCSA's regulations requiring the use of ELDs must ensure that ELDs are not used to ''harass a vehicle operator'' (49 U.S.C. 31137(a)(2)). This requirement to ensure that electronic driver-monitoring devices are not used to harass drivers was enacted originally by section 9104 of the Truck and Bus Safety and Regulatory Reform Act (Pub. L. 100–690, 102 Stat. 4181, 4529, Nov. 18, 1988) and was reiterated and amended by the Moving Ahead for Progress in the 21st Century Act (MAP–21), This provision is implemented by 49 CFR part 395, subpart B.

Section 113 of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103–311, 108 Stat. 1673, 16776–1677, Aug. 26, 1994) requires the Secretary to prescribe regulations to improve compliance by CMV drivers and motor carriers with HOS requirements and the efficiency of Federal and State authorized safety officials reviewing such compliance. Specifically, the Act addresses requirements for supporting documents. These mandates are implemented by 49 CFR part 395, subpart B.

Under 49 U.S.C. 31137(a) (section 32301(b) of the Commercial Motor Vehicle Safety Enhancement Act, originally enacted as part of MAP–21 (Pub. L. 112–141, 126 Stat. 405, 786–788, July 6, 2012)), the Secretary is mandated to adopt regulations requiring that CMVs involved in interstate commerce, operated by drivers who are required to keep records of duty status (RODS), be equipped with ELDs. This statute was implemented by 49 CFR part 395, subpart B.

IV. E.O. 12866 (Regulatory Planning and Review) and E.O. 13563 (Improving Regulation and Regulatory Review)

The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this ANPRM is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under these orders.

Executive Orders 12866 and 13563 require agencies to provide a meaningful opportunity for public participation. Accordingly, the Agency has asked commenters to answer a

variety of questions to elicit practical information about alternative approaches, including the associated costs and benefits of those approaches, and relevant scientific, technical, and economic data.

V. Background

Need for Additional Consideration

The ELD final rule (80 FR 78291, Dec. 16, 2015), established minimum performance and design standards for HOS ELDs; requirements for the mandatory use of these devices by drivers who were currently required to prepare HOS RODS; requirements concerning HOS supporting documents; and measures to address concerns about harassment resulting from the mandatory use of ELDs. The 2015 final rule is summarized below.

FMCSA believes that the lessons learned by Agency staff, State enforcement personnel, ELD providers, and industry over the last few years can be used to streamline and improve the clarity of the regulatory text and ELD technical specifications and resolve questions that have arisen. In addition, technical specifications could be updated to address concerns raised by affected parties and improve the functionality of ELDs.

Current HOS and ELD Regulations

The current HOS regulations in 49 CFR part 395 limit the number of hours a CMV driver may drive. The regulations also limit, during each 7- or 8-day period, the maximum on-duty time before driving is prohibited. Such rules are needed to ensure drivers stay awake and alert. Sufficient rest, including sleep and breaks, are necessary to ensure that a driver is alert behind the wheel and able to respond appropriately to changes in the driving environment. With certain exceptions, motor carriers and drivers are required by § 395.8 to keep RODS to track driving, on-duty, and off-duty time. FMCSA and State agencies use these records to review and ensure compliance with the HOS rules. The current ELD regulations are found in subpart B of 49 CFR part 395, including the ELD Technical Specifications in Appendix A to subpart B of 49 CFR part 395.

ELD Rulemakings/Proposals

In a March 28, 2014, supplemental notice of proposed rulemaking (SNPRM) which included a discussion of prior rulemakings regarding recording devices, FMCSA proposed amendments to the Federal Motor Carrier Safety Regulations (FMCSRs) to establish minimum performance and design standards for HOS ELDs, requirements for the mandatory use of these devices by drivers currently required to prepare HOS RODS, requirements concerning HOS supporting documents, and measures to address concerns about harassment resulting from the mandatory use of ELDs (79 FR 17656). The SNPRM also proposed new ELD technical specifications and addressed the issue of ELDs being used by motor carriers to harass drivers. The SNPRM proposed the following four options: (1) mandate ELDs for all CMV operations subject to 49 CFR part 395; (2) mandate ELDs for all CMV operations where the driver is required to complete RODS under § 395.8; (3) mandate ELDs for all CMV operations subject to 49 CFR part 395, with the ELD required to include or be able to be connected to a printer and print RODS; and (4) mandate ELDs for all CMV operations where the driver is required to complete RODS under § 395.8, with the ELD required to include or be able to be connected to a printer and print RODS.

The Agency published a final rule in the **Federal Register** (80 FR 78292) on December 16, 2015, which amended the FMCSRs in the following ways: (1) it established one technical specification for all ELDs that addressed statutory requirements; (2) it mandated ELDs for drivers currently using RODS; (3) it clarified supporting document requirements to allow motor carriers and drivers to comply efficiently with HOS regulations; and (4) it adopted both procedural and technical provisions aimed at ensuring that ELDs are not used to harass CMV operators. The effective date of the final rule was February 16, 2016, and the principal compliance date was December 18, 2017.

The final rule included: (1) Supporting Documents Requirements—The maximum number of supporting documents that must be retained was 8. In addition, the timeframe in which a driver must submit RODS and supporting documents to a motor carrier was 13 days; (2) Technical Specifications for ELD—The rule required that electronic data transfer must be made by either: (a) wireless web services and email or (b) Bluetooth® and USB 2.0. Furthermore, to facilitate roadside inspections, and ensure authorized safety officials are always able to access this data, including cases of limited connectivity, an ELD must provide either a display or printout; (3) Exceptions—Two optional ELD exceptions were added: (a) Driveaway-towaway operations are not required to use an ELD, provided the vehicle driven is part of the shipment or is a motor home or a recreation vehicle trailer; and (b) Drivers are not required to use ELDs when operating CMVs older than model year 2000; and (4) ELD Certification—To ensure that ELD providers are afforded due process in case of ELD compliance issues, FMCSA created a procedure to remove ELD devices from the Agency's list of certified products.

The Agency clarified its supporting document requirements, recognizing that ELD records serve as the most robust form of documentation for on-duty driving periods. The rule also contained provisions calculated to prevent the use of ELDs to harass drivers. The compliance dates of the 2015 rule were either December 18, 2017, for most motor carriers, or December 17, 2019, for carriers that had voluntarily installed a recording device before the effective date of the final rule (80 FR 78292).

VI. Request for Comments

The Agency seeks comments and data from the public in response to this ANPRM. We request that commenters specifically address the issues listed below, and number their comments to correspond to each issue. FMCSA anticipates that some of the information and data submitted may include CBI. Those comments should be filed in accordance with the requirements of § 389.9,''Treatment of confidential business information submitted under confidential class determinations,'' and the instructions in the CBI subheading under ''Public Participation and Request for Comments'' above.

1. Applicability to Pre-2000 Engines

a. Many vehicles with pre-2000 engines and most vehicles with rebuilt pre-2000 engines have engine control modules (ECMs) installed that could accommodate an ELD. Should FMCSA re-evaluate or modify the applicability of the current ELD regulation for re-built or re-manufactured CMV engines or glider kits? [1]

[1] 40 CFR 1037.801 defines *Glider kit* as either of the following:

(1) A new vehicle that is incomplete because it lacks an engine, transmission, and/or axle(s).

(2) Any other new equipment that is substantially similar to a complete motor vehicle and is intended to become a complete motor vehicle with a previously used engine (including a rebuilt or remanufactured engine). For example, incomplete heavy-duty tractor assemblies that are made available to secondary vehicle manufacturers to complete assembly by installing used/remanufactured engines, transmissions and axles are glider kits. See *https://www.ecfr.gov/current/title-40/chapter-I/subchapter-U/part-1037#p-1037.801(Glider%20kit).*

b. Please provide data regarding the size of the glider kit population utilizing pre-2000 engines.

2. Addressing ELD Malfunctions

Currently, § 395.34(a) requires a driver documenting his or her RODS to switch to paper logs when an ELD malfunctions. Section 395.34(c) requires a driver to follow the motor carrier and ELD provider recommendations when a data diagnostic event is logged. Whenever an ELD fails to record a driver's hours, enforcement personnel must be able to review the driver's paper logs. By contrast, when an ELD malfunctions but continues to record the driver's hours accurately, the driver should not switch to paper logs.

Should FMCSA amend carrier and driver responsibilities in § 395.34 to clarify when a driver must switch to paper logs?

3. Removal Process

a. If an ELD provider goes out of business and fails to self-revoke, should FMCSA be able to immediately remove the device from the registered ELD list?

b. The ELD rule requires ELD providers to keep their information current. However, the rule does not include a time restriction. Should FMCSA require ELD providers to update their listing within 30 calendar days of any change to their registration information found in section 5.1.1? Additionally, should ELD providers be required to confirm their information on an annual basis? Should an ELD provider's ELD be removed from the FMCSA list if it fails to confirm or update its listing on an annual basis?

c. Under Section 5.4 *Removal of Listed Certification,* providers must respond to the Agency's written notice of required corrective action within 30 days to remain on the list. Additionally, the provider is given 60 days after the Agency provides a written modification to the notice of proposed removal or notice to affirm the proposed removal under Section 5.4.4. Should FMCSA consider decreasing the 60-day period to 30 days, in order to more timely remove an ELD listing found with non-compliance issues that could adversely impact highway safety?

d. Should FMCSA consider any other factors related to a carrier's continued use of a device that has been removed from the FMCSA list due to a provider's status (out of business or failure to file an annual registration update)?

4. Technical Specifications

a. Would ELD providers be able to include, in the output file and registration, the version numbers of the individual components of the ELD (*e.g.,* the software version number running on the graphical user interface/tablet, the firmware running on the gateway/black box, and the software version number of the back-office software), if any of these components were required to comply with the ELD regulations?

b. FMCSA requests information on the impact of including the following data elements to every event. FMCSA believes recording this information would allow the technical specifications to be modified to eliminate the requirements of providing power up and shut down events from vehicles a driver has previously operated that are not associated with the requested driver's data/RODS:

1. Actual odometer
2. Actual engine hours
3. Location description
4. Geo-location
5. VIN
6. Power unit
7. Shipping document number
8. Trailer number
9. Driver
10. Co-driver if there was one
11. Which driver was driving at the time, if there was a co-driver

c. To more efficiently monitor a vehicle over the course of its operation, should more frequent intermediate recordings (including the same data elements listed in 4b.) be required on the quarter hour, half hour, three-quarter hour, and hour? If not, what would be a reasonable frequency to require intermediate recordings?

d. FMCSA granted a temporary exception (82 FR 48883, Oct. 20, 2017) that allowed all motor carriers to configure an ELD with a yard-move mode that does not require a driver to re-input yard-move status every time the tractor is powered off. Additionally, the ELD would switch to a ''driving'' duty status under § 395.24 if (1) the driver inputs ''driving,'' (2) the vehicle exceeds 20 mph, or (3) the vehicle exits the geo-fenced yard. Should FMCSA consider adding this temporary exception to the regulation? Are there other factors related to this temporary exception that should be considered?

e. In the preamble to the 2015 final rule, FMCSA stated that the driver was expected to enter a new duty status before powering off the ELD and turning the vehicle off. However, drivers often fail to enter a new duty status prior to powering off the ELD, resulting in the driver remaining in driving status. To eliminate the issue, should the ELD automatically record an on-duty not-driving event following the recording of an engine shutdown? Are there other options that should be considered?

f. The industry has reported that the current 5 second requirement is not enough time for an ELD to obtain the information it has requested from the ECM, as required by section 4.6.1.2 in the Appendix to subpart B of part 395. What would be a reasonable amount of time? Is this an issue only at power up?

g. Should FMCSA consider allowing a driver, rather than the motor carrier, to change his or her ELD configuration to an exempt status to help reduce the administrative burden noted by the industry? Should FMCSA consider expanding the list of special driving categories in § 395.28(a) to include driving performed under an exemption? If so, what data should be recorded to specifically identify who made the change, why the change was made, and where the change took place, to achieve an equivalent level of safety to prevent falsification?

h. Would the technical specification changes discussed in this section necessitate a change in ELD hardware? Or could these changes be pushed to existing ELD devices via a software update? If such updates are feasible, what would the cost implications be?

i. Should other technical specifications, not addressed in this list, be considered for revision to improve ELD data recording, data transfer, cross-border commerce or information security and compliance? Please provide data to support your suggestion.

j. What action(s) do you recommend FMCSA take to ensure that ELD specifications remain current with advances in technology?

5. ELD Certification

a. Should FMCSA establish a certification process for ELDs? If so, what should a certification process consist of?

b. Based on your answer to the above questions, what would be the costs and benefits of that approach?

c. If a certification process is established, how should existing devices be treated?

Issued under authority delegated in 49 CFR 1.87.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–20095 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 220912–0190]

RIN 0648–BI88

Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule; Extension of Public Comment Period

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

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On August 1, 2022, NMFS published proposed amendments to the North Atlantic right whale vessel strike reduction rule, with a 60-day comment period ending on September 30, 2022. In response to multiple requests for an extension, NMFS is announcing an extension of the public comment period by an additional 30 calendar days ending on October 31, 2022.

DATES: The deadline for receipt of comments on the proposed rule published on August 1, 2022, at 87 FR 46921, is extended from September 30, 2022, until October 31, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0022, by electronic submission. Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0022 in the Search box. Click the ''Comment'' icon, complete the required fields and enter or attach your comments. You may submit comments on supporting materials via the same electronic submission process, identified by NOAA–NMFS–2022–0022.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). The Draft Environmental Assessment, and the Draft Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared in support of this proposed rule, are available via the internet at *https://www.regulations.gov/* or obtained via email from the person listed below.

FOR FURTHER INFORMATION CONTACT: Caroline Good, *caroline.good@noaa.gov,* 301–427–8402.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2022, NMFS published proposed changes to the North Atlantic right whale (*Eubalaena glacialis*) vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered right whales from vessel collisions, which are a leading cause of the species' decline and a primary factor in an ongoing Unusual Mortality Event. The proposed rule would: (1) modify the spatial and temporal boundaries of current speed restriction areas referred to as Seasonal Management Areas (SMAs), (2) include most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length in the size class subject to speed restriction, (3) create a Dynamic Speed Zone framework to implement mandatory speed restrictions when whales are known to be present outside active SMAs, and (4) update the speed rule's safety deviation provision.

NMFS has received multiple requests for extension of the 60-day comment period and multiple requests to maintain the comment period scheduled to close on September 30, 2022. Having considered the requests, NMFS is extending the comment period for the proposed rule for an additional 30 days to provide further opportunity for public comment. This extension provides a total of 90 days for public input.

Changes to the speed regulations are proposed to reduce vessel strike risk based on a coast-wide collision mortality risk assessment and updated information on right whale distribution, vessel traffic patterns, and vessel strike mortality and serious injury events. Changes to the existing vessel speed regulation are essential to stabilize the ongoing right whale population decline and prevent the species' extinction. As such, we encourage members of the public to submit comments as soon as possible to allow NMFS sufficient time to review, consider and incorporate submitted information.

Authority: 16 U.S.C. 1531–1543; 16 U.S.C. 1361 *et seq.*

Dated: September 12, 2022.

Samuel D Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2022–20058 Filed 9–15–22; 8:45 am]

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Notices

Federal Register
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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Notice of Stakeholder Listening Session Regarding Science Priorities

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice of Stakeholder Listening Session.

SUMMARY: USDA National Institute of Food and Agriculture announces its stakeholder listening initiative ''NIFA Listening Session for Stakeholder Input to Science Priorities.'' This stakeholder listening opportunity informs the research, extension and education priorities of NIFA, which has the mission of investing in and advancing agricultural research, education and extension to solve societal challenges. For the purpose of this opportunity, *Agriculture* is defined broadly and includes research, extension, and education in food, fiber, forestry, range, nutritional and social sciences, including food safety and positive youth development. NIFA's investments in transformative science directly support the long-term prosperity and global pre-eminence of U.S. agriculture.

This effort to obtain input regarding the challenges, needed breakthroughs, and priorities will be carried out through online and virtual submission mechanisms. Stakeholder input received from the two mechanisms is treated equally.

DATES:

Online Input: Submission of online stakeholder input to the target questions will be open upon publishing of this Notice through 5 p.m. Eastern time November 30, 2022.

Virtual Listening Sessions: A full-day listening session will be organized to obtain virtual input from stakeholders throughout the United States, including small institutions, local businesses, and other stakeholder groups. The listening session will take place on November 2, 2022. The session will begin at 8:30 a.m. and is scheduled to end no later than 7 p.m. Eastern Time. The session will include a presentation of the goals and background information on NIFA programs, followed by comments from stakeholders. Each registered speaker will receive 5 minutes to share their comments with the Agency. If time allows after all comments from registered speakers are made, unscheduled speakers will be allowed 5 minutes to present their comments to the Agency. The length of the sessions will be adjusted according to numbers of participants seeking to provide input.

Registration: All parties interested in attending the virtual listening session must RSVP no later than one week prior to the scheduled session. The virtual listening session will be webcast and transcribed. Information about registering for the virtual session, providing written comments and viewing the webcast can be found at *https://www.nifa.usda.gov/nifalistens.* This website includes instructions on submitting written comments and registering to attend or speak at the virtual listening session. The number of oral commenters is limited due to time and space constraints (see below). Oral commenter slots will be allotted on a first-come, first-served basis. All interested stakeholders, regardless of attendance, are welcome to submit written comments. All parties interested in attending the virtual listening session must RSVP no later than one week prior to the scheduled session they will attend. Abstracts from in-person speakers can be submitted upon registration via *https://nifa.usda.gov/nifalistens.*

If you need a reasonable accommodation to register for, or participate in, this event, please contact Jessica Creighton, Acting Director of Equal Opportunity and Civil Rights, at *Jessica.creighton@usda.gov,* or 816–266–6947 no later than October 20, 2022. Language access services, such as interpretation or translation of vital information, will be provided free of charge to individuals with limited English proficiency upon request.

ADDRESSES: The virtual listening session Zoom link isshared upon registration for November 2, 2022. All parties interested in attending the virtual listening session must RSVP no later than one week prior to the scheduled session.

FOR FURTHER INFORMATION CONTACT: Amanda Sahinovic, Financial Policy Specialist, National Institute of Food and Agriculture, U.S. Department of Agriculture; Email: *Amanda.Sahinovic@usda.gov;* Telephone: (816) 527–5379.

SUPPLEMENTARY INFORMATION: The science priority-setting process at NIFA involves soliciting stakeholder input on agricultural research, education and extension needs, obtaining input from NIFA's science staff who are informed through interactions with scientific communities, and evaluating existing programs to identify critical gaps in the current portfolio of programs in order to address challenges in U.S. agriculture.

This listening effort will allow stakeholders to provide feedback on the following questions:

- What is your top priority for research, extension or education for NIFA?
- What are the most promising opportunities/solutions for advancement of these food and agricultural priorities?
- What are the greatest challenges that you see facing food and agriculture in the coming decades, and what fundamental knowledge gaps exist that limit the ability of research, extension, and education to respond to these challenges?
- Based on those challenges, what general areas of food and agricultural research should be advanced and supported to fill the knowledge gaps, and what is your top priority for research, extension, and/or education for NIFA investment?
- How accessible do you find information about NIFA programs and activities to be?
- What can NIFA do to make information and resources more accessible?
- What is NIFA doing right and are there opportunities to improve?

NIFA welcomes stakeholder input from any group or individual interested in agricultural research, extension or education priorities for NIFA.

NIFA is eager to listen to stakeholder's comments on the challenges, needed breakthroughs, and priorities, solutions and opportunities that will facilitate long-term sustainable agricultural production, research, education and extension. *Agriculture* in

this context is defined broadly and includes research, extension, and education in food, fiber, forestry, range, nutritional and social sciences, including food safety and positive youth development. This listening effort will focus on the agricultural science that NIFA invests in, but not primarily on NIFA processes or procedures.

Implementation Plans

Written comments by all interested stakeholders are welcomed through 5 p.m. Eastern time, November 30, 2022. All input will become a part of the official record and available on the NIFA website, *https://nifa.usda.gov/nifalistens.*

Stakeholder input received from the two mechanisms is treated equally. The challenges, needed breakthroughs, and priorities identified by this effort will be evaluated in conjunction with input from NIFA staff. This information will be critical for NIFA's evaluation of existing science emphasis areas and to identify investment opportunities and gaps in the current portfolio of programs. The information obtained through this iterative analysis and synthesis will help ensure the strategic positioning and relevancy of NIFA's investments in advancing agricultural research, education and extension.

Done at Washington, DC, this day of September 9, 2022.

Dionne Toombs,

Acting Director, National Institute of Food and Agriculture, U.S. Department of Agriculture.

[FR Doc. 2022–20064 Filed 9–15–22; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of National Advisory Council on Innovation and Entrepreneurship Meeting

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The National Advisory Council on Innovation and Entrepreneurship (NACIE) will hold a public meeting on Thursday, October 6, 2022. U.S. Secretary of Commerce Gina M. Raimondo has appointed a new cohort of 33 members to NACIE, and this will be this cohort's second meeting. NACIE will continue to consider the development of a national entrepreneurship strategy, an overview of Federal support for technology innovation and entrepreneurship, and an exploration of critical emerging technologies, and the regional technology and innovation hubs program recently enacted by Congress.

DATES: Thursday, October 6, 2022, 9 a.m.–4 p.m. ET.

ADDRESSES: Herbert Clark Hoover Building (HCHB), 1401 Constitution Ave. NW, Washington, DC 20230. The main entrance to HCHB is located on the west side of 14th St. NW between D St. NW and Constitution Ave. NW, and a valid government-issued ID is required to enter the building. Visitors to HCHB must comply with and adhere to the Department of Commerce's COVID–19 policies and protocols in effect at the time of the meeting, which can be found at the Department's COVID–1 Information Hub at *https://www.commerce.gov/covid-19-information-hub.* Please note that pre-clearance is required both to attend the meeting in person and to make a statement during the public comment portion of the meeting. Please limit comments to five minutes or less and submit a brief statement summarizing your comments to Eric Smith (see contact information below) no later than 11:59 p.m. ET on Wednesday, September 28, 2022. Teleconference or web conference connection information will be published prior to the meeting along with the agenda on the NACIE website at *https://www.eda.gov/oie/nacie/.*

FOR FURTHER INFORMATION CONTACT: Eric Smith, Office of Innovation and Entrepreneurship, 1401 Constitution Avenue NW, Room 78018, Washington, DC 20230; email: *nacie@doc.gov;* telephone: +1 202 482 8001. Please reference ''NACIE October 2022 Meeting'' in the subject line of your correspondence.

SUPPLEMENTARY INFORMATION: NACIE, established pursuant to section 25(c) of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3720(c)), and managed by EDA's Office of Innovation and Entrepreneurship, is a Federal Advisory Committee Act committee that provides advice directly to the Secretary of Commerce.

NACIE will be charged with developing a national entrepreneurship strategy that strengthens America's ability to compete and win as the world's leading startup nation and as the world's leading innovator in critical emerging technologies. NACIE is also charged with identifying and recommending solutions to drive the innovation economy, including growing a skilled STEM workforce and removing barriers for entrepreneurs ushering innovative technologies into the market. The council also facilitates federal dialogue with the innovation, entrepreneurship, and workforce development communities. Throughout its history, NACIE has presented recommendations to the Secretary of Commerce along the research-to-jobs continuum, such as increasing access to capital, growing and connecting entrepreneurial communities, fostering small business-driven research and development, supporting the commercialization of key technologies, and developing the workforce of the future.

The final agenda for the meeting will be posted on the NACIE website at *http://www.eda.gov/oie/nacie/* prior to the meeting. Any member of the public may submit pertinent questions and comments concerning NACIE's affairs at any time before or after the meeting. Comments may be submitted to Eric Smith (see contact information above). Those unable to attend the meetings in person but wishing to listen to the proceedings can do so via teleconference or web conference (see above). Copies of the meeting minutes will be available by request within 90 days of the meeting date.

Dated: September 13, 2022.

Eric Smith,

Director, Office of Innovation and Entrepreneurship.

[FR Doc. 2022–20128 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–19–2022]

Foreign-Trade Zone (FTZ) 7—Mayaguez, Puerto Rico; Authorization of Production Activity; AbbVie Ltd. (Pharmaceutical Products), Barceloneta, Puerto Rico

On May 13, 2022, AbbVie Ltd., submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 7I, in Barceloneta, Puerto Rico.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 30448, May 19, 2022). On September 12, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to

the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: September 12, 2022.

Christopher Kemp,

Acting Executive Secretary.

[FR Doc. 2022–20012 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–43–2022]

Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts, Notification of Proposed Production Activity, Wyeth Pharmaceuticals, LLC (Shingles and Flu Vaccines), Andover, Massachusetts

Wyeth Pharmaceuticals, LLC (Wyeth) submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Andover, Massachusetts within Subzone 27R. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on September 8, 2022.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed finished product(s) and material(s)/component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished products include mRNA Varicella-Zoster Virus Shingles Vaccine and saRNA Flu Vaccine (duty-free).

The proposed foreign-status material/component is N1-Methyl-Pseudouridine-5′-Triphosphate (duty rate, 6.5%). The request indicates that the material/component is subject to duties under Section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is October 26, 2022.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: September 12, 2022.

Christopher Kemp,

Acting Executive Secretary.

[FR Doc. 2022–20048 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–21–2022]

Foreign-Trade Zone (FTZ) 18—San Jose, California, Authorization of Production Activity Epoch International Enterprises, Inc. (Printed Circuit Board Assemblies and Enclosures), Fremont, California

On May 16, 2022, Epoch International Enterprises, Inc., submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 18M, in Fremont, California.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 32120, May 27, 2022). On September 13, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: September 13, 2022.

Christopher Kemp,

Acting Executive Secretary.

[FR Doc. 2022–20114 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Program; Public Meeting; Request for Comments; Correction

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public meeting and opportunity to comment; correction.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management, published a document in the **Federal Register** of August 5, 2022, concerning a notice of public meeting to solicit comments on the performance evaluation of the Connecticut Coastal Management Program. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Evaluator, NOAA Office for Coastal Management, by email at *Ralph.Cantral@noaa.gov* or by phone at (843) 474–1357.

SUPPLEMENTARY INFORMATION:

Correction: In the **Federal Register** of August 5, 2022, 87 FR 47984, correct the **DATES** caption to read:

DATES: NOAA will consider all written comments received by Friday, October 7, 2022. A virtual public meeting will be held on Wednesday, September 28, 2022, at 6:30 p.m. Eastern Time (ET).

Correction: In the **Federal Register** of August 5, 2022, 87 FR 47984, correct the ''Public Meeting'' caption to read:

Public Meeting: Provide oral comments during the public meeting on Wednesday, September 28, 2022, at 6:30 p.m. ET at the Meigs Point Nature Center meeting room at Hammonasset Beach State Park, 1288 Boston Point Road, Madison, Connecticut 06443.

Written comments received are considered part of the public record, and the entirety of the comment, including the email address, attachments, and other supporting materials, will be publicly accessible. Sensitive personal information, such as account numbers, Social Security numbers, or names of individuals, should not be included with the comment. Comments that are not responsive or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

Keelin Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–20081 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC378]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet via hybrid conference October 3, 2022 through October 11, 2022.

DATES: The meetings will be held October 3, 2022 through October 11, 2022. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Hilton Hotel, 500 W 3rd Ave., Anchorage, AK 99501, or join the meeting online through the links at *https://www.npfmc.org/upcoming-council-meetings.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via webconference are given under Connection Information, below.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; email: *diana.evans@noaa.gov;* telephone: (907) 271–2809. For technical support, please contact our Council administrative staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Aleutian room on Monday, October 3, 2022, and continue through Wednesday, October 5, 2022. The Council's Advisory Panel (AP) will begin at 8 a.m. in the Denali room on Tuesday, October 4, 2022, and continue through Friday, October 7, 2022. The Council will begin at 8 a.m. in the Aleutian room on Thursday, October 6, 2022, and continue through Tuesday, October 11, 2022. The Ecosystem Committee will meet on Monday October 3, 2022 from 10 a.m. to 5 p.m. in the Denali room. All times listed are Alaska time.

Agenda

Monday, October 3, 2022

The Ecosystem Committee will meet to receive updates on the development of the Essential Fish Habitat (EFH) 5-year review, the Bering Sea Fishery Ecosystem Plan (FEP) Climate Change Taskforce report, and other updates on scoping and workshops. The Agenda is subject to change, and the latest version will be posted at: *https://meetings.npfmc.org/Meeting/Details/2952.*

Monday, October 3, 2022, Through Wednesday, October 5, 2022

The SSC agenda will include the following issues:

(1) Bering Sea and Aleutian Islands (BSAI) Crab specifications—(a) review Stock Assessment and Fishery Evaluation (SAFE) report; (b) adopt Acceptable Biological Catch (ABC)/Over Fishing Limits (OFLs) for Bristol Bay red king crab (BBRKC), Tanner crab, snow crab, Pribilof Island red king crab (PIRKC), St. Matthew blue king crab (SMBKC); (c) Crab Plan Team report; (d) Ecosystem Status Report preview; (e) snow crab rebuilding projections.

(2) Greenland turbot in longline pots—Initial Review.

(3) BSAI/Gulf of Alaska (GOA) Groundfish—(a) Proposed specifications; (b) Plan Team reports; (c) spatial management discussion papers (GOA demersal shelf rockfish (DSR), BSAI blackspotted/rougheye rockfish (BSRE)).

(4) Stock prioritization—review NMFS recommendations.

(5) BBRKC expanded discussion paper—review.

(6) Universal data collection components discussion paper—review.

(7) Amendment 80 program and allocation review—review workplan.

(8) Bering Sea Fishery Ecosystem Plan (BS FEP) Climate Change Taskforce Climate Readiness Synthesis Report—Review.

(9) Essential Fish Habitat—review preliminary components of 5-year review.

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2947* prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the Office of Management and Budget (OMB) Peer Review Bulletin guidelines.

Tuesday, October 4, 2022, Through Friday, October 7, 2022

The Advisory Panel agenda will include the following issues:

(1) Election of chair.

(2) Pacific cod small boat access—Final Action.

(3) Trawl EM analysis—Final Action.

(4) Greenland turbot in longline pots—Initial Review.

(5) BSAI Crab specifications—(a) review SAFE report; (b) adopt ABC/OFLs for BBRKC, Tanner crab, snow crab, PIRKC, SMBKC; (c) Crab Plan Team report; (d) PNCIAC report.

(6) BBRKC expanded discussion paper—review.

(7) BSAI/GOA Groundfish—(a) Proposed specifications, (b) Plan Team reports, (c) spatial management discussion papers (GOA DSR, BSAI BSRE).

(8) Stock prioritization—review NMFS recommendations.

(9) Universal data collection components discussion paper—review.

(10) Amendment 80 program and allocation review—workplan.

(11) Partial Coverage Fishery Monitoring Advisory Committee (PCFMAC) report—review.

(12) BS FEP Climate Change Taskforce—(a) Alaska Climate Integrated Modeling (ACLIM) and Intergovernmental Panel on Climate Change (IPCC) update, (b) Climate Readiness Synthesis Report—Review.

(13) Ecosystem Committee report—review.

(14) Staff Tasking.

Thursday, October 6, 2022, Through Tuesday, October 11, 2022

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) Swear in new members, election of officers.

(2) B Reports (Executive Director, NMFS Management, NOAA General Council (GC), Alaska Fisheries Science Center (AFSC), Alaska Department of Fish and Game (ADF&G), United States Coast Guard (USCG), United States Fish and Wildlife Service (USFWS), SSC report, AP report).

(3) BSAI Crab specifications—(a) review SAFE report; (b) adopt ABC/OFLs for BBRKC, Tanner crab, snow crab, PIRKC, SMBKC; (c) Crab Plan Team report; (d) PNCIAC report.

(4) Pacific cod small boat access—Final Action.

(5) Trawl EM analysis—Final Action.

(6) Greenland turbot in longline pots—Initial Review.

(7) BSAI/GOA Groundfish—(a) Proposed specifications, (b) Plan Team

reports, (c) spatial management discussion papers (GOA DSR, BSAI BSRE).

(8) Stock prioritization—review NMFS recommendations.

(9) BBRKC expanded discussion paper—review paper and update on public responses to request for information.

(10) Universal data collection components discussion paper—review.

(11) Amendment 80 program and allocation review—workplan.

(12) PCFMAC report—review.

(13) BS FEP Climate Change Taskforce—(a) ACLIM and IPCC update, (b) Climate Readiness Synthesis Report—Review.

(14) Ecosystem Committee report—review.

(15) Staff Tasking.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://www.npfmc.org/upcoming-council-meetings.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

If you are attending the meeting in-person, please refer to the COVID avoidance protocols on our website, *https://www.npfmc.org/upcoming-council-meetings/.*

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at *https://www.npfmc.org/upcoming-council-meetings.* The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from September 16, 2022, to September 30, 2022, and closes at 12 p.m. Alaska time on Friday, September 30, 2022.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 12, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20054 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC388]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Executive Committee. This meeting will be conducted in a hybrid format, with options for both in-person and webinar participation.

DATES: The meetings will be held Tuesday, October 4, 2022 through Thursday, October 6, 2022. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES:

Council address: The meeting will be held at The Hyatt Place Dewey Beach (1301 Coastal Highway Dewey Beach, DE 19971), telephone: (302) 864–9100.

Webinar registration details will be available on the Council's website at *https://www.mafmc.org/briefing/october-2022.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, although agenda items may be addressed out of order (changes will be noted on the Council's website when possible).

Tuesday, October 4, 2022

Executive Committee—2023 Implementation Plan (Open Session)

Review progress on 2022 Implementation Plan
Review staff recommendations for 2023 actions and deliverables
Public comment opportunity
Approve draft actions and deliverables for further development in 2023 Implementation Plan

Atlantic Surfclam and Ocean Quahog Species Separation Requirements

Approve Draft Amendment for Public Hearings

Review Excessive Shares Amendment Proposed Rule

Action addressing ownership and control of quota share/cage tags in the Surfclam and Ocean Quahog fisheries

Robert's Rules of Order Overview

Colette Collier Trohan, A Great Meeting, Inc.

Wednesday, October 5, 2022

Essential Fish Habitat Amendment (EFH)

Overview of NRHA products and how to apply those to EFH designation development
Consider initiating an Omnibus (All Council Species) Amendment to review and revise EFH designations

NOAA Fisheries Draft Ropeless Roadmap Report

Protected Resources Staff, NOAA Fisheries
Discuss roadmap and provide input on draft

NEFSC Fishery Monitoring and Research Division Update

NOAA's Saltwater Recreational Fisheries Policy

Russell Dunn, NOAA Fisheries
Review and provide feedback on any changes or updates

Private Recreational Tilefish Permitting and Reporting

Receive update on recreational tilefish permitting and reporting
Discuss communication and outreach efforts and identify additional needs

Climate Change Scenario Planning Update

Update on recent activities and final scenarios
Initial Council discussion of applications

Spiny Dogfish 2023 Specifications

Review recommendations from the Advisory Panel, SSC, staff, Committee
Approve 2023 fishing year specifications

Joint Council and SSC Meeting

Presentation of the 2021 Ricks E Savage Award

Thursday, October 6, 2022

Business Session

Committee Reports (SSC, Protected Resources); Executive Director's

Report; Organization Reports; and Liaison Reports

Other Business and General Public Comment

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 12, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–20055 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Legal Processes

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0046 Legal Processes. The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before November 15, 2022.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email: InformationCollection@uspto.gov.* Include ''0651–0046 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Kyu Lee, Office of General Law, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3000; or by email at *Kyu.Lee@uspto.gov* with ''0651–0046 comment'' in the subject line. Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection covers information requirements related to civil actions and claims involving current and former employees of the United States Patent and Trademark Office (USPTO). The rules for these legal processes may be found under 37 CFR part 104, which outlines procedures for service of process, demands for employee testimony and production of documents in legal proceedings, reports of unauthorized testimony, employee indemnification, and filing claims against the USPTO under the Federal Tort Claims Act (28 U.S.C. 2672) and the corresponding Department of Justice regulations (28 CFR part 14). The public may also petition the USPTO Office of General Counsel under 37 CFR 104.3 to waive or suspend these rules in extraordinary cases.

The procedures under 37 CFR part 104 ensure that service of process intended for current and former employees of the USPTO is handled properly. The USPTO will only accept service of process for an employee acting in an official capacity. This collection is necessary so that respondents or their representatives can serve a summons or complaint on the USPTO, demand employee testimony and documents related to a legal proceeding, or file a claim under the Federal Tort Claims Act. Respondents may also petition the USPTO to waive or suspend these rules for legal processes. This collection is also necessary so that current and former USPTO employees may properly forward service and demands to the Office of General Counsel, report unauthorized testimony, and request indemnification. The USPTO covers current employees as respondents under this information collection even though their responses do not require approval under the Paperwork Reduction Act. In those instances where both current and former employees may respond to the USPTO, the agency estimates that the number of respondents will be small.

There are no forms provided by the USPTO for this collection. For filing claims under the Federal Tort Claims Act, the public may use Standard Form 95 ''Claim for Damage, Injury, or Death,'' which is provided by the Department of Justice and approved by the Office of Management and Budget (OMB) under OMB Control Number 1105–0008.

II. Method of Collection

By mail or hand delivery to the USPTO.

III. Data

OMB Control Number: 0651–0046.

Forms:

- Standard Form 95 (Claim for Damage, Injury, or Death).

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector; individuals or households.

Respondent's Obligation: Required to obtain or retain benefits.

Estimated Number of Annual Respondents: 309 respondents.

Estimated Number of Annual Responses: 309 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately between 5 minutes (0.08 hours) and 6 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 133 hours.

Estimated Total Annual Respondent Hourly Cost Burden: $57,513.

TABLE 1—TOTAL BURDEN HOURS AND HOURLY COSTS TO PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [1] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Petition to Waive Rules	4	1	4	0.5 (30 minutes).	2	$435	$870
2	Service of Process	195	1	195	0.08 (5 minutes).	16	435	6,960
3	Forwarding Service	6	1	6	0.17 (10 minutes).	1	435	435
4	Employee Testimony and Production of Documents in Legal Proceedings.	27	1	27	2	54	435	23,490
5	Forwarding Demands	8	1	8	0.17 (10 minutes).	1	435	435
	Totals	240		240		74		$32,190

[1] 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg. F–27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is $435 per hour. (*https:/;www.aipla.org/home/news-publications/economic-survey*).

TABLE 2—TOTAL BURDEN HOURS AND HOURLY COSTS TO INDIVIDUAL AND HOUSEHOLD RESPONDENTS

Item No.	Item	Estimated annual respondents (a)	Responses per respondent (b)	Estimated annual responses (a) × (b) = (c)	Estimated time for response (hours) (d)	Estimated burden (hour/year) (c) × (d) = (e)	Rate [2] ($/hour) (f)	Estimated annual respondent cost burden (e) × (f) = (g)
1	Petition to Waive Rules	1	1	1	0.5 (30 minutes).	1	$435	$435
2	Service of Process	48	1	48	0.08 (5 minutes).	4	435	1,740
3	Forwarding Service	1	1	1	0.17 (10 minutes).	1	435	435
4	Employee Testimony and Production of Documents in Legal Proceedings.	6	1	6	2	12	435	5,220
5	Forwarding Demands	2	1	2	0.17 (10 minutes).	1	435	435
6	Report of Unauthorized Testimony.	1	1	1	0.5 (30 minutes).	1	435	435
7	Report of Possible Indemnification Cases.	3	1	3	0.5 (30 minutes).	2	435	870
8	Employee Indemnification	1	1	1	0.5 (30 minutes).	1	92.50	93
9	Tort Claims	6	1	6	6	36	435	15,660
	Totals	69		69		59		25,323

[2] Ibid.

Estimated Total Annual Respondent Non-Hourly Cost Burden: $4,569.

There are no capital start-up, maintenance costs, or recordkeeping costs associated with this information collection. However, USPTO estimates that the total annual (non-hour) cost burden for this information collection, in the form of filing fees and postage is $4,569.

Filing Fees

This collection has filing fees associated with the petition to waive or suspend the legal process rules under 37 CFR 104.3. The USPTO estimates that approximately 5 petitions will be filed per year with a fee of $130, for a total fee cost of $650. There are no other fees associated with this information collection.

Postage Costs

The USPTO estimates that all submissions in this collection will be submitted by mail. The average first-class postage for a four-ounce mailed submission (for items other than a Service of Process) will be $1.76 cents, resulting in a total of $116.16 ($1.76 × 66) for submissions other than a Service of Process. The USPTO estimates that the average postage for a Service of Process will be $15.65 (Priority Mail flat-rate envelope by certified mail with return receipt), resulting in a total of $3,802.95 ($15.65 × 243) for Sevice of Process submissions. Therefore, the USPTO estimates the total postage cost for this collection is $3,919.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(c) 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.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Justin Isaac,

Acting Information Collections Officer, Office of the Chief Adminstrative Officer, United States Patent and Trademark Office.

[FR Doc. 2022–20132 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–30–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on June 7, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

OMB Control Number: 0651–0024.

Needs and Uses: Patent applications that contain nucleotide and/or amino acid sequence disclosures falling within the definitions of 37 CFR 1.821(a) (for applications filed on or before June 30, 2022) or 37 CFR 1.831 (for applications filed on or after July 1, 2022) must include, as a separate part of the disclosure, a copy of the sequence listing in accordance with the requirements in 37 CFR 1.821–1.825 or 37 CFR 1.831–1.835, respectively. Applicants may submit sequence listings for both U.S. and international biotechnology patent applications. Submissions of sequence listings in international applications are governed by Patent Cooperation Treaty (PCT) Rules 5.2 and 13*ter*, as well as the PCT Administrative Instructions, Annex C. The USPTO uses applicants' sequence listings during the examination process to determine the patentability of the claimed invention. The USPTO also uses sequence listings for pre-grant publication of patent applications and publication of issued patents. Sequence listings are publicly searchable after publication of the pre-grant application or issued patent.

This information collection covers the submission of sequence listing information itself. Information pertaining to the initial filing of U.S. patent applications is collected under OMB Control Number 0651–0032 and information pertaining to the initial filing of international applications is collected under OMB Control Number 0651–0021.

Sequence listings in applications filed on or before June 30, 2022 may be submitted via the USPTO patent electronic filing system as an ASCII text file or as a Portable Document Format (PDF) file. For U.S. applications filed on or before June 30, 2022, 37 CFR 1.821(c) permits all modes of submission: paper, read-only optical disc, or electronic filing via the USPTO patent electronic filing system. Sequence listings for international applications may only be submitted on paper or through the USPTO patent electronic filing system. Sequence listings that are too large to be filed electronically through the USPTO patent electronic filing system may be submitted on read-only optical disc.

This information collection also accounts for the requirement under 37 CFR 1.821(e)(1) or 1.821(e)(2) that a copy of the sequence listing submitted pursuant to 37 CFR 1.821(c)(2) or (c)(3) must also be submitted in computer readable form (CRF) in accordance with 37 CFR 1.824. Under 37 CFR 1.821(e)(1) or 1.821(e)(2), applicants who submit their sequence listings on paper or as a PDF via the USPTO patent electronic filing system must submit a copy of the sequence listing in CRF with a statement indicating that the CRF copy of the sequence listing is identical to the paper or PDF copy provided under 37 CFR 1.821(c)(3) or 1.821(c)(2), respectively. Applicants may submit the CRF copy of the sequence listing to the USPTO via the USPTO patent electronic filing system, or on read-only optical disc or other acceptable media as provided in 37 CFR 1.824. If a new application is filed via the USPTO patent electronic filing system with an ASCII text file sequence listing that complies with the requirements of 37 CFR 1.824(a)(1)–(5) and (b), and the applicant has not filed a sequence listing on paper or as a PDF file, no separate text file is required. Therefore, no associated statement regarding both copies being identical would be required. Similarly, if a new application is filed with an ASCII text file sequence listing on read-only optical disc that complies with the requirements of 37 CFR 1.824(a)(1)–(5) and 37 CFR 1.52(e), the single read-only optical disc is the CRF, and no additional submission is required.

Sequence listings in applications filed on or after July 1, 2022 must be submitted in XML format per 37 CFR 1.831, which was recently implemented to achieve alignment with World Intellectual Property Office Standard ST.26 (WIPO Standard ST.26) (Standard for Presentation of Nucleotide and Amino Acid Sequence Listings Using eXtensible Markup Language (XML) in Patent Applications To Implement WIPO Standard ST.26; Incorporation by Reference, 87 FR 30806, 5/20/22, effective July 1, 2022). These submissions may be made electronically via the USPTO patent electronic filing system as an XML file not exceeding 100MB without file compression, or as an XML file on a read-only optical disc in accordance with 37 CFR 1.834(b)–(c).

One item, Request for Transfer of a Computer Readable Form under 37 CFR 1.821(e), has been removed from this information collection. This item is no longer part of this information collection's process per a recent rulemaking (Electronic Submission of a Sequence Listing, a Large Table, or a Computer Program Listing Appendix in Patent Applications; 86 FR 57035, 10/14/2021, effective November 15, 2021).

Form Number(s): None.

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector; individuals or households.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Estimated Number of Annual Respondents: 9,550 respondents.

Estimated Number of Annual Responses: 28,550 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public approximately 6 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 171,300 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: $1,483,936.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number 0651–0024.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0024 information request'' in the subject line of the message.
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Justin Isaac,

Acting Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2022–20131 Filed 9–15–22; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* October 16, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 6/10/2022, 6/24/2022, and 7/15/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are added to the Procurement List:

Product(s)

NSN(s)—Product Name(s): 6930–01–692–1671—Set, Army Combat Fitness Equipment (ACFT)
Designated Source of Supply: Envision, Inc., Wichita, KS
Mandatory For: 100% of the requirement of the U.S. Army
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT C&E (L&M PV)
Distribution: C-List

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated due to funding for the Defense Logistics Agency Troop Support contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the Defense Logistics Agency Troop Support will refer its business elsewhere, this addition must be effective on September 30, 2022, ensuring timely execution for a October 1, 2022, start date while still allowing 14 days for comment. The Committee published a notice of proposed Procurement List addition in the **Federal Register** on June 10, 2022 and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Service(s)

Service Type: Facilities Support Services
Mandatory for: US Navy, Naval Sea Systems Command, Southwest Regional Maintenance Center, Naval Base San Diego, Naval Base Coronado (North Island), and Naval Base Point Loma, San Diego, CA
Designated Source of Supply: Professional Contract Services, Inc., Austin, TX
Contracting Activity: DEPT OF THE NAVY, SOUTHWEST REGIONAL MAINT CENTER

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the U.S. Navy, Facilities Support Services contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the U.S. Navy will refer its business elsewhere, this addition must be effective on September 30, 2022, ensuring timely execution for an October 1, 2022, start date while still allowing 14 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee determined that no severe adverse impact exists. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on July 15, 2022 and did not

receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Service Type: Mail and Courier Services
Mandatory for: U.S. Customs and Border Protection, Port of JFK Mailroom, Jamaica, NY and Port of New York/Newark Mailroom, Newark, NJ
Designated Source of Supply: The Corporate Source, Inc., Garden City, NY
Contracting Activity: U.S. CUSTOMS AND BORDER PROTECTION, BORDER ENFORCEMENT CTR DIV

The Commission received one (1) public comment.

The comment articulated the current contractor's concerns regarding the addition of this service to the Procurement List, stating that the current contractor is a certified Service-Disabled Veteran-Owned Small Business and that five percent of its workforce are also disabled veterans. The comments stated that 33 percent of the current contractor's employees live in HUBZones. The current contractor is not, however, a Small Business Administration certified HUBZone business, and did not state whether any of the employees who are veterans or living in a HUBZone work on the requirement proposed for Procurement List addition.

The commenter asserted that people who are blind would not be able to successfully perform the types of services required. The commenter, however, presented no credentials or experience related to determining whether workplaces are accessible to people who are blind. The recommended nonprofit agency to perform the work has demonstrated substantial experience operating mailrooms at other locations for the same customer, in which several employees have significant disabilities.

The commenter expressed concern that the Commission's second notice letter to the current contractor was delivered by the domestic package carrier to the wrong address. The Commission makes every effort to directly notify current contractors in writing, and to send follow-up notices. The Commission points out that its first notice letter was delivered to the current contractor, and its Notice of Proposed Addition in the **Federal Register** provided additional notice to the firm, resulting in direct communication, after which the Commission forwarded the second notice via email.

The purpose of the AbilityOne Program is to provide employment opportunities for individuals who are blind or have significant disabilities through the delivery of products and services by nonprofit agencies employing such individuals. The Commission applies criteria in accordance with its regulation 41 CFR 51–2.4 and determines whether products or services are suitable to be procured from nonprofit agencies employing people with significant disabilities. In doing so, the Commission considers the employment potential, whether there is a qualified nonprofit agency employing people who are blind or have significant disabilities, whether that nonprofit agency is capable of performing the work, and whether there will be a severe adverse impact on the current contractor. In this case, the Commission found that all suitability criteria were met. The Commission determined that the proposed addition, if approved, will not have a severe adverse impact on the current contractor, based on the information made available for the Commission's review and consideration.

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Customs and Border Protection, Mail and Courier Services Ports of JFK, NY and NY/Newark, NJ contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the Customs and Border Protection will refer its business elsewhere, this addition must be effective on September 28, 2022, ensuring timely execution for a September 29, 2022, start date while still allowing 12 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee has been in contact with one of the affected parties, the incumbent of the expiring contract, since March 2022 and determined that no severe adverse impact exists. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on June 21, 2022 and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Service Type: Postal Service Center Operations
Mandatory for: U.S. Air Force, Travis Air Force Base, CA
Designated Source of Supply: VersAbility Resources, Inc., Hampton, VA
Mandatory Source of Supply: Nobis Enterprises, Inc., Marietta, GA
Contracting Activity: DEPT OF THE AIR FORCE, FA4427 60 CONS LGC

Service Type: Postal Service Center Operations
Mandatory for: U.S. Air Force, Travis Air Force Base, CA

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the U.S. Air Force contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the U.S. Air Force will refer its business elsewhere, this addition must be effective on September 30, 2022, ensuring timely execution for a October 1, 2022, start date while still allowing 14 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee determined that no severe adverse impact exists. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on June 10, 2022 and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–20113 Filed 9–15–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletion from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* October 16, 2022.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 2520–01–211–6702—Parts Kit, Transmission Oil Filter

Designated Source of Supply: Goodwill Industries—Knoxville, Inc., Knoxville, TN

Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–20120 Filed 9–15–22; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; Application Package for Data Collection Instruments for AmeriCorps NCCC Impact Studies

AGENCY: The Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as AmeriCorps) is proposing to renew an information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by November 15, 2022.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: AmeriCorps, Attention Melissa Gouge, 250 E Street SW, Washington, DC 20525.

(2) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

(3) Electronically through *www.regulations.gov.*

Comments submitted in response to this notice may be made available to the public through *regulations.gov*. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Melissa Gouge, 202–606–6736, or by email at *mgouge@cns.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: NCCC Impact Studies.

OMB Control Number: 3045–0189.

Type of Review: Renewal.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 190.

Abstract: The purpose of the information collection is to finalize collecting data for the previously-approved National Civilian Conservation Corps (NCCC) impact studies. The studies assess the performance and impact of NCCC programs on members and communities served by the program. In particular, the studies investigate three main components of NCCC:

1. The impact of NCCC on developing leaders.

2. The impact of NCCC on strengthening communities.

3. Retention at the different phases of the program, from application to completion.

AmeriCorps also seeks to continue using the currently-approved information collection until the revised information collection is approved by OMB. The currently-approved information collection is due to expire on 12/31/2022.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov*.

Mary Hyde,

Director, Office of Research and Evaluation.

[FR Doc. 2022–20116 Filed 9–15–22; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0113]

Agency Information Collection Activities; Comment Request; Bipartisan Safer Communities Act (BSCA), Stronger Connections Grant Program (SCG)

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 requesting the Office of Management and Budget (OMB) to conduct an emergency review of an extension without change of a currently approved collection.

DATES: The Department requested emergency approval for this information collection request; and therefore, the regular clearance process is hereby being initiated to provide the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before November 15, 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–0113. 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 Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Bryan Williams, 202–453–6715.

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: Bipartisan Safer Communities Act (BSCA), Stronger Connections Grant (SCG) Program.

OMB Control Number: 1810–0770.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 56.

Total Estimated Number of Annual Burden Hours: 3,360.

Abstract: The Department of Education (the Department) requested emergency approval of a new information collection under the School Improvement Programs section of the Bipartisan Safer Communities Act (BSCA), and the SCG program which OMB approved. Under this program, the Department awards grants to State educational agencies (SEAs) for the purpose of providing competitive grants to high-need local educational agencies (LEAs) for activities under section 4108 of the Elementary and Secondary Education Act of 1965 (ESEA).

Eligible applicants for the SCG funds include those in any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Education, and the Outlying Areas. Each SEA will award no less than 95 percent of its SCG allocation on a competitive basis to high-need LEAs as determined by the State. The SEA will reserve no more than 1% of its SCG allocation for administration and will use any remaining funds not awarded to LEAs for State-level activities to support section 4108 of the Elementary and Secondary Education Act of 1965 (ESEA).

This information collection will support the Department in providing effective technical assistance, monitoring and oversight to ensure that these funds are awarded and used as required by the BSCA—*i.e.,* that the funds are awarded to high-need LEAs on a competitive basis for activities allowable under section 4108 of the ESEA. Department staff will review the information submitted by SEAs (1) for monitoring purposes, to verify that SEAs are implementing the BSCA requirements for SEA award of the SCG funds; and (2) to understand the manner in which SEAs are implementing these requirements. This information will enable the Department to provide effective technical assistance and support to States. If this information is not collected, the Department will be unable to fully and adequately meet monitoring and technical assistance responsibilities as States implement this program.

Dated: September 13, 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. 2022–20126 Filed 9–15–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Postsecondary Student Success Program; Correction

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice; correction.

SUMMARY: On August 12, 2022, the Department of Education (Department) published in the **Federal Register** a notice inviting applications (NIA) for new awards for fiscal year (FY) 2022 for the Postsecondary Student Success Program, Assistance Listing Number 84.116M. We are correcting the name of the program from Postsecondary Success Program to Postsecondary Student Success Program. We are also correcting the number of performance measures from five to four.

DATES: This correction is applicable September 16, 2022.

FOR FURTHER INFORMATION CONTACT: Nemeka Mason, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C102, Washington, DC 20202–4260. Telephone: (202) 453–5650. Email: *Nemeka.Mason@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On August 12, 2022, we published in the **Federal Register** the NIA for the FY 2022 Supplemental Assistance to Institutions of Higher Education grant opportunity (87 FR 49811). This notice corrects the name of the program and the number of performance measures.

Corrections

In FR Doc. 2022–17321 appearing on page 49811 of the **Federal Register** of August 12, 2022, we make the following corrections:

1. On page 49811, in the first column, in the document subject heading, add ''Student'' after ''Postsecondary''.

2. On page 49811, in the first column, in the ''Summary'' section, add ''Student'' after ''Postsecondary''.

3. On page 49815, in the third column, in the ''VI. Award

Administration Information'' section, revise the introductory sentence following the heading, ''5. Performance Measures,'' to read as follows:

''Under 34 CFR 75.110, the following four performance measures will be used in assessing the performance of the Postsecondary Student Success Program:''

Program Authority: Sections 741–745 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1138–1138d, the Explanatory Statement accompanying Division H of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103).

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this notice, the NIA, and a copy of the application 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.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2022–20123 Filed 9–15–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0086]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Migrant Student Information Exchange (MSIX) Minimum Data Elements (MDEs)

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 a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before October 17, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Benjamin Starr, 202–245–8116.

SUPPLEMENTARY INFORMATION: The Department, 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 ICR that is described below. The Department is especially interested in public comments 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 record.

Title of Collection: Migrant Student Information Exchange (MSIX) Minimum Data Elements (MDEs).

OMB Control Number: 1810–0683.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 46.

Total Estimated Number of Annual Burden Hours: 399,774.

Abstract: The Migrant Information Exchange (MSIX) is a nationwide electronic records exchange mechanism mandated under title I, part C of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA). The Migrant Education Program (MEP) is authorized under sections 1301–1309 in title I, part C of the ESEA. MSIX and the minimum data elements (MDEs) are authorized under section 1308(b) of the ESEA, as amended. As a condition of receiving a grant of funds under the MEP, each State Educational Agency (SEA) is required to collect, maintain, and submit minimum health and education-related data to MSIX within established time-frames. Regulations CFR 34 200.85 for the MSIX issued by the U.S. Department of Education (the Department) have been in effect as of June 9, 2016. MSIX is designed to facilitate timely school enrollment, grade and course placement, accrual of secondary course credits and participation in the MEP for migratory children. The regulations help the Department determine accurate migratory child counts and meet other MEP reporting requirements.

The Department is requesting approval to for a revision of the 1810–0683 information collection that supports statutory requirements for data collection under title I, part C MEP.

The Office of Migrant Education (OME) would like specific feedback on the following additions to the MSIX MDEs:

(1) the addition of family contact MDEs, including phone numbers and email addresses;

(2) the addition of new acceptable values beyond ''Male'' and ''Female'' for MDE #9 (Sex).

Please see the ''MSIX Minimum Data Elements'' attachment for details on the MDE additions and changes. There have been edits made to MDE #s—1, 2, 5, 6, 7, 9, 11, 20, 26, 27, 29, 31, 32, 33, 42, 44, 45, 47, 48, 52, 64, 72, and 74. New MDEs are #'s 77, 78, 79, 80, and 81.

OME has received feedback to include the ''Qualifying Activity'' MDE. At this time, OME has decided not to include the ''Qualifying Activity'' MDE because the MDE by itself does not provide additional information regarding the child's qualifying arrival date since it is connected to the worker, not the child, on the National Certificate of Eligibility (COE). OME is seeking specific feedback on the usefulness of this MDE for the States and why it should be included.

Dated: September 12, 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. 2022–20031 Filed 9–15–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0114]

Agency Information Collection Activities; Comment Request; Federal Perkins Loan Program Regulations and General Provisions Regulations

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before November 15, 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–0114. 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 6W208C, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Perkins Loan Program Regulations and General Provisions Regulations.

OMB Control Number: 1845–0019.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Private Sector; Individuals and Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 11,616,710.

Total Estimated Number of Annual Burden Hours: 6,247,152.

Abstract: This is a request by the Department of Education (Department) for continued approval of the reporting, disclosure and records maintenance requirements that are contained in the Student Assistance General Provisions regulations, the Federal Perkins Loan program, the Federal Work-Study program, and the Federal Supplemental Educational Opportunity Grant program. The Department is seeking an extension of the currently approved information collection 1845–0019. There has been no change to the regulatory or statutory requirements.

Dated: September 12, 2022.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–20023 Filed 9–15–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open in-person/virtual hybrid meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, October 12, 2022 6:00 p.m.–8:00 p.m.

ADDRESSES: This meeting will be open to the public in-person at the Department of Energy (DOE) Information Center (address below) or virtually. To attend virtually, please send an email to: *orssab@orem.doe.gov* by no later than 5:00 p.m. ET on Wednesday, October 5, 2022.

The meeting will be held, strictly following COVID–19 precautionary measures, at: DOE Information Center, Office of Science and Technical Information, 1 *Science.gov* Way, Oak Ridge, Tennessee 37831.

Attendees should check the website listed below for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM),

P.O. Box 2001, EM–942, Oak Ridge, TN 37831; Phone (865) 241–3315; or Email: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- OREM Program Overview and Updates
- Process and Plan for Issue Groups Signup
- Work Plan Topics: Presentations by DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Process and Plan for Issue Groups
- Public Comment Period
- Board Business:

Public Participation: The in-person/virtual hybrid meeting is open to the public. In addition to participation in the live public comment period, written statements may be filed with the Board via email either before or after the meeting. Public comments received by no later than 5:00 p.m. ET on Wednesday, October 5, 2022, will be read aloud during the meeting. Comments will be accepted after the meeting, by no later than 5:00 p.m. ET on Monday, October 17, 2022. Please submit comments to *orssab@orem.doe.gov.* The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make live public comments will be provided a maximum of five minutes to present their comments. Individuals wishing to submit written public comments should email them as directed previously.

Minutes: Minutes will be available by emailing or calling Melyssa P. Noe at the email address and telephone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signing Authority

This document of the Department of Energy was signed on September 12, 2022, by Shena Kennerly, Acting Committee Management Officer, 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 September 13, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–20062 Filed 9–15–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2827–000]

Bluegrass 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 Bluegrass 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 October 3, 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: September 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20074 Filed 9–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8402–003]

Rapidan Mill, LLC, American Climate Partners; Notice of Transfer of Exemption

1. On July 21, 2022, Rapidan Mill, LLC, exemptee for the 105-Kilowatt Rapidan Mill Hydroelectric Project No. 8402, filed a letter notifying the Commission that the project was transferred from Rapidan Mill, LLC to American Climate Partners. The exemption from licensing was originally issued on June 27, 1985.[1] The project is located on the Rapidan River in Culpeper and Orange counties, Virginia. The transfer of an exemption does not require Commission approval.

[1] *Melvin R. Hall,* 81 FERC ¶ 62,412 (1985). On March 27, 2007, the project was transferred to Rapidan Mill, LLC.

2. American Climate Partners is now the exemptee of the Rapidan Mill Hydroelectric Project No. 8402. All correspondence must be forwarded to Mr. Michael Collins, American Climate Partners, 7026 Old Rapidan Road (State Rt. 673), Rapidan, Virginia 22960, Phone: (540) 672–2542, Email: *info@naturalcapital.us.*

Dated: September 12, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–20063 Filed 9–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2824–000]

Yellow Pine 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 Yellow Pine 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 October 3, 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: September 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20075 Filed 9–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6398–026]

Hackett Mills Hydro Associates, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. Project No.: P–6398–026.

c. Date filed: August 31, 2022.

d. *Applicant:* Hackett Mills Hydro Associates, LLC (Hackett Mills Hydro).

e. *Name of Project:* Hackett Mills Hydroelectric Project.

f. *Location:* On the Little Androscoggin River, in the towns of Poland and Minot, in Androscoggin County, Maine. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Matthew Nini, Hackett Mills Hydro Associates, LLC c/o Eagle Creek Renewable Energy, LLC, 7315 Wisconsin Avenue, Suite 1100W, Bethesda, Maryland 20814; phone: (973) 998–8171; email: *matthew.nini@eaglecreekre.com.*

i. *FERC Contact:* John Matkowski at (202) 502–8576 or *john.matkowski@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: October 31, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Hackett Mills Hydroelectric Project (P–6398–026).

m. The application is not ready for environmental analysis at this time.

n. The existing Hackett Mills Project consists of: (1) a 186-foot-long dam that consists of two spillway sections: a 101-foot-long, 8-foot-high rock filled timber crib dam with an uncontrolled spillway (main spillway section) and a 85-foot-long, 8-foot-high concrete gravity dam with three uncontrolled bays (secondary spillway section); (2) an obsolete sluice gatehouse that connects the main spillway and the secondary spillway sections; (3) a 3.5-mile-long, 60-acre impoundment with no useable storage capacity at a normal maximum water surface elevation of 234.75 feet National Geodetic Vertical Datum of 1929 (NGVD 29); (4) a canal intake gate structure containing five gates; (5) a 100-foot-long, 25-foot-wide, 10-foot-deep power canal; (6) a powerhouse located at the end of the canal containing one 485-kilowatt right angle drive bulb turbine-generator unit, with a minimum hydraulic capacity of 80 cubic-feet-per-second (cfs) and a maximum hydraulic capacity of 474 cfs; (7) a downstream fish passage facility; (8) a 200-foot-long, 12.5-kilovolt transmission line; and (9) appurtenant facilities.

The Hackett Mills Project is currently operated in a run-of-river mode and generates 1,602 megawatt-hours annually. Hackett Mills Hydro proposes to continue operating the project as a run-of-river facility and does not propose any new construction to the project.

o. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document (P–6398). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Additional Study Requests due—October 31, 2022
Issue Deficiency Letter (if necessary)—November 2022
Request Additional Information—November 2022
Issue Scoping Document 1 for comments—February 2023
Comments on Scoping Document 1—March 2023
Issue Acceptance Notice and Letter—April 2023
Issue Scoping Document 2 (if necessary)—April 2023
Issue Notice of Ready for Environmental Analysis—April 2023

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: September 12, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–20065 Filed 9–15–22; 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: EC22–118–000.
Applicants: Eastover Solar LLC, PGR 2021 Lessee 17, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Eastover Solar LLC.
Filed Date: 9/9/22.
Accession Number: 20220909–5209.
Comment Date: 5 p.m. ET 9/30/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–217–000.
Applicants: Yellow Pine Solar, LLC.
Description: Yellow Pine Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/9/22.
Accession Number: 20220909–5166.
Comment Date: 5 p.m. ET 9/30/22.

Docket Numbers: EG22–218–000.
Applicants: Mesquite Solar 4, LLC.
Description: Mesquite Solar 4, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/12/22.
Accession Number: 20220912–5049.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: EG22–219–000.
Applicants: Mesquite Solar 5, LLC.
Description: Self-Certification of EG for Mesquite Solar 5, LLC.
Filed Date: 9/12/22.
Accession Number: 20220912–5139.
Comment Date: 5 p.m. ET 10/3/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–2525–000.
Applicants: Gridmatic Inc.
Description: Supplement to July 29, 2022, Gridmatic Inc. tariff filing per 35.12: MBR Tariff Application.
Filed Date: 9/7/22.
Accession Number: 20220907–5119.
Comment Date: 5 p.m. ET 9/19/22.

Docket Numbers: ER22–2829–000.
Applicants: American Electric Power Service Corporation, Ohio Power Company, AEP Ohio Transmission Company, Inc., 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 Two FAs re: ILDSA SA No. 1336 to be effective 11/12/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5026.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2830–000.
Applicants: The Connecticut Light and Power Company.
Description: § 205(d) Rate Filing: New York Transco LLC—Engineering, Design and Procurement Agreement to be effective 9/13/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5068.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2831–000.
Applicants: ISO New England Inc., Vermont Transco LLC.
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: Vermont Transco LLC; Tariff Clean-Up Filing to be effective 5/1/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5080.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2832–000.
Applicants: Cardinal Point LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Baseline Filing to be effective 10/31/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5084.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2833–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Middleton Solar Farm LGIA Filing to be effective 8/26/2022.
Filed Date: 9/12/22.
Accession Number: 20220912–5091.
Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2834–000.
Applicants: ISO New England Inc., Green Mountain Power Corporation.

Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: Green Mountain Power; Tariff Clean-Up Filing to be effective 5/1/2022.

Filed Date: 9/12/22.

Accession Number: 20220912–5094.

Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2835–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Colstrip Trans System LGIA—Concurrence GB Energy to be effective 8/22/2022.

Filed Date: 9/12/22.

Accession Number: 20220912–5117.

Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2836–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–09–12_RPU Remove LIBOR and Correction Filing to be effective 1/1/2023.

Filed Date: 9/12/22.

Accession Number: 20220912–5126.

Comment Date: 5 p.m. ET 10/3/22.

Docket Numbers: ER22–2837–000.

Applicants: Desert Sunlight 250, LLC.

Description: § 205(d) Rate Filing: A&R LGIA Co-Tenancy Agreement to be effective 9/13/2022.

Filed Date: 9/12/22.

Accession Number: 20220912–5142.

Comment Date: 5 p.m. ET 10/3/22.

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 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: September 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20073 Filed 9–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–509–000]

Sierra Club, Natural Resources Defense Council; Notice of Petition for Declaratory Order

Take notice that on September 7, 2022, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, Sierra Club and Natural Resources Defense Council (Petitioners) filed a petition for declaratory order requesting the Commission issue an order stating that the Fortress Liquefied Natural Gas (LNG) export project, which includes the Wyalusing gas liquefaction facility in Pennsylvania, and Gibbstown LNG export facility in New Jersey, is subject to the Commission's jurisdiction under section 3 of the Natural Gas Act.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene, or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* 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://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 tollfree, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5 p.m. eastern time on October 12, 2022.

Dated: September 12, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–20072 Filed 9–15–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10256–003]

City of Tacoma, Department of Public Utilities, Light Division, TPU Water Division; Notice of Transfer of Exemption

1. On August 19, 2022, City of Tacoma, Department of Public Utilities, Light Division (City of Tacoma) exemptee for the 850-Kilowatt Hood Street Hydroelectric Project No. 10256, filed a letter notifying the Commission that the project was transferred from City of Tacoma to TPU Water Division. The exemption from licensing was originally issued on August 17, 1987.[1] The project is located on the Tacoma Water Transmission System in Pierce County, Washington. The transfer of an exemption does not require Commission approval.

2. TPU Water Division is now the exemptee of the Hood Street Hydroelectric Project No. 10256. All correspondence must be forwarded to Mr. Travis Nelson, TPU Water Division, (d.b.a.—Tacoma Water), 3628 S 35th Street, Tacoma, WA 98409, Phone: (253) 579–4082, Email: *TNelson1@cityoftacoma.org.*

Dated: September 12, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–20066 Filed 9–15–22; 8:45 am]

BILLING CODE 6717–01–P

[1] *City of Tacoma, Department of Public Utilities, Light Division,* 40 FERC ¶ 62,181 (1987).

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–035]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS) Filed September 2, 2022 10 a.m. EST Through September 12, 2022 10 a.m. EST Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220134, Final, FERC, LA, Commonwealth LNG Project, Review Period Ends: 10/17/2022, Contact: Office of External Affairs 866–208–3372.

Amended Notice

EIS No. 20220114, Draft, STB, MO, Canadian Pacific Acquisition of Kansas City Southern, Comment Period Ends: 10/14/2022, Contact: Joshua Wayland 202–245–0330.

Revision to FR Notice Published 08/12/2022; Extending the Comment Period from 09/26/2022 to 10/14/2022.

Dated: September 12, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–20184 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R05–SFUND–2022–0739; FRL–10171–01–R5]

Proposed CERCLA Administrative Settlement Agreement EPA Agreement No. V–W–22–C–009; AB Specialty Silicones Fire Site, Waukegan, Lake County, Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the terms of the proposed settlement agreement, the Environmental Protection Agency (EPA), Region 5, hereby gives notice of a proposed administrative settlement concerning the AB Specialty Silicones Fire Site in Waukegan, Lake County, Illinois (the ''Site''). The EPA proposes to enter into an Administrative Settlement Agreement and Order on Consent (an ''ASAOC'') with AB Specialty Silicones, LLC and Wittenshire, LLC (the ''Respondents''). The ASAOC requires the Respondents to pay $266,000 in past response costs. The EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. The EPA's response to any comments received will be available for public inspection at: *https://cumulis.epa.gov/supercpad/CurSites/csitinfo.cfm?id=0508659.*

DATES: Comments must be received on or before October 17, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R05–SFUND–2022–0739, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, ATTN: Mark Koller, Associate Regional Counsel, Office of Regional Counsel (C–14J), 77 W Jackson Blvd., Chicago, Illinois 60604.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mark Koller, Office of Regional Counsel, Environmental Protection Agency, telephone number: (312) 353–2591; email address: *koller.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–R05–SFUND–2022–0739, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Background Information

This notice pertains to the AB Specialty Silicones Fire Site in Waukegan, Illinois. On May 3, 2019, an explosion and fire occurred at the AB Specialty Silicones process building resulting in a release of silicone products and silicone production materials. EPA coordinated oversight of emergency response and removal activities. The Settling Parties were responsible for and performed emergency response and removal activities. In performing a response action, EPA has incurred response costs at or in connection with the Site. EPA demobilized from the Site in December 2021. Under the proposed ASAOC, the Settling Parties agree to pay $266,000 of EPA's Past Response Costs. In exchange, the Settling Parties will receive from EPA a covenant not to sue or take administrative action pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recover Past Response Costs. The EPA's covenant not to sue is subject to reservations.

The EPA is providing notice of the proposed ASAOC in accordance with Section 122(i) of CERCLA, 42 U.S.C. 9622(i), which requires the Administrator to provide notice and an opportunity for comment when the EPA proposes to settle a claim pursuant to Section 122(h) of CERCLA, 42 U.S.C. 9622(h).

Douglas Ballotti,

Director, Superfund & Emergency Management Division.

[FR Doc. 2022–20021 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0710; FRL–10148–01–OAR]

Access by EPA Contractors to Information Claimed as Confidential Business Information Submitted Under the Clean Air Act and Related to Various Fuel Quality Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of contractor access to data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) plans to authorize various contractors to access information that is submitted to EPA, and which may be claimed as, or may be determined to be, confidential business information (CBI). The information is related to EPA's fuel quality programs, including fuel and fuel additive registration, the renewable fuel standard, standards applicable to gasoline and diesel fuel, and gasoline detergent additives.

DATES: Comments must be received on or before September 21, 2022.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2022–0710, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* (our preferred method) Follow the online instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov*. Include Docket ID No. EPA–HQ–OAR–2022–0710 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Anne-Marie Pastorkovich, Environmental Protection Agency, telephone number: 202–343–9623; email address: *pastorkovich.anne-marie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this notice apply to me?

This action is directed to the public. However, this action may be of particular interest to parties who submit information to EPA regarding various fuel standards, such as fuel and fuel additive registration under 40 CFR part 79; the renewable fuel standard (RFS) under 40 CFR part 80; and the standards for reformulated and conventional gasoline, regulated blendstocks, diesel fuel, and detergent under 40 CFR part 1090. Parties who may be interested in this action include fuel manufacturers (such as refiners and importers), renewable fuel producers, biointermediate producers, manufacturers of fuel additives, renewable fuel exporters, parties in the fuel distribution chain, and all those who submit registrations or reports to EPA via any method or system. Existing e-registration and e-reporting systems include the EPA Central Data Exchange (CDX), DCFUEL, OTAQREG, and the EPA Moderated Transaction System (EMTS).

This **Federal Register** notice may be of relevance to parties that submit data and other information under the above-listed programs or systems. Since other parties may also be interested, we have not attempted to describe all the specific parties that may be affected by this action. If you have further questions regarding the applicability of this action to a party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

II. Public Participation

Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2022–0710 at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

III. Description of Programs and Potential Disclosure of Information Claimed as Confidential Business Information (CBI) to Contractors

EPA's Office of Transportation and Air Quality (OTAQ) has responsibility for protecting public health and the environment by regulating air pollution from motor vehicles, engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. To implement various Clean Air Act (CAA) programs, and to permit regulated entities flexibility in meeting regulatory requirements (*e.g.,* compliance on average), we collect compliance reports and other information from them. Parties may claim the submitted information as CBI. Information submitted under such a claim is handled in accordance with EPA's regulations at 40 CFR part 2, subpart B and in accordance with EPA procedures, including comprehensive system security planning. When EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

In accordance with 40 CFR 2.301(h), we have determined that the contractors, subcontractors, and grantees (collectively referred to as ''contractors'') listed below require access to CBI submitted to us under the CAA and in connection with various programs related to the regulation of fuels under 40 CFR parts 79, 80 and 1090. OTAQ collects this data to monitor compliance with CAA programs and, in many cases, to permit regulated parties flexibility in meeting regulatory requirements. Certain programs under 40 CFR parts 79, 80 and 1090 are designed to permit regulated parties an opportunity to comply on average, or to engage in transactions using various types of credits. For example, parties that participate in programs that utilize credits (*e.g.,* the gasoline sulfur and gasoline benzene

program, or renewable identification numbers, RINs, in RFS) submit information related to credit or RIN transactions. Data submitted under 40 CFR parts 79, 80 and1090 includes information related to fuel and fuel additives (*e.g.,* chemical formulas), renewable fuels, gasoline, diesel fuel, gasoline detergent additives, and regulated blendstocks. Fuels program data is reviewed and assessed to determine the environmental performance of the programs or to plan for regulatory improvements. We are issuing this notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under EPA Contract Number HHSN316201200188, VMD Systems Integrators, Incorporated (''VMD''), 4114 Legato Rd. Suite 700, Fairfax Virginia 22033–4002 provides report processing, program support, technical support and analysis and information technology services that involve access to information claimed as CBI related to 40 CFR parts 79, 80, and 1090. General Dynamics Information Technology (GDIT), 3150 Fairview Park Drive, Falls Church, Virginia, 22042, is a subcontractor of VMD performing work on this contract. GDIT, in turn, has the following subcontractors:

- Ferguson Digital Solutions Inc., 12639 Blue Sky Drive, Clarksburg Maryland 20871;
- Powersolv, Inc., 1801 Robert Fulton Drive, Suite 550, Reston, Virginia 20191;
- Potomac Economics, LTD, 9990 Fairfax Blvd., Suite 560, Fairfax, Virginia 22030; and
- Premier ITech, Inc., 8869 Grand Ave., Beulah, Colorado 81023.

Access to data by VMD and its subcontractors will begin September 26, 2022 and will continue until June 30, 2027. If the contract is extended, this access will continue for the remainder of the contract without further notice. If the contract expires prior to June 30, 2027, the access will cease at that time. If VMD employs additional subcontractors to support EPA on a regular basis or on a limited or one-time basis under the above-listed contract, and those subcontractors require access to CBI, EPA will notify interested parties of the contemplated disclosure and provide them with an opportunity to comment by publishing a notice in the **Federal Register**.

Under General Services Administration (GSA) Alliant Contract number GS00Q09BGD0022, FEDSIM Task Order 47QFCA–18–F–0009, Project Number: 00045–OAR–000, CGI Federal, Incorporated, 12601 Fair Lakes Circle, Fairfax, Virginia 22033–4902, provides report processing, program support, technical support and analysis and information technology services that involve access to information claimed as CBI related to 40 CFR parts 79, 80, and 1090. Access to data by CGI will begin September 26, 2022 and will continue until at least February 25, 2023. If the project date extended, this access will continue without further notice. If the project ends prior to February 25, 2023, the access will cease at that time. If CGI employs subcontractors to support EPA on a regular basis or on a limited or one-time basis under the above-listed contract, and those subcontractors require access to CBI, EPA will notify interested parties of the contemplated disclosure and provide them with an opportunity to comment by publishing a notice in the **Federal Register**.

EPA uses the services of Senior Environmental Employees (SEEs) whose involve access to information claimed as CBI. These SEEs are provided by the Center for Workforce Inclusion (CWI). The Grant Numbers are 84021701—Washington, DC; and Grant Number 83967201—Ann Arbor, MI. CWI is located at 8403 Colesville Road, Suite 200, Silver Spring, MD 20910. The Ann Arbor, MI Grant Number 83967201 will expire on September 30, 2022, and the work will continue with CWI under new Grant Number 8404420, starting October 1, 2022. Access to data by CWI SEEs will begin September 26, 2022 and will continue indefinitely thereafter. If the grantee providing SEEs changes, EPA will notify interested parties of the contemplated disclosure and provide them with an opportunity to comment by publishing a notice in the **Federal Register**.

Parties who want further information about this notice or about OTAQ's disclosure of information claimed as CBI to contactors may contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Byron Bunker,

Director, Compliance Division, Office of Transportation & Air Quality.

[FR Doc. 2022–20024 Filed 9–15–22; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, September 22, 2022, 10:00 a.m. Eastern Time.

PLACE: Equal Employment Opportunity Commission Headquarters, 131 M St. NE, Washington, DC 20507. The meeting will also be held as a live streamed videoconference, with an option for listen-only audio dial-in by telephone. The public may attend in person, observe the videoconference, or connect to the audio-only dial-in by following the instructions that will be posted on *www.eeoc.gov* at least 24 hours before the meeting. Closed captioning and ASL services will be available.

MATTERS TO BE CONSIDERED: The following item will be considered at the meeting: Strategic Enforcement Plan Listening Session III: Shaping the EEOC's Strategic Enforcement Priorities.

Note: In accordance with the Sunshine Act, the public will be able to observe the Commission's deliberations. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its website, *www.eeoc.gov,* and provides a recorded announcement at least a week in advance of future Commission meetings.)

Please telephone (202) 921–2750, or email *commissionmeetingcomments@eeoc.gov* at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Shelley Kahn, Acting Executive Officer, (202) 921–3061.

Dated: September 8, 2022.

Shelley Kahn,

Acting Executive Officer, Executive Secretariat.

[FR Doc. 2022–20187 Filed 9–14–22; 11:15 am]

BILLING CODE 6570–01–P

EXPORT-IMPORT BANK

Sunshine Act Meetings

Notice of Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (EXIM)

TIME AND DATE: Thursday, September 29th, 2022 from 2:00 p.m.–4:30 p.m. ET.

PLACE: Hybrid meeting—811 Vermont Ave. NW, Washington, DC 20571 and Virtual. The meeting will be conducted in person for committee members, EXIM's Board of Directors and support staff, and virtually for all other participants.

STATUS: Virtual Public Participation: The meeting will be open to public participation virtually and time will be allotted for questions or comments submitted online. Members of the public may also file written statements before or after the meeting to *external@exim.gov.* Interested parties may register

for the meeting at: *https://teams.microsoft.com/registration/PAFTuZHHMk2Zb1GDkIVFJw,5M1LfonJMEi2VFUgYRv6oQ,i145n2l9vkmDj5btNlkuGw,NxZ4gbtyTEq8W5NZ0ADcOg,3B3gNw5mpE-8Eq-nnwTVjg,JJdUJk5zq0yePbZ8qWII1A?mode=read&tenantId=b953013c-c791-4d32-996f-518390854527*.

MATTERS TO BE CONSIDERED: Discussion of EXIM policies and programs to provide competitive financing to expand United States exports and comments for inclusion in EXIM's Report to the U.S. Congress on Global Export Credit Competition.

CONTACT PERSON FOR MORE INFORMATION: For further information, contact India Walker, External Engagement Specialist, at 202–480–0062 or at *india.walker@exim.gov*.

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2022–20171 Filed 9–14–22; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 104675]

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 October 17, 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 Number: 3060–XXXX.

Title: Do Not Originate Requirements for Gateway Provider Report and Order.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 6,493 respondents; 77,916 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On-occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 202, 217, 227, 227b, 251(e), 303(r), 403.

Total Annual Burden: 77,916 hours.

Total Annual Cost: No cost.

Needs and Uses: This notice and request for comments seeks to establish a new information collection as it pertains to the Advanced Methods to Target and Eliminate Unlawful Robocalls Sixth Report and Order and Call Authentication Trust Anchor Fifth Report and Order (''Gateway Provider Report and Order''). Unwanted and illegal robocalls have long been the Federal Communication Commission's (''Commission'') top source of consumer complaints and one of the Commission's top consumer protection priorities. Foreign-originated robocalls represent a significant portion of illegal robocalls, and gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers. In the Gateway Provider Report and Order, the Commission took steps to prevent these foreign-originated illegal robocalls from reaching consumers and to help track these calls back to the source. Along with further extension of the Commission's caller ID authentication requirements and Robocall Mitigation Database filing requirements, the Commission adopted several robocall mitigation requirements, including a requirement for gateway providers to respond to traceback within 24 hours, mandatory blocking requirements, a ''know your upstream provider'' requirement, and a general mitigation requirement.

Gateway Provider Report and Order, FCC 22–37, paras. 87–91, 47 CFR 64.1200(o).

A provider that serves as a gateway provider for particular calls must, with respect to those calls, block any calls purporting to originate from a number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only

(i) Numbers for which the subscriber to which the number is assigned has requested that calls purporting to originate from that number be blocked because the number is used for inbound calls only;

(ii) North American Numbering Plan numbers that are not valid;

(iii) Valid North American Numbering Plan Numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and

(iv) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the calls is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

The new information collection for which OMB approval is sought comes from the requirement in the Gateway Provider Report and Order that all gateway providers must block calls using a reasonable DNO list. The categories of numbers that may be included on the reasonable DNO list are the same categories of numbers for which the Commission first authorized blocking in 2017. There is no valid reason for a caller to originate a call from these numbers calls purporting to originate from these numbers are highly likely to be illegal.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20087 Filed 9–15–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0713; FR ID 103975]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and 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. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 15, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0713.

Title: Alternative Broadcast Inspection Program (ABIP) Compliance Notification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions.

Number of Respondents and Responses: 53 respondents; 2,650 responses.

Estimated Time per Response: 5 minutes (0.084 hours).

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Voluntary. Statutory authority for this collection of information is contained in 47 U.S.C. 303(n) and 47 CFR 73.1225.

Total Annual Burden: 223 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. If the Commission requests that respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: The Alternative Broadcast Inspection Program (ABIP) is a series of agreements between the Federal Communications Commission's (FCC) Enforcement Bureau and a private entity, usually a state broadcast association, whereby the private entity agrees to facilitate inspections (and re-inspections, where appropriate) of participating broadcast stations to determine station compliance with FCC regulations. Broadcast stations participate in ABIP on a voluntary basis. The private entities notify their local FCC Field Office in writing of those stations that pass the ABIP inspection and have been issued a Certificate of Compliance by the ABIP inspector. The FCC uses this information to determine which broadcast stations have been certified in compliance with FCC Rules and will not be subject to certain random FCC inspections.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20096 Filed 9–15–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19–329; FR ID 104375]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications

Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Task Force) will hold its next meeting via live internet link.

DATES: October 5, 2022. The meeting will come to order at 3 p.m. EDT.

ADDRESSES: The meeting will be held via conference call and be available to the public via live feed from the FCC's web page at *www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Cuttner, Designated Federal Officer, at (202) 418–2145, or *Elizabeth.Cuttner@fcc.gov;* Stacy Ferraro, Deputy Designated Federal Officer, at (202) 418–0795, or *Stacy.Ferraro@fcc.gov;* or Lauren Garry, Deputy Designated Federal Officer, at (202) 418–0942, or *Lauren.Garry@fcc.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be held on October 5, 2022 at 3 p.m. EDT and may be viewed live, by the public, at *http://www.fcc.gov/live.* Any questions that arise during the meeting should be sent to *PrecisionAgTF@fcc.gov* and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the Task Force should be filed in GN Docket No. 19–329.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to fill.

Proposed Agenda: At this meeting, the Task Force will cover updates from Working Groups on their progress and discuss Working Group Reports. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–20111 Filed 9–15–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0398; FR ID 104485]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and 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. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; 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; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 15, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0398.

Title: Sections 15.117(g)(2), 15.201(a), 15.201(d), 15.211, 15.213 and 15.221(c))—Equipment Authorization Measurement Standards.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 250 respondents; 250 responses.

Estimated Time per Response: 15.4 hours (average).

Frequency of Response: On occasion, and one-time reporting requirements, recordkeeping requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 302, 303(c), 303(f), 303(g) and 303(r), and 309(a).

Total Annual Burden: 3,850 hours.

Total Annual Cost: $50,000.

Privacy Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: There is a minimal exemption from the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4) and 47 CFR 0.459(d) of the Commission's rules that is granted for trade secrets, which may be submitted to the Commission as part of the documentation of the test results. No other assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this information collection after this 60-day comment period to obtain the full three-year clearance from the Office of Management and Budget (OMB). There is no change in the Commission's estimated respondents/responses and/or total annual burden hours.

To ensure that technical standards are applied uniformly, the Commission requires respondents to follow appropriate equipment authorization procedures specified in subpart J of part 2 of the Commission's rules. These requirements require manufacturers to comply with certain information collection requirements common to all equipment.[1] In addition to these general requirements, the responsible parties for certain types of equipment must maintain special records as specified by the requirements for those devices.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–20044 Filed 9–15–22; 8:45 am]

BILLING CODE 6712–01–P

[1] See OMB Information Collection 3060–0057, 3060–0329 and 3060–0636.

FEDERAL COMMUNICATIONS COMMISSION

[DA 22–844; FR ID 104382]

Announcement of Renewal of Charter of the FCC Consumer Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice of intent to renew the Charter for the FCC Consumer Advisory Committee

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) hereby announces that the charter of the Consumer Advisory Committee (hereinafter Committee) will be renewed for a two-year period pursuant to the Federal Advisory Committee Act (FACA) and following consultation with the Committee Management Secretariat, General Services Administration.

ADDRESSES: Federal Communications Commission, 45 L St. NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joshua Mendelsohn, Designated Federal Officer, Federal Communications Commission, Consumer and Governmental Affairs Bureau, *CAC@fcc.gov.*

SUPPLEMENTARY INFORMATION: After consultation with the General Services Administration, the Commission intends to renew the charter on or before October 13, 2022, providing the Committee with authorization to operate for two years. In keeping with its advisory role, the FCC Consumer Advisory Committee will continue to provide recommendations to the Commission on consumer topics, as specified by the Commission, gather data and information, and perform analyses that are necessary to respond to the questions or matters before it. The mission of the Committee is to make recommendations to the Commission on topics specified by the Commission relating to the needs and interests of consumers. The Commission will specify topics the Committee may consider, which may include: Consumer protection and education; Implementation of statutes, Commission rules, and policies to protect consumers; Promoting consumer participation and input into Commission rulemaking proceedings and other decision-making processes; and, Impact of new and emerging communications technologies on consumers, including those in underserved populations.

Advisory Committee

The Committee will be organized under, and will operate in accordance with, the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2). The Committee will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the Committee will be open to the public unless otherwise noticed. A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. All activities of the Committee will be conducted in an open, transparent, and accessible manner. The Committee shall terminate two (2) years from the filing date of its charter, or earlier upon the completion of its work as determined by the Chair of the FCC, unless its charter is renewed prior to the termination date.

During the Committee's next term, it is anticipated that the Committee will meet in Washington, DC at the discretion of the Commission, approximately three (3) times a year. The first meeting date and agenda topics will be described in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date.

In addition, as needed, subcommittees will be established to facilitate the Committee's work between meetings of the full Committee. Meetings of the Committee will be fully accessible to individuals with disabilities.

Federal Communications Commission.

Robert A. Garza,

Legal Advisor, Consumer and Governmental Affairs Bureau.

[FR Doc. 2022–20110 Filed 9–15–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meetings

TIME AND DATE: September 21, 2022; 1:00 p.m.

PLACE: This meeting will be held at the Surface Transportation Board at the address below and also streamed live at *www.fmc.gov*.

Surface Transportation Board, 395 E Street SW, Room #1042 (Hearing Room), Washington, DC 20423.

STATUS: Part of the meeting will be open to the public: held in-person at the Surface Transportation Board for public attendants and also available to view streamed live, accessible from *www.fmc.gov.* The rest of the meeting will be closed to the public.

The hearing will be held on September 21, 2022, beginning at 1:00 p.m. in the Hearing Room of the Surface Transportation Board's headquarters (not at the Federal Maritime Commission) and will be open for public observation. If technical issues prevent the Commission from live streaming, the Commission will post a recording of the public portion of the meeting on the Commission's YouTube Channel. Any person wishing to attend the meeting in-person should report to Surface Transportation Board headquarters with enough time to clear building security procedures. Additional meeting guidance can be found on *www.fmc.gov.*

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Commissioner Bentzel, Update on Maritime Transportation Data Initiative
2. Staff Briefing on Ocean Shipping Reform Act of 2022

Portions Closed to the Public

3. Staff Briefing on Demurrage and Detention Billing Requirements
4. Staff Briefing on Charge Complaints

CONTACT PERSON FOR MORE INFORMATION: William Cody, Secretary, (202) 523–5725.

William Cody,

Secretary.

[FR Doc. 2022–20161 Filed 9–14–22; 11:15 am]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Request for Information on Person-Centered Care Planning for Multiple Chronic Conditions (MCC)

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of request for information.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) seeks public comment about comprehensive, longitudinal, person-centered care planning for people with Multiple Chronic Conditions (MCC). Specifically, the RFI seeks comment on the current state of comprehensive, longitudinal, person-centered care planning for people at risk for or living with MCC across settings of care (*e.g.,* health systems, primary care, home, and other ambulatory practices), including

existing models of person-centered care planning, their current scale, and barriers and facilitators to implementation. In addition, the RFI seeks comments about innovative models of care, approaches, promising strategies and solutions in order for clinicians and practices to routinely engage in comprehensive, longitudinal, person-centered care planning to improve the care of people at risk for or living with MCC. This request for information will inform AHRQ's work in improving care for people at risk for or living with MCC.

DATES: Comments on this notice must be received by November 15, 2022. AHRQ will not respond individually to responders but will consider all comments submitted by the deadline.

ADDRESSES: Please submit all responses via email to: *MCC@ahrq.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Poonam Pardasaney, ScD, DPT, MS, Staff Fellow, Phone: (301) 427–1121; Email: *Poonam.Pardasaney@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: AHRQ is seeking public comment about comprehensive, longitudinal, person-centered care planning for people at risk for or living with Multiple Chronic Conditions (MCC). Specifically, AHRQ seeks comment on the current state of comprehensive, longitudinal, person-centered care planning for people at risk for or living with MCC across settings of care (*e.g.,* health systems, primary care, home, and other ambulatory practices) including existing models of person-centered care planning, their current scale, and barriers and facilitators to implementation. In addition, AHRQ seeks information about innovative models of care, approaches, and promising strategies and solutions, in order for clinicians and practices to routinely engage in comprehensive, longitudinal, person-centered care planning to improve the care of people at risk for or living with MCC. Because it may be possible to prevent or delay the onset of MCC, AHRQ is interested in care planning for those at risk for MCC in addition to those who have MCC. Evidence for effectiveness of strategies for implementation and delivery of person-centered care planning, their impact on improving health outcomes, as well as evidence on how to adapt, scale, and spread the intervention are of interest.

For the purposes of this RFI, the following working definitions apply:

Comprehensive, Longitudinal, Person-Centered Care Planning (also known as shared care planning): A process of collaboration among people at risk for or living with MCC, clinicians, and healthcare teams to proactively discuss and record: (1) roles and tasks among care team members, including the individual, their family and caregivers; (2) plans for coordinating care within and across organizations and settings; (3) strategies for supporting and empowering patients to manage their own health; (4) plans for engaging in shared decision making.[1] The care plan should: include all conditions including biomedical and behavioral health conditions; facilitate screening for and/or diagnosing co-existing conditions that impact care management and outcomes, as well as social risks and supports; support evidence-based care; include an individual's goals and preferences; be dynamic and incorporate an approach to updating, as necessary.

Person-Centered Care Plan: A single record of care shared among people at risk for or living with MCC and their clinicians that: (1) is accessible to persons with MCC and their caregivers; (2) puts the person's goals at the center of decision-making; (3) is holistic, including somatic and behavioral health, clinical and nonclinical data, including the social determinants of health; (4) follows the person through both high-need episodes and periods of health improvement and maintenance; (5) allows care team coordination.[2]

Multiple Chronic Conditions (MCC) are defined here as the co-occurrence of two or more chronic physical or behavioral health conditions (including mental health and/or substance use disorders). Some use the term multimorbidity as synonymous with MCC, while others define MCC as including additional factors that contribute to the burden of illness, including disease severity, functional impairments and disabilities, syndromes such as frailty, and sometimes social factors such as homelessness.

Importance of Care Planning for People at Risk for or Living With MCC

Comprehensive, longitudinal, person-centered care planning is central to models of care that deliver high quality care that meet the needs of people at risk for or living with MCC. Person-centered care planning should be designed to achieve the following objectives:

- Prioritize care that maximizes benefits and minimizes harms.
- Incorporate and prioritize competing demands and people's preferences (*e.g.,* morbidity, mortality, burden of care, quality of life).
- Identify roles and tasks among care team members, including the person with MCC.
- Coordinate planning, management and treatment with the whole care network across time and setting (*e.g.,* a multi-disciplinary team, specialty care, community and social services, people with MCC and caregivers) to create and maintain a single plan for each person.
- Elicit and reflect choices and values of people at risk for or living with MCC in the context of their lives.
- Share decision making in a manner that is preferred by people at risk for or living with MCC and caregivers, considering individual values, preferences, cultural, and social contexts.
- Support and empower people at risk for or living with MCC to manage their own health and initiate and sustain behavior change, with the support of their health care team.
- Document specific goals of both people at risk for or living with MCC and their clinicians and health care team and reconcile when necessary.
- Continuously monitor and track progress on goals and preferences through high-need episodes, as well as during periods of health improvement and maintenance, with modification as necessary.
- Is supported by evidence-based clinical guidelines that optimize care for coexisting conditions.
- Ensure equity is adequately addressed to deliver effective person-centered care to all and actively reduce health inequities including among Black, Indigenous, and people of color (BIPOC); socioeconomically disadvantaged individuals; across Sexual Orientation and Gender Identity (SOGI)); for those with low levels of health literacy or limited English proficiency; and for persons with disabilities.

Implementing comprehensive, longitudinal, person-centered care planning requires fundamental changes in the way care is organized and delivered in order to ensure: the active engagement and shared learning of diverse stakeholders; the capacity for timely implementation of rapidly evolving evidence; and innovative approaches to care transformation. While person-centered care planning is practiced in some care settings, it is not routine practice and there are significant evidence gaps regarding the most effective approaches for implementation, scale, and spread.

[1] Burt, J., *et al., Care plans and care planning in long-term conditions: a conceptual model.* Prim Health Care Res Dev, 2014. 15(4): p. 342–54.

[2] Baker, A., *et al., Making the Comprehensive Shared Care Plan a Reality.* NEJM Catalyst, 2016.

Additionally, the use of shared electronic care plans (e-care plans) can facilitate coordination and communication among people at risk for or living with MCC and their clinicians and health care teams, and provide a shared resource for documenting goals, treatments and supports, education and self-management, along with other patient-generated health data to support care management.[3]

Who should respond?

AHRQ seeks information from:

- Clinicians and other health care personnel who perform some or all key components of comprehensive, longitudinal person-centered care planning for people at risk for or living with MCC, including clinicians and personnel from across all care settings (primary care, specialty care, mental and behavioral health, post-acute care, rehabilitative care, and home and community-based services).
- Researchers and implementers developing interventions to implement person-centered care planning in practice.
- Clinical decision support developers who develop tools for comprehensive, longitudinal person-centered care planning.
- Quality and other measure developers (*e.g.,* metrics, indicators) of person-centered care planning, including process, implementation, and outcomes.
- Patient advocacy groups and organizations.
- Clinical professional societies.
- Payers.
- Healthcare delivery organizations.
- IT Directors who implement and manage health IT and other systems that may support person-centered care planning by people with MCC and their clinicians and health care teams.
- Vendors who develop health IT solutions that facilitate person-centered care planning, including traditional EHR systems, care planning platforms, consumer apps, and other products.
- Organizations that facilitate health information exchange (*i.e.,* regional or local health information exchanges, vendor-driven networks, and others) who may support sharing of care plan information across systems.
- Device developers who incorporate comprehensive longitudinal person-centered care planning into device software.
- People at risk for or living with MCC, their families and caregivers.
- Representatives from human service agencies and/or community organizations, or people with experience in addressing the social determinants of health and reducing disparities for people at risk for or living with MCC.
- Higher education institutions that train clinicians and healthcare personnel and/or train those involved in community health and education.

Specific questions of interest to AHRQ include, but are not limited to, the following:

- What terms, strategies, and models of care are used to describe and deliver care planning for the whole person (not just for individual health conditions) that records: (1) roles and tasks among care team members, including the individual, their family and caregivers; (2) plans for coordinating care within and across organizations and settings; (3) strategies for supporting and empowering patients to manage their own health; (4) plans for engaging in shared decision making?
- What key components are necessary to fully deliver on the promise of person-centered care planning?
- How is comprehensive, longitudinal, person-centered care planning for people at risk for or living with MCC currently being done in health systems, primary care, and other ambulatory practices?
- Which organizations are successfully engaged in person-centered care planning for people at risk for or living with MCC?
- Who are the thought leaders in this area and/or where would leaders go to seek information about how to begin this work?
- What are examples of innovative models of care, approaches, promising strategies and solutions that could support clinicians and practices in routinely engaging in comprehensive, longitudinal, person-centered care planning to improve the care of people at risk for or living with MCC?
- How are health systems, primary care, and other ambulatory care practices using innovative approaches to implement person-centered care planning for people at risk for or living with MCC?
- What are best practices for designing, implementing, and evaluating person-centered care planning for people at risk for or living with MCC? What implementation challenges are clinicians and systems likely to face?
- What are suggested strategies for effective implementation of person-centered care planning at multiple levels (*e.g.,* policy, system, practice, clinical team, people with MCC)?
- What kinds of information, tools, resources, or support are most needed to address barriers and challenges to implementation?
- Which payment models might enable and sustain person-centered care planning?
- What quality of care measurements (*e.g.,* metrics, indicators) exist or are emerging for assessing process, implementation, and outcomes associated with person-centered care planning?
- Which personnel or roles within systems or practice settings would know most about person-centered care planning efforts, challenges, and successes (*e.g.,* IT directors, c-suite, care coordinators, etc.)?
- Within systems/practice settings, who takes the lead, or would be expected to take the lead, in coordinating efforts to implement person-centered care planning?
- What credentials and/or training of the team members, including paraprofessionals such as community health workers and/or persons with lived experience such as peer recovery specialists are necessary?
- Are there or should there be competency requirements for people engaged in facilitating person-centered planning processes, and what should those entail?
- What are suggested methods for recruiting and retaining the workforce to staff such programs?
- What are the impacts of different models of person-centered care planning on the experience of clinicians and other healthcare personnel, and are increased demands posed by some models precipitating practitioner burnout?
- How have shared electronic care plans (e-care plans) been developed, implemented, and shared with the care team? What are best practices for sharing e-care plans across sites and settings of care?
- What existing and emerging data standards are effectively supporting the interoperability of e-care plans? What key standards gaps around e-care plans should be prioritized by industry and other stakeholders?
- What policy levers should HHS use to further advance the adoption of standards-based e-care plans?
- How can technical approaches using Fast Healthcare Interoperability Resources (FHIR) standards better support sharing of e-care plans across care teams? What are major barriers to advancing these approaches?

[3] AHRQ. *eCare Plan Joint NIH/NIDDK AHRQ Project.* 9/22/2021; Available from: *https://ecareplan.ahrq.gov/.*

• What are best practices for using e-care plans to facilitate communication among people at risk for or living with MCC, their caregivers, clinicians, and health care teams, and provide a shared resource for documenting goals, treatments and supports, education and self-management, along with other patient-generated health data?

• What are promising approaches for systematically identifying and addressing social determinants of health?

• Are there any programmatic adaptations that would address the cultural and linguistic considerations when working with minority populations?

• How can equity be ensured in person-centered care planning?

• What are active areas of research and gaps in knowledge?

AHRQ is interested in all of the questions listed above, but respondents are welcome to address as many or as few as they choose and to address additional areas of interest regarding comprehensive longitudinal person-centered care planning not listed. It is helpful to identify the question to which a particular answer corresponds.

This RFI is for planning purposes only and should not be construed as a policy, solicitation for applications, or as an obligation on the part of the Government to provide support for any ideas in response to it. AHRQ will use the information submitted in response to this RFI at its discretion and will not provide comments to any respondent's submission. However, responses to this RFI may be reflected in future solicitation(s) or policies. The information provided will be analyzed and may appear in reports. Respondents will not be identified in any published reports. Respondents are advised that the Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential or sensitive information should be included in your response. The contents of all submissions will be made available to the public upon request. Submitted materials must be publicly available or able to be made public.

Dated: September 12, 2022.

Marquita Cullom,

Associate Director.

[FR Doc. 2022–20027 Filed 9–15–22; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–22IU; Docket No. CDC–2022–0110]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Evaluation of the CDC/NIOSH Health Worker Mental Health Campaign. This project will collect data through the administration of online surveys to health workers and their employers prior to campaign launch and 12 months afterward to assess changes in relevant knowledge, attitudes, and beliefs to help inform recommendations.

DATES: CDC must receive written comments on or before November 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0110 by either of the following methods:

• *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

National Education and Awareness Social Marketing Campaign: Employer Efforts to Support the Mental Health of Health Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As part of the COVID–19 American Rescue Plan of 2021, in response to a congressional mandate, and on the heels of the passage of the Dr. Lorna Breen Health Care Provider Protection Act, the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and

Prevention (CDC), is taking an active stance to address mental health concerns among the more than 20 million workers in the nation's healthcare sector. For many years now, health workers have reported feeling undervalued, overworked, and overwhelmed. A 2012 study that surveyed more than 7,000 physicians found that nearly half of them had symptoms of burnout. The COVID–19 pandemic has only exacerbated the strain and pressure facing health workers as they endure unprecedented challenges that make working in this field exponentially harder on their own health and wellbeing. So much so, that the wellbeing of those who dedicate their days and nights to keeping us healthy has surpassed a point of crisis. Depression, anxiety, and PTSD are highly prevalent among health workers across the United States. A systematic review of studies addressing burnout among nurses found that more than a third (34.1%) had emotional exhaustion. A 2020 survey of healthcare workers found that 86% reported experiencing anxiety, and 39% did not feel like they had adequate emotional support.

While many Americans experienced some respite from COVID–19 over the last 24 months, health workers remained on the front lines, in communities and health systems where infections and deaths remained highest and in settings where their charge was to care of the sickest and most immunocompromised Americans. Add to this staffing shortages, a lack of resources and beds across health centers of all sizes, public mistrust in medical professionals in certain areas, and hesitancy of health workers to access support due to licensure and credentialing issues, it is no wonder that our nation's health workers need support, especially from the systems that employ them.

NIOSH, the federal agency tasked with conducting research to contribute to reductions in occupational illnesses, injuries, and hazards, and its contractor, JPA Health, plan to develop, implement, and evaluate a social marketing campaign that aims to raise health worker and healthcare executive awareness of mental health risks, promote help seeking and treatment among health workers experiencing burnout and job-related distress, reduce stigma associated with health workers' mental health help seeking, and establish organizational policies and practices that support worker mental health. For NIOSH, this project requires more than a messaging campaign and aims to marry communications best practices with behavior and systems change strategies to start addressing the working conditions that contribute to job-related distress, structural barriers that prevent health workers from seeking help, and healthcare executives from providing mental health services and supports.

While many individual-level interventions specific to healthcare and healthcare workers exist, very few interventions address the organizational level causes of health worker burnout. It is for this reason that we are proposing a two-year approval to collect data that will allow us to determine whether the social marketing campaign is reaching and engaging executives who will, in turn, support and facilitate modifications to working conditions that contribute to job-related distress; and whether the campaign is associated with increased mental health help seeking and care in those healthcare organizations participating in social marketing efforts.

Outcome data collected for the non-experimental study will include a representative sample of 3,000 health workers and 500 high-level healthcare executives that hail from relevant partner network organizations of the *All In* network. The survey will be completed on a rolling basis at baseline (pre-launch) and at 12-months post baseline. A new representative sample will be drawn at each data collection period. The health worker survey should take no more than 21 minutes to complete; the executive survey no more than 15 minutes.

Outcome data collected for the quasi-experimental study will include 960 health workers and 60 high-level executives that hail from 12 clinical sites (six intervention sites and six comparison sites) affiliated with our existing partner hospital systems. Unlike the non-experimental study, the same participants will be asked to complete both the baseline and 12-month follow-up surveys (as matched pairs). The health worker survey should take no more than 21 minutes to complete; the executive survey no more than 15 minutes. In addition, up to 18 health workers at each of the six intervention sites will participate in a 60-minute, in-depth interview (nine workers at baseline and another nine at 12 months); and two senior administrators from each of the six intervention sites will participate in a 45-minute-long interview at 12 months.

CDC requests OMB approval for an estimated 1,427 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Health Worker	Partner Network Member Baseline Survey (Form 1).	1,500	1	15/60	375
Health Worker	Partner Network Member Follow-up Survey (Form 2).	1,500	1	21/60	525
Executive	Partner Network Member Baseline Survey (Form 3).	250	1	10/60	42
Executive	Partner Network Member Follow-up Survey (Form 4).	250	1	15/60	125
Health Worker	Quasi-experimental Study Baseline Survey (Form 5).	480	1	15/60	120
Health Worker	Quasi-Experimental Study Follow-up Survey Comparison (Form 6).	240	1	21/60	84
Health Worker	Quasi-Experimental Study Follow-up Survey Intervention (Form 7).	240	1	21/60	84
Executive	Quasi-Experimental Baseline Survey (Form 8)	30	1	10/60	5
Executive	Quasi-Experimental Study Follow-up Survey Comparison (Form 9).	15	1	15/60	4

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Executive	Quasi-Experimental Study Follow-up Survey Intervention (Form 10).	15	1	15/60	4
Health Worker	Quasi-Experimental Study Baseline Interview Intervention (Form 11).	27	1	60/60	27
Health Worker	Quasi Experimental Study Follow-up Interview Intervention (Form 12).	27	1	60/60	27
Executive	Quasi-Experimental Study Follow-up Interview Intervention (Form 15).	6	1	45/60	5
Total					1,427

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20121 Filed 9–15–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–0004; Docket No. CDC–2022–0108]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Disease Surveillance Program—II. Disease Summaries information collection. This collection is used to determine the prevalence of disease and for planning and evaluating programs for prevention and control of infectious diseases.

DATES: CDC must receive written comments on or before November 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0108 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

National Disease Surveillance Program II—Disease Summaries (OMB Control No. 0920–0004, Exp. 10/31/2020)—Reinstatement with Change—National Center for Immunization and Respiratory Diseases (NCIRD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC requests a three-year approval for the Reinstatement with Change of the National Disease Surveillance Program II—Disease Summaries information collection. As with the previous approval, these data are essential for measuring trends in diseases, evaluating the effectiveness of current preventive strategies, and determining the need to modify current preventive measures.

Influenza Virus, Caliciviruses, Respiratory and Enteric Viruses are associated with diseases in this surveillance program. Proposed changes in this Reinstatements with Change

include the following: nine influenza forms, Suspect Respiratory Virus Patient Form, Middle East Respiratory Syndrome Coronavirus (MERS) Patient Under Investigation (PUI) Form, Viral Gastroenteritis Outbreak Submission Form, National Respiratory and Enteric Virus Surveillance System (NREVSS) Laboratory Assessment, and National Enterovirus Surveillance Report. These forms will have minor edits with no burden change from last OMB approval.

In addition to these changes, three new forms have been added including an aggregate case count of persons exposed to Highly Pathogenic Avian Influenza (HPAI) spreadsheet, Pediatric Hepatitis of Unknown Etiology Medical Record Abstraction Form (CRF) and Pediatric Hepatitis of Unknown Etiology Medical Record Abstraction short form version. The data from the new forms will enable rapid detection and characterization of outbreaks of known pathogens, as well as potential newly emerging viral pathogens. The NORS Foodborne Disease Transmission, and Waterborne Diseases Transmission are discontinued in this package, as they have been moved to the OMB-approved package for National Outbreak Reporting System (NORS) (OMB Control No. 0920–1304).

The frequency of response for each form will depend on the disease and surveillance need. CDC requests OMB approval for an estimated 24,320 annual burden hours. There is no additional cost to respondents other than the 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 hr)	Total burden (in hr)
Epidemiologist	WHO COLLABORATING CENTER FOR INFLUENZA Influenza Virus Surveillance.	53	52	10/60	459
Epidemiologist	U.S. WHO Collaborating Laboratories Influenza Testing Methods Assessment.	113	1	10/60	19
Epidemiologist	U.S. Outpatient Influenza-like Illness Surveillance Network (ILINet) Weekly—CDC 55.20.	1800	52	10/60	15,600
Epidemiologist	US Outpatient Influenza-like Illness Surveillance Network (ILINet) Workfolder 55.20E.	1800	1	15/60	150
Epidemiologist	Influenza-Associated Pediatric Mortality—Case Report Form.	57	2	30/60	57
Epidemiologist	Human Infection with Novel Influenza A Virus Case Report Form.	57	2	30/60	57
Epidemiologist	Human Infection with Novel Influenza A Virus Severe Outcomes.	57	1	90/60	86
Epidemiologist	Novel Influenza A Virus Case Screening Form	57	1	15/60	14
Epidemiologist	Antiviral Resistant Influenza Infection Case Report Form.	57	3	30/60	86
Epidemiologist	National Respiratory & Enteric Virus Surveillance System (NREVSS) (55.83A, B, D) (electronic).	550	52	15/60	7150
Epidemiologist	National Enterovirus Surveillance Report: (CDC 55.9) (electronic).	20	12	15/60	60
Epidemiologist	National Adenovirus Type Reporting System (NATRS).	13	4	15/60	13
Epidemiologist	Middle East Respiratory Syndrome (MERS) Patient Under Investigation (PUI) Short Form.	57	3	25/60	71
Epidemiologist	Viral Gastroenteritis Outbreak Submission Form	20	5	5/60	8
Epidemiologist	Influenza Virus (Electronic, Year Round), PHLIP_HL7 messaging Data Elements.	57	52	5/60	247
Epidemiologist	Influenza virus (electronic, year round) (PHIN–MS).	3	52	5/60	13
Epidemiologist	Suspect Respiratory Virus Patient Form	10	5	30/60	25
Epidemiologist	Aggregate case counts of persons exposed to Highly Pathogenic Avian Influenza (HPAI).	50	9	10/60	75
Epidemiologist	Pediatric Hepatitis of Unknown Etiology Medical Record Abstraction Short Form.	52	4	15/60	52
Epidemiologist	Pediatric Hepatitis of Unknown Etiology Medical Record Abstraction Form (CRF).	52	2	45/60	78
Total					24,320

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20127 Filed 9–15–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–22–1313; Docket No. CDC–2022–0109]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Distribution of Traceable Opioid Material* Kits and Emerging Drug Panel Kits across U.S. and International Laboratories. CDC will collect information from domestic and international laboratories submitting requests for TOM Kits* and EDP Kits, and will use this information to prioritize which laboratories will receive kits when quantities are limited.

DATES: CDC must receive written comments on or before November 15, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0109 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (www.regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Distribution of Traceable Opioid Material* Kits and Emerging Drug Panel Kits across U.S. and International Laboratories (OMB Control No. 1313, Exp. 12/31/2022)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In response to the Health and Human Services (HHS) Acting Secretary's 2017 and ongoing public health emergency (PHE) declaration on opioids, the Centers for Disease Control and Prevention (CDC) has led the development of Traceable Opioid Material* Kits (TOM Kits*) to support detection of emerging opioids. CDC maintains the contents of the TOM Kits* based on new needs identified, in part, through the U.S. Drug Enforcement Agency (DEA) Emerging Threat Reports. For example, the DEA 2018 data indicated that fentanyl and fentanyl-related compounds accounted for approximately 76% of their opioid identifications.

TOM Kits* are not intended for diagnostic use and are free to laboratories in the public, private, clinical, law enforcement, research, and public health domains. The CDC collects information on laboratories when they apply for test kits. This information is used to prioritize which laboratories will receive kits when quantities are limited. The brief six-minute web-based survey will allow the CDC to: (1) determine what service the recipient laboratory performs; and (2) equitably distribute test kits based on the analysis techniques and matrices used by the recipient laboratory.

The CDC is requesting a three-year Paperwork Reduction Act (PRA) clearance for a Revision information collection request (ICR) titled ''Distribution of Traceable Opioid Material* Kits and Emerging Drug Panel Kits across U.S. and International Laboratories'' (OMB Control No. 0920–1313; Expiration Date 12/31/2022). As part of the proposed revisions, CDC will be expanding its program to include both TOM Kits* and the new Emerging Drug Panel (EDP) Kits. For the EDP Kits, non-opioid compounds will be identified and updated by searching recent lists put out by the DEA and the Center for Forensic Science Research and Education (CFSRE). These lists provide data on all classes of drugs that were recently identified in the field and provide recommendations on which drugs should be included in testing. They are updated several times a year and keep up with the changing drug landscape in the United States. For the current round, EDP Kits will include synthetic cannabinoids, stimulants, hallucinogens, and benzodiazepines.

CDC will distribute TOM Kits* and EDP Kits through a single vendor. The CDC vendor will distribute these kits to domestic laboratories, as previously approved, and as a revision, to

international laboratories in partnership with the United Nations Office on Drugs and Crimes (UNODC). The CDC vendor will bulk ship these kits to UNODC for international distribution, or the vendor may direct ship these kits to select international laboratories upon UNODC request.

Over the past three years, CDC has received 1,472 requests from interested laboratories (approximately 490 requests per year) and has distributed 3,007 TOM Kits*. Based on this experience and with the addition of EDP Kits, we anticipate that up to 600 domestic laboratories will request test kits per year. Given that each application will take six minutes, the annual time burden for 600 domestic laboratories will be 60 hours.

We will add 30 additional annual burden hours for the international distribution of test kits. We estimate that 300 international partner laboratories will apply for test kits per year with UNODC, assuming the same six minutes per application. The UNODC will compile and report this information to CDC twice a year (15 burden hours per response).

We estimate a total time burden of 90 hours per year, which is a decrease of 30 hours over the previously approved 120 hours. There is no cost to the respondents other than their time to participate.

** TRACEABLE OPIOID MATERIAL, TOM KITS, and the TOM KITS logo are marks of the U.S. Department of Health and Human Services.*

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
U.S. Federal Laboratories	Test Kit Application and Questions for U.S. Laboratories (online).	200	1	6/60	20
State, Local, and Tribal Government Laboratories.	Test Kit Application and Questions for U.S. Laboratories (online).	200	1	6/60	20
Private or Not-for-Profit U.S. Institutions.	Test Kit Application and Questions for U.S. Laboratories (online).	200	1	6/60	20
United Nations Office on Drugs and Crimes (UNODC).	Test Kit Distribution Report for International Laboratories.	1	2	15	30
Total	.....	.....	.....	.....	90

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20122 Filed 9–15–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–22AW]

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 ''NCEH DLS Laboratory Quality Assurance Programs'' 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 December 27, 2021, to obtain comments from the public and affected agencies. CDC received four non-substantive comments 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

NCEH DLS Quality Assurance Programs—Existing Collection in Use Without an OMB Control Number—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Laboratory quality assurance (QA) encompasses a range of activities that enable laboratories to achieve and maintain high levels of accuracy and proficiency despite changes in test methods, instrumentation, analytes, source materials, and the volume of specimens tested. The Centers for Disease Control and Prevention (CDC),

National Center for Environmental Health (NCEH), Division of Laboratory Sciences (DLS) QA programs operate out of multiple laboratories within the Division. They establish the baseline measurements and provide calibration and/or quality control (QC) samples that laboratories around the world rely on to develop and improve methods with acceptable levels of accuracy and reliability and, in some cases, meet certain required certifications or accreditation. Laboratories use DLS-developed samples to test the quality and accuracy of their methods/assays. Participating laboratories enroll in the DLS QA program that fits their needs (*i.e.,* external quality assurance/performance assessment, proficiency testing, accuracy-based monitoring, or standardization/harmonization). After the laboratories receive DLS QA samples and perform their measurements, they return test results to DLS. DLS then evaluates the data using statistical methods and reports back to the laboratories on their analytical performance. Laboratories may receive additional technical assistance (TA)/troubleshooting to improve their method performance as needed. DLS programs are offered at different frequencies.

There are 13 DLS QA programs conducted by the following five DLS branches. These programs provide materials and test result analysis to laboratories for the purpose of improving and/or standardizing test performance.

- Clinical Chemistry Branch (CCB)
  - Accuracy-based Laboratory Monitoring Programs (AMP)
  - Lipid Standardization Program (LSP) for Clinical Biomarkers
  - Cholesterol Reference Method Laboratory Network (CRMLN)
  - Hormone Standardization (HoST) Program
  - Vitamin D Standardization Certification Program (VDSCP)
- Nutrition Biomarkers Branch (NBB)
  - Vitamin A Laboratory—External Quality Assurance (VITAL–EQA)
  - Quality Assurance Method Performance Verification (MPV) for Folate Microbiologic Assay (MBA)
  - Quality Assurance Method Performance Verification (MPV) for Micronutrients
- Organic Analytical Toxicology Branch (OATB)
  - Biomonitoring Quality Assurance Support Program (BQASP)
- Inorganic Radiation and Analytical Toxicology Branch (IRATB)
  - Proficiency in Arsenic Speciation (PAsS) Program
  - Ensuring the Quality of Urinary Iodine Procedures (EQUIP)
  - Lead and Multielement Proficiency (LAMP) Testing Program
- Newborn Screening and Molecular Biology Branch (NSMBB)
  - Newborn Screening and Quality Assurance Program (NSQAP)

All 13 CDC quality assurance programs help improve the accuracy and reliability of tests performed by laboratories in patient care, research, commercial and public health settings. They also help to make measurement results among research studies and among clinical laboratories more comparable.

Collectively, these programs improve the quality of laboratory tests that measure environmental exposures and chronic disease biomarkers (including nutritional indicators and hormones) to better inform critical patient care and public health decisions for an expansive host of health outcomes such as rare heritable disorders in newborns, endocrine disorders, maternal health and risk of birth defects, bone, kidney and cardiovascular disease, cancers (including breast cancer), diabetes, thyroid and hormone dysregulation.

The estimated annualized burden hours were determined, as follows. The respondents are participating laboratories that are represented by an individual laboratory analyst who would record the data from their testing results in the supplied data submission form(s). Depending on the program, the average burden per response for the enrollment and data submission forms was determined to be five minutes up to two hours through firsthand experience in testing usability/data entry of forms. The number of respondents fluctuates minimally each year and an average number of participants per program was estimated by each program based on previous years' participation and trends in participation rate since the inception of each program. CDC has estimated the annualized time burden for these 13 programs to be 6,513 hours per year. The annualized number of responses are estimated as 10,804 submissions to NCEH DLS. NCEH is requesting a three-year Paperwork Reduction (PRA) Act Clearance. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent (in hours)	Average burden per response (in hours)
CCB Accuracy-Based Laboratory Monitoring Programs (AMP)				
Academic/University Research Lab	AMP Enrollment Section on Data Submission Form ...	10	1	25/60
	AMP Data Submission Form	10	4	45/60
Private Research Lab	AMP Enrollment Section on Data Submission Form ...	3	1	25/60
	AMP Data Submission Form	3	4	45/60
Routine Clinical Lab	AMP Enrollment Section on Data Submission Form ...	20	1	25/60
	AMP Data Submission Form	20	4	45/60
CCB Lipid Standardization Program (LSP)				
Academic/University Research Lab	LSP Enrollment Section on Data Submission Form	20	1	25/60
	LSP Data Submission Form	20	4	45/60
Private Research Lab	LSP Enrollment Section on Data Submission Form	7	1	25/60
	LSP Data Submission Form	7	4	45/60
Routine Clinical Lab	LSP Enrollment Section on Data Submission Form	40	1	25/60
	LSP Data Submission Form	40	4	45/60
CCB Cholesterol Reference Method Laboratory Network (CRMLN)				
CRMLN Network Laboratories	CRMLN Enrollment Webpage	15	1	10/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent (in hours)	Average burden per response (in hours)
	CRMLN Data Submission Form	15	2	2
CCB Hormone Standardization (HoST) Program				
Assay Manufacturers	HoSt Enrollment Section on Data Submission Form	60	1	30/60
	HoSt Data Submission Form	60	4	1
(LDT) Lab Developed Tests Manufacturers.	HoSt Enrollment Section on Data Submission Form	40	1	30/60
	HoSt Data Submission Form	40	4	1
End-user/Labs	HoSt Enrollment Section on Data Submission Form	20	1	30/60
	HoSt Data Submission Form	20	4	1
CCB Vitamin D Standardization Certification Program (VDSCP)				
Assay Manufacturers	VDSCP Enrollment Section on Data Submission Form	60	1	30/60
	VDSCP Data Submission Form	60	4	1
(LDT) Lab Developed Tests Manufacturers.	VDSCP Enrollment Section on Data Submission Form	40	1	30/60
	VDSCP Data Submission Form	40	4	1
End-user/Labs	VDSCP Enrollment Section on Data Submission Form	20	1	30/60
	VDSCP Data Submission Form	20	4	1
NBB Vitamin A Laboratory—External Quality Assurance (VITAL–EQA)				
Academic/University Research Lab	VITAL–EQA Enrollment Form National	30	1	25/60
	VITAL–EQA Data Submission Form	30	2	45/60
Government/Ministry of Health Lab	VITAL–EQA Enrollment Form International	30	1	25/60
	VITAL–EQA Data Submission Form	30	2	45/60
Private Research Lab	VITAL–EQA Enrollment Form National	15	1	25/60
	VITAL–EQA Data Submission Form	15	2	45/60
Clinical Lab	VITAL–EQA Enrollment Form National	15	1	25/60
	VITAL–EQA Data Submission Form	15	2	45/60
NBB Quality Assurance Method Performance Verification (MPV) for Folate Microbiologic Assay (MBA)				
Academic/University Research Lab	MPV Folate MBA Enrollment Section on Data Submission Form.	15	1	25/60
	MPV Folate MBA Data Submission Form	15	4	45/60
Government/Ministry of Health Lab	MPV Folate MBA Enrollment Section on Data Submission Form.	15	1	25/60
	MPV Folate MBA Data Submission Form	15	4	45/60
Private Research Lab	MPV Folate MBA Enrollment Section on Data Submission Form.	5	1	25/60
	MPV Folate MBA Data Submission Form	5	4	45/60
Clinical Public Health Lab	MPV Folate MBA Enrollment Section on Data Submission Form.	5	1	25/60
	MPV Folate MBA Data Submission Form	5	4	45/60
NBB Quality Assurance Method Performance Verification (MPV) for Micronutrients				
Academic/University Research Lab	MPV Micronutrients Enrollment Section on Data Submission Form.	20	1	25/60
	MPV Micronutrients Data Submission Form	20	4	45/60
Government/Ministry of Health Lab	MPV Micronutrients Enrollment Section on Data Submission Form.	20	1	25/60
	MPV Micronutrients Data Submission Form	20	4	45/60
Private Research Lab	MPV Micronutrients Enrollment Section on Data Submission Form.	10	1	25/60
	MPV Micronutrients Data Submission Form	10	4	45/60
Clinical Public Health Lab	MPV Micronutrients Enrollment Section on Data Submission Form.	10	1	25/60
	MPV Micronutrients Data Submission Form	10	4	45/60
OATB Biomonitoring Quality Assurance Support Program (BQASP)				
State Public Health Labs	BQASP Enrollment Email	10	1	5/60
	BQASP Data Submission Form	10	1	45/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent (in hours)	Average burden per response (in hours)
IRATB Proficiency in Arsenic Speciation (PAsS) Program				
Public Health Labs	PAsS Enrollment Form	28	1	10/60
	PAsS Data Submission Form	28	4	10/60
IRATB Ensuring the Quality of Urinary Iodine Procedures (EQUIP)				
Public Health Labs	EQUIP Enrollment Form	240	1	10/60
	EQUIP Data Submission Form	240	3	10/60
IRATB Lead and Multielement Proficiency (LAMP) Testing Program				
Public Health Labs	LAMP Enrollment Form	226	1	10/60
	LAMP Data Submission Form	226	4	10/60
NSMBB Newborn Screening and Quality Assurance Program (NSQAP)				
Domestic NBS Labs	NSQAP Enrollment Form	71	1	10/60
	NSQAP Data Submission Portal Quality Control (QC)	71	2	45/60
	NSQAP Data Submission Portal Biochemical (Proficiency Testing) PT.	71	3	45/60
	NSQAP Data Submission Portal Molecular PT	71	3	45/60
International NBS Labs	NSQAP Enrollment Form	568	1	10/60
	NSQAP Data Submission Portal QC	568	2	45/60
	NSQAP Data Submission Portal Biochemical PT	568	3	45/60
	NSQAP Data Submission Portal Molecular PT	568	3	45/60
NBS Test Manufacturers	NSQAP Enrollment Form	32	1	10/60
	NSQAP Data Submission Portal QC	32	2	45/60
	NSQAP Data Submission Portal Biochemical PT	32	3	45/60
	NSQAP Data Submission Portal Molecular PT	32	3	45/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20125 Filed 9–15–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–22–22FC]

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 ''Assessing the Capacity of Vector Management Programs in the United States to Provide Comprehensive Community-level Tick Management Services'' 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 May 13, 2022 to obtain comments from the public and affected agencies. CDC did not receive comments 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: 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

Assessing the Capacity of Vector Management Programs in the U.S. to Provide Comprehensive Community-level Tick Management Services—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Previous surveys have focused on private pest management firms or agencies in a single state. The overall capacity for publicly-funded comprehensive tick management in the regions of interest remains poorly understood, especially in high incidence areas. Data collected by engaging vector management program staff will inform the development of sustainable and effective community-level tick management programs by assessing the feasibility of program components, the resources necessary to add new functions to existing vector management programs, and the expected costs associated with delivering comprehensive tick management services. This survey will identify robust vector management programs with which CDC can partner to refine guidance for the development of comprehensive community-level tick management programs, which can be adapted to specific regional ecologies and communities. Ultimately, this survey is an important first step toward developing a community of practice for publicly-funded, comprehensive tick management programs in the U.S. The survey will lay the groundwork for efforts to establish local entities capable of first evaluating the efficacy of tick control methods, and then broadly deploying those measures proven effective, and publicly-acceptable in order to: (a) reduce the number of infected ticks in the environment; and (b) reduce human bites by infected ticks.

The primary goals of this project are two-fold: (1) assess the current tick management capacity and knowledge in vector management programs that receive public funding in the Upper Midwest, mid-Atlantic, Northeast, and Pacific coast states; and (2) determine the services that vector management program staff believe should be part of comprehensive tick management programs if they are developed in the future. We also hope to identify barriers to the development of comprehensive tick management programs and ways CDC can begin to address gaps.

CDC requests OMB approval for an estimated 63 annual burden hours. There are no costs to respondent other than the time needed to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Public Vector Control Operators		200	1	15/60
Private Vector Control Operators		100	1	8/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2022–20124 Filed 9–15–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2022–0111]

Advisory Committee on Immunization Practices (ACIP)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public. Time will be available for public comment.

DATES: The meeting will be held on October 19, 2022, from 8:30 a.m. to 5:30 p.m., EDT and October 20, 2022, from 8:30 a.m. to 3:20 p.m., EDT (dates and times subject to change, see the ACIP website for updates *http://www.cdc.gov/vaccines/acip/index.html*). The meeting will be webcast live via the World Wide Web. Written comments must be received on or before October 20, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0111, by either of the following methods.

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H24–8, Atlanta, GA 30329–4027, Attn: October 19–20, 2022, ACIP Meeting.

Instructions: All submissions received must include the Agency name and Docket Number. All relevant comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, 1600 Clifton Road NE, MS H24–8, Atlanta, GA 30329–4027; Telephone: 404–639–8367; Email: *ACIP@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The committee is charged with advising the Director, CDC, on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under provisions of the Affordable Care Act, section 2713 of the Public Health Service Act, immunization recommendations of the ACIP that have been approved by the CDC Director and appear on CDC immunization schedules must be covered by applicable health plans.

Matters To Be Considered: The agenda will include discussions on influenza vaccines, pneumococcal vaccine, meningococcal vaccines, respiratory syncytial virus vaccine, rotavirus vaccine, dengue vaccines, adult immunization schedule, child/adolescent immunization schedule, COVID–19 vaccines and Chikungunya vaccine. Recommendation votes on pneumococcal, adult immunization schedule, child/adolescent immunization schedule and COVID–19 vaccines are scheduled. A Vaccines for

Children (VFC) vote on COVID–19 vaccine is scheduled. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda visit *https://www.cdc.gov/vaccines/acip/meetings/meetings-info.html*.

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov*. Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

Written Public Comment: Written comments must be received on or before October 20, 2022.

Oral Public Comment: This meeting will include time for members of the public to make an oral comment. Oral public comment will occur before any scheduled votes including all votes relevant to the ACIP's Affordable Care Act and Vaccines for Children Program roles. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

Procedure for Oral Public Comment: All persons interested in making an oral public comment during the October 19–20, 2022, ACIP meeting must submit a request at *http://www.cdc.gov/vaccines/acip/meetings/* no later than 11:59 p.m. EDT, October 14, 2022, according to the instructions provided.

If the number of persons requesting to speak is greater than can be reasonably accommodated during the scheduled time, CDC will conduct a lottery to determine the speakers for the scheduled public comment session. CDC staff will notify individuals regarding their request to speak by email by October 18, 2022. To accommodate the significant interest in participation in the oral public comment session of ACIP meetings, each speaker will be limited to three minutes, and each speaker may only speak once per meeting.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2022–20045 Filed 9–15–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a meeting. The meeting will be open to the public via webcast. For this meeting, the TBDWG will review the progress of the Working Group.

DATES: The public can view the meeting online via webcast on December 7, 2022 from approximately 9:00 a.m. to 5:00 p.m. ET (times are tentative and subject to change) each day. The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2022-12-07/index.html* when this information becomes available.

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Rockville, MD 20852. Email: *tickbornedisease@hhs.gov.* Phone: 202–795–7608.

SUPPLEMENTARY INFORMATION: A link to view the webcast can be found on the meeting website at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2022-12-07/index.html* when it becomes available. The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2022-12-07/index.html* and respond by midnight November 29, 2022 ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30-minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. app., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: September 8, 2022.

James J. Berger,

Designated Federal Officer, Tick-Borne Disease Working Group, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2022–20092 Filed 9–15–22; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before November 15, 2022.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–New–60D and project title for reference, to Sherrette A. Funn, email: *Sherrette.Funn@hhs.gov,* or call (202) 795–7714 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Data Management Standard Operating Procedures Survey.

Type of Collection: New.

OMB No.: 0990–New.

Abstract: The Office of the Assistant Secretary for Health, Office of Research Integrity is requesting a new approval from the Office of Management and Budget of the Data Management Standard Operating Procedures Survey. Information from respondents to the survey will be used to develop a Data Management Standard Operating Procedures toolkit that will be disseminated to researchers, research administrators, and research institutions to implement. In addition, other products will be developed to disseminate survey results and findings to include, social media posts, YouTube video, webinar, and summary report for the research community.

Likely Respondents: Biostatisticians and Bioscience Researchers.

ANNUALIZED BURDEN HOUR TABLE

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Data Management Standard Operating Procedures Survey.	Biostatisticians and Bioscience Researchers.	1,200	1	45/60	900
Total					900

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–20115 Filed 9–15–22; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct; Correction

AGENCY: Office of the Secretary, HHS.

ACTION: Correction of notice.

SUMMARY: This document corrects errors that appeared in the notice published in the August 5, 2022, **Federal Register** entitled ''Findings of Research Misconduct.''

Applicability Date: The correction notice is applicable for the Findings of Research Misconduct notice published on August 5, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Alexander Runko or Ms. Karen Gorirossi at 240–453–8800.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2022–16867 of August 5, 2022 (87 FR 48034–48036), there were errors involving National Institutes of Health (NIH) grant application UL1 TR000124 affecting six paragraphs on page 48035. The errors are identified and corrected in the Correction of Errors section below.

II. Correction of Errors

Due to additional information provided by the institution to the Office of Research Integrity, it was determined that NIH grant application UL1 TR000124 did not fund or contain falsified/fabricated data; therefore, this grant application has been removed from the findings of research misconduct reported in FR Doc. 2022–16867. Thus, in FR Doc. 2022–16867 of August 5, 2022 (87 FR 48034–48036), make the following corrections:

1. On page 48035, first column, in FR Doc. 2022–16867, first paragraph, lines 9–12, remove ''UL1 TR000124 submitted to the National Center for Advancing Translational Sciences (NCATS), NIH.''

2. On page 48035, first column, in FR Doc. 2022–16867, fourth paragraph, lines 14–15, remove ''UL TR000124 submitted to NCATS, NIH.''

3. On page 48035, first column, in FR Doc. 2022–16867, fifth paragraph, lines 5–6, change ''eleven (11) grant applications'' to ''ten (10) grant applications.''

4. On page 48035, first column, in FR Doc. 2022–16867, seventh paragraph, lines 1–2, and second column, in FR Doc. 2022–16867, first paragraph, lines 1–3, remove ''UL1 TR000124, 'UCLA Clinical and Translational Science Institute,' submitted to NCATS, NIH, Awarded Project Dates: June 1, 2011–August 31, 2016.''

5. On page 48035, second column, in FR Doc. 2022–16867, thirteenth paragraph, line 1, remove ''Figure 6 of UL1 TR000124.''

Dated: September 13, 2022.

Wanda K. Jones,

Acting Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2022–20070 Filed 9–15–22; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a meeting. The meeting will be open to the public via webcast. For this meeting, the TBDWG will review and vote upon the

third and final Report to Congress and the HHS Secretary. The 2022 report will address a wide range of topics related to tick-borne diseases, such as, surveillance, prevention, diagnosis, diagnostics, and treatment; identify advances made in research, as well as overlap and gaps in tick-borne disease research; and provide recommendations regarding any appropriate changes or improvements to such activities and research.

DATES: The public can view the meeting online via webcast on October 25, 2022 from approximately 9:00 a.m. to 5:00 p.m. ET (times are tentative and subject to change) each day. The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2022-10-25/index.html* when this information becomes available.

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Rockville, MD 20852. Email: *tickbornedisease@hhs.gov.* Phone: 202–795–7608.

SUPPLEMENTARY INFORMATION: A link to view the webcast can be found on the meeting website at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2022-10-25/index.html* when it becomes available. The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2022-10-25/index.html* and respond by midnight October 17, 2022 ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30-minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. app., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: September 8, 2022.

James J. Berger,

Designated Federal Officer, Tick-Borne Disease Working Group, Office of Infectious Disease and HIV/AIDS Policy.

[FR Doc. 2022–20088 Filed 9–15–22; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; 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 National Science Advisory Board for Biosecurity.

The meeting will be held as a virtual meeting and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

Name of Committee: National Science Advisory Board for Biosecurity.

Date: September 21, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: The National Science Advisory Board for Biosecurity (NSABB) meeting will include a progress update from the NSABB Working Group to Review and Evaluate Potential Pandemic Pathogen Care and Oversight (PC3O) Policy, and stakeholder engagement on topics related to the U.S. Government policies for the Oversight of Dual Use Research of Concern (DURC).

Place: National Institutes of Health, 6705 Rockledge Drive, Suite 630, Bethesda, MD 20892, (Virtual Meeting Link will be available at *https://osp.od.nih.gov/biotechnology/national-science-advisory-board-for-biosecurity-nsabb/#meetings*).

Contact Person: Cari Young, ScM, Acting Director, Division of Biosafety, Biosecurity, and Emerging Biotechnology Policy, Office of Science Policy, Office of the Director, National Institutes of Health, 6705 Rockledge Drive, Suite 630, Bethesda, MD 20892, (301) 594–3746, *SciencePolicy@od.nih.gov.*

To sign up to make an oral public comment at the meeting, please send an email to the Contact Person listed above at least one business day prior to the meeting date. Once all time slots are filled, only written comments will be accepted. Any interested person may file written comments by forwarding the statement to the Contact Person listed on this notice at least one business day prior to the meeting date. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person. Other than name and contact information, please do not include any personally identifiable information or any information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in your comments. Please note that any written comments NIH receives may be posted unredacted to the Office of Science Policy website.

Information is also available on the NIH Office of Science Policy website: *https://osp.od.nih.gov/biotechnology/national-science-advisory-board-for-biosecurity-nsabb/#meetings,* where an agenda, link to the webcast meeting, and any additional information for the meeting will be posted when available. Materials for this meeting will be posted prior to the meeting. Please check this website for updates.

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

Dated: September 13, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20098 Filed 9–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; The Clinical Trials Reporting Program (CTRP) Database (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

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: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, 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.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on June 29, 2022, page 38765 (Vol. 87, No. 124) and allowed 60 days for public comment. One public comment was received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: The Clinical Trials Reporting Program (CTRP) Database (NCI), 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) 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 data, and reduce redundant submissions. Clinical research administrators submit information 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. After registration, four amendments and four study subject accrual updates occur per trial annually.

OMB approval is requested for three 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: September 13, 2022.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2022–20083 Filed 9–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Animal Genomics Program.

Date: October 25, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ipolia R. Ramadan, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–4471, *ramadanir@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Single Cell Opioid Responses in the Context of HIV (SCORCH) Program Expansion: CNS Data Generation for Chronic Opioid, Methamphetamine, Cocaine and/or Cannabinoid Exposures.

Date: November 22, 2022.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Soyoun Cho, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 594–9460, *Soyoun.cho@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 12, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20060 Filed 9–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 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: Function, Integration, and Rehabilitation Sciences Study Section.

Date: October 7, 2022.

Closed: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, 2125D, Bethesda, MD 20892–7510 (Video Assisted Meeting).

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Rm 2125D, Bethesda, MD 20817, (301) 451–4989, *crobbins@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Ruth L. Kirschstein National Research Service Award (NRSA) International Research Training Grant (Parent T32).

Date: October 18–19, 2022.

Closed: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott North Conference Center, 5701 Marinelli Rd, North Bethesda, MD 20852.

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm 2125D, Bethesda, MD 20817, (301) 451–4989, *crobbins@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: September 13, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20094 Filed 9–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL Initiative: Pain Therapeutics Development [Small Molecules and Biologics].

Date: October 11, 2022.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Bethesda, MD 20892, 301–435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; K01 & K99 Application Review.

Date: October 12, 2022.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience, Center 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Lataisia Cherie Jones, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Bethesda, MD 20892, 301–496–9223, *lataisia.jones@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders B.

Date: October 20, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Joel A Saydoff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Boulevard, Bethesda, MD 20892, 301–496–9223, *joel.saydoff@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health.)

Dated: September 12, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20059 Filed 9–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group Reproductive, Perinatal and Pediatric Health Study Section.

Date: October 12–13, 2022.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, 1 Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Cynthia Chioma McOliver, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007G, Bethesda, MD 20892, (301) 594–2081, *mcolivercc@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive

Sciences Integrated Review Group Basic Mechanisms of Diabetes and Metabolism Study Section.

Date: October 13–14, 2022.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Hilton, 1919 Connecticut Avenue, Washington, DC 20009.

Contact Person: Liliana Norma Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 6158, MSC 7890, Bethesda, MD 20892, (301) 827–7609, *liliana.berti-mattera@nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group Skeletal Biology Development and Disease Study Section.

Date: October 13–14, 2022.

Time: 9:00 a.m. to 9:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, (301) 435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group Musculoskeletal Rehabilitation Sciences Study Section.

Date: October 18–19, 2022.

Time: 9:30 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard Michael Lovering, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 867–5309, *loveringrm@mail.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group Neurobiology of Pain and Itch Study Section.

Date: October 18–19, 2022.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anne-Sophie Marie Lucie Wattiez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (301), 594–4642, *anne-sophie.wattiez@nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group Integrative Vascular Physiology and Pathology Study Section.

Date: October 19–20, 2022.

Time: 9:30 a.m. to 9:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bukhtiar H. Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 12, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–20061 Filed 9–15–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–NEW]

Agency Information Collection Activities; New Collection: e-Request Tool

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until October 17, 2022.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2022–0001. All submissions received must include the OMB Control Number 1615–NEW in the body of the letter, the agency name and Docket ID USCIS–2022–0001.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on January 27, 2022, at 87 FR 4275, allowing for a 60-day public comment period. USCIS did receive 6 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2022–0001 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* New Collection.

(2) *Title of the Form/Collection:* e-Request Tool.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1592; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Respondents will use this collection of information to notify USCIS that: their case is outside of normal processing times; they did not receive a notice; they did not receive a card or document by mail; to request an appointment accommodation; or to notify USCIS of a typographical error. USCIS will use the information provided by respondents to look up their case and determine an appropriate action in response to the inquiry.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection e-Request Tool is 569,519 and the estimated hour burden per response is 0.33 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 187,941 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. This is a system that allows the respondent to request an action, any costs are associated with the collection of information for which the person is requesting action.

Dated: September 12, 2022.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2022–20097 Filed 9–15–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–39]

60-Day Notice of Proposed Information Collection: Multifamily Coinsurance Claims Package, Section 223(f); OMB Control No.: 2502–0420

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: November 15, 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: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. 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: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Coinsurance Claims Package, Section 223(f).

OMB Approval Number: 2502–0420.

OMB Expiration Date: February 29, 2004.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired. Forms will be terminated and discontinued after reinstatement; The coinsurance program has already been terminated by federal regulation (see 24 CFR in package).

Form Numbers: HUD–27008, HUD–27009B, HUD–27009D, HUD–27009F.

Description of the Need for the Information and Proposed Use: A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for FHA Multifamily insurance benefits with the Department. HUD needs this information to determine if FHA multifamily insurance claims submitted to HUD are accurate, valid and support payment of an FHA multifamily insurance claim.

Respondents: Business or other for-profit; State, Local, or Tribal Government.

Estimated Number of Respondents: 12.

Estimated Number of Responses: 48.

Frequency of Response: Occasion.

Average Hours per Response: 4.6 hours.

Total Estimated Burden: 55 hours.

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) The accuracy of the agency'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 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.

Nathan A. Shultz,

Chief of Staff (Acting).

[FR Doc. 2022–20133 Filed 9–15–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–NWRS–2022–0113; FF09R23000/XXX/FXRS420309ARPA0; OMB Control Number 1018–New]

Agency Information Collection Activities; U.S. Fish and Wildlife Service Animal Use Committee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before November 15, 2022.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference OMB Control No. 1018–IACUC in the subject line of your comment):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–NWRS–2022–0113.
- *Email: Info_Coll@fws.gov.*
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. 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: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Pursuant to the Animal Welfare Act of 1966 (AWA; 7 U.S.C. 2131 *et seq.*), as amended, and the U.S. Government Principles for Utilization of Vertebrate Animals Used in Testing, Research, and Training (1995), any entity or institution that uses vertebrate animals for research, testing, or training purposes must have an oversight committee to evaluate all aspects of that institution's animal care and use. The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended, the Service's Code of Scientific Integrity and Scholarly Conduct (212 FW 7; 2011), and the Service's Inventory and Monitoring Program Policy (701 FW 2; 2014) ensure that Service staff adhere to accepted practices for the treatment of wildlife used in science, conservation efforts, and population management. To ensure compliance, the Service's Animal Welfare Program is standing up an Animal Use Committee (also known as an Institutional Animal Care and Use Committee, or IACUC), which will provide guidance to staff to promote animal welfare, human and animal safety, and scientific integrity in the form of protocol review.

The Service's Animal Use Committee (AUC), organizationally aligned under the National Wildlife Refuge System, will provide the experience and expertise necessary to assess and approve all activities involving vertebrate animals on national wildlife refuges (NWRs). The Service's AUC serves as the primary oversight mechanism for animal welfare by reviewing and approving proposed activities related to the care and use of both free-ranging and captive wildlife. In order to comply with the Animal Welfare Act, at minimum, the Service's AUC membership will consist of a chair, an administrator, an attending veterinarian, Service biologist(s) representing various specialties, and a non-Service-affiliated member representing society's expectations for animal welfare. Ad hoc species-specific expert advisors will be requested to help with protocol review as needed. All projects conducted on NWRs by Service staff and non-FWS entities that involve wildlife use must be reviewed and approved by the Service's AUC prior to their commencement. Other branches of the Service are welcome to submit protocols for review, but it will not be required. The majority of people requesting AUC review are anticipated to be Service staff, but other Federal employees or researchers from universities or private institutions conducting projects on NWRs will also require AUC review.

The Service proposes to utilize a new platform, Key Solutions eProtocol IACUC Software Module for Animal Subjects (eProtocol IACUC), to implement the AUC. The eProtocol

IACUC will help ensure that Service staff and anyone else using wildlife on a NWR employ field methods that are consistent with current best practices that minimize discomfort, distress, and pain by facilitating effective and efficient communication between the AUC and submitters and assisting with committee administration management. Additionally, the Service and the National Park Service (NPS) will jointly use the eProtocol IACUC platform to facilitate collaboration and coordination with the NPS IACUC. The shared, but compartmentalized, Service/NPS platform will allow the two bureaus to maintain separate committees and protocol submissions but share data and move protocols and technical experts between the committees, as necessary.

The eProtocol IACUC will collect the following information from submitters:

• *Wildlife Protocol Review Form*—Information collected in this form includes a description of the proposed project, including objectives and methodology, rationale for the use of animals, a summary of literature cited to show novelty of the work, any procedures or treatments to be performed (*e.g.,* sample collection, marking or tagging methods, etc.), a description of all capture devices utilized, pharmaceuticals to be administered, anesthetic protocol description, surgical protocol description, and a description of the selected humane dispatch technique.

• *Field Study Form*—Information collected in this form includes a description of the proposed project, including objectives and methodology, and rationale describing why the project qualifies as a field study.

• *Amendment Form*—Information collected includes a description of proposed new capture devices, treatments, procedures, pharmaceuticals, pharmaceutical administration route, new personnel, etc. that were not included on the Wildlife Protocol Review Form.

• *Wildlife Protocol Annual Review Form*—Information collected includes the number of target, non-target, and opportunistic animals used, treatments or procedures performed, and number of injuries or deaths.

• *Field Study Annual Review Form*—Information collected includes the number of target, non-target, and opportunistic animals observed, non-invasive and non-harmful treatments or procedures performed, and a description of any adverse events.

• *Non-FWS AUC/IACUC Approval Form*—Information requested includes a copy of the non-FWS AUC/IACUC general submission form, copies of all communications with the non-FWS AUC/IACUC, and notification of approval by the non-FWS IACUC.

• *Adverse Event Form*—Information collected in this form includes the number and species of animals injured and/or dead, timeframe for the observed injures and/or mortalities, a description of injuries or illness, and any other pertinent information (*e.g.,* documented trap malfunction, excessive environmental temperatures, evidence of predation, signs of illness, etc.)

• *Animal Welfare Violation Reporting Form*—Information includes a description of action(s) or behavior(s) that violate the AWA; the U.S. Government Principles of Utilization of Vertebrate Animals Used in Testing, Research, and Training; or the National Wildlife Refuge System Administration Act of 1966, 212 FW 7.

Records are required to be kept for the duration of the animal activity and for at least 3 years after the conclusion of the project. Wildlife Protocol Review Forms submitted to the AUC that are not granted approval shall be kept for at least 3 years. Pertinent training history for anyone working on the project will be collected in the Wildlife Protocol Review Form.

Title of Collection: U.S. Fish and Wildlife Service Animal Use Committee.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Private sector (including nonprofits, NGOs, and universities) and State/local/Tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for project submissions, adverse event reporting, and violation reporting, and annually for annual report.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Average number of annual respondents	Average number of responses each	Average number of annual responses	Average completion time per response (hours)	Estimated annual burden hours *
Wildlife Protocol Review Form					
Private Sector	25	1	25	1	25
Government	100	2	200	4	800
Field Study Form					
Private Sector	10	1	10	.5	5
Government	50	2	100	.5	50
Amendment Form					
Private Sector	10	1	10	.5	5
Government	50	1	50	.5	25
Wildlife Protocol Annual Review Form					
Private Sector	25	1	25	1	25
Government	100	1	100	1	100
Field Study Annual Review Form					
Private Sector	10	1	10	.5	5
Government	50	1	50	.5	25

Requirement	Average number of annual respondents	Average number of responses each	Average number of annual responses	Average completion time per response (hours)	Estimated annual burden hours *
Non-FWS AUC/IACUC Review Form					
Private Sector	50	1	50	.5	25
Government	25	1	25	.5	13
Adverse Event Form					
Private Sector	20	1	20	.5	10
Government	40	1	40	.5	20
Animal Welfare Violation Reporting Form					
Private Sector	3	1	3	.5	2
Government	5	1	5	.5	3
Totals:	**573**		**723**		**1,138**

* Rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2022–20046 Filed 9–15–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/ A0A501010.999900; OMB Control Number 1076–0197]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Tribal Enrollment Count

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA), are proposing to reinstate a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before October 17, 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 Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; or by email to *comments@bia.gov.* Please reference OMB Control Number 1076–0197 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Johnna Blackhair, Acting Deputy Bureau Director, Indian Services, BIA by email at *johnna.blackhair@bia.gov* or by telephone at (202) 513–7641. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 12, 2022 (87 FR 41348). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Abstract: Enrollment data is an important source of information which allows the Indian Affairs and other Federal agencies to equitably distribute resources because it is a quantifiable representation of a Tribe's population. Different population sizes generally require different levels of services and resources. BIA must collect this information to ensure effective, accurate, and timely distribution of assistance to respond to funds specifically appropriated for Indian Country, where applicable. This data may assist Federal agencies in developing distribution formulas for funds under annual appropriations or the Inflation Reduction Act of 2022 and Infrastructure Investment and Jobs Act. The authority for this information collection is 25 U.S.C. 2.

Title of Collection: Tribal Enrollment Count.

OMB Control Number: 1076–0197.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Respondents/Affected Public: Federally recognized Tribes.

Total Estimated Number of Annual Respondents: 574 per year.

Total Estimated Number of Annual Responses: 574 per year.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 574 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Steven Mullen,

Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2022–20091 Filed 9–15–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034490; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Huguenot Historical Society, New Paltz, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Huguenot Historical Society, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that 36 cultural items listed in this notice meet the definition of unassociated funerary objects and 12 cultural items listed in this notice meet the definition of objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Huguenot Historical Society. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Huguenot Historical Society at the address in this notice by October 17, 2022.

FOR FURTHER INFORMATION CONTACT: Liselle LaFrance, President, Huguenot Historical Society, 88 Huguenot Street, New Paltz, NY 12561, telephone (845) 255–1660, email *info@huguenotstreet.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate 48 cultural items under the control of the Huguenot Historical Society in New Paltz, Ulster County, NY, 36 of which meet the definition of unassociated funerary objects and 12 of which meet the definition of objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1999, 2002, 2003, and 2018, 48 cultural items were removed from the grounds of the Huguenot Historical Society in New Paltz, Ulster County, NY. The items were excavated as part of field schools conducted on the grounds of Historic Huguenot Street by the State University of New York at New Paltz from 1999 through 2018. In 2020, the entire field school artifact collection came into the possession of Huguenot Historical Society. Of this collection, 36 of the items are unassociated funerary objects. They are two dog skeletons, 29 pottery fragments, four pieces of corn and nuts, and one Wampum bead. Of this collection, 12 of the items are objects of cultural patrimony. They are 12 corn and bean seeds.

Stockbridge Munsee Community, Wisconsin Tribal Historic Preservation representatives reviewed the collection with Huguenot Historical Society staff in May of 2022. Based on a review of the extant field school notes, the 36 unassociated funerary objects were identified as having been removed from burial contexts. Based on the collectively held traditional food domestication knowledge they contain, which knowledge continues to have ongoing historic importance, the 12 corn and bean seeds were identified as objects of cultural patrimony. According to related Lenape oral tradition, present-day New Paltz lay within Lenape geographic territory. The 1677 Huguenot-Lenape land agreement serves as further, documentary evidence of Lenape history in this location. Today the earlier Lenape are represented by the Delaware Nation, Oklahoma; the Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Determinations Made by the Historical Huguenot Society

Officials of the Historical Huguenot Society have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 36 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(3)(D), the 12 cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and objects of cultural patrimony and the Delaware Nation,

Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Liselle LaFrance, President, Huguenot Historical Society, 88 Huguenot Street, New Paltz, NY 12561, telephone (845) 255–1660, email *info@huguenotstreet.org,* by October 17, 2022. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects and objects of cultural patrimony to The Tribes may proceed.

The Huguenot Historical Society is responsible for notifying The Tribes that this notice has been published.

Dated: September 1, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–20056 Filed 9–15–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0001; DS63644000 DRT000000.CH7000 223D1113RT; OMB Control Number 1012–0010]

Agency Information Collection Activities: Solid Minerals and Geothermal Collections

AGENCY: Office of Natural Resources Revenue (''ONRR''), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (''PRA''), ONRR is proposing to renew an information collection. Through this Information Collection Request (''ICR''), ONRR seeks renewed authority to collect information necessary to report production, sales, and royalties owed related to coal, other solid minerals, and geothermal resources produced from Federal and Indian lands. ONRR currently uses forms ONRR–4292 (Coal Washing Allowance Report); ONRR–4293 (Coal Transportation Allowance Report); ONRR–4430 (Solid Minerals Production and Royalty Report); and ONRR–4440 (Solid Minerals Sales Summary) as part of these information collection requirements.

DATES: You must submit your written comments on or before October 17, 2022.

ADDRESSES: All comment submissions must (1) reference ''OMB Control Number 1012–0010'' in the subject line; (2) be sent to ONRR before the close of the comment period listed under **DATES**; and (3) be sent through using the following method:

• *Electronically via the Federal eRulemaking Portal:* Please visit *https://www.regulations.gov.* In the Search Box, enter the Docket ID Number for this ICR renewal (''ONRR–2011–0001'') and click ''search'' to view the publications associated with the docket folder. Locate the document with an open comment period and click the ''Comment Now!'' button. Follow the prompts to submit your comment prior to the close of the comment period.

Docket: To access the docket folder to view the ICR **Federal Register** publications, go to *https://www.regulations.gov* and search ''ONRR–2011–0001'' to view renewal notices recently published in the **Federal Register**, publications associated with prior renewals, and applicable public comments received for this ICR. ONRR will make the comments submitted in response to this notice available for public viewing at *https://www.regulations.gov.*

OMB ICR Data: OMB also maintains information on ICR renewals and approvals. You may access this information at *https://www.reginfo.gov/public/do/PRASearch.* Please use the following instructions: Under the ''OMB Control Number'' heading enter ''1012–0010'' and click the ''Search'' button located at the bottom of the page. To view the ICR renewal or OMB approval status, click on the latest entry (based on the most recent date). On the ''View ICR—OIRA Conclusion'' page, check the box next to ''All'' to display all available ICR information provided by OMB.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Michael Anspach, Solid Minerals, ONRR, by email at *Michael.Anspach@onrr.gov* or by telephone at (303) 231–3618. 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: Pursuant to the PRA, 44 U.S.C. 3501, *et seq.,* and 5 CFR 1320.5, all information collections, as defined in 5 CFR 1320.3, require approval by OMB. ONRR may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of ONRR's continuing effort to reduce paperwork and respondent burdens, ONRR is inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information in accordance with the PRA and 5 CFR 1320.8(d)(1). This helps ONRR to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand ONRR's information collection requirements and provide the requested data in the desired format.

ONRR is especially interested in public comments addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of ONRR's estimate of the burden for 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 to be collected; and

(4) How might the agency minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

ONRR published a 60-day **Federal Register** notice on April 13, 2022 (87 FR 21921) and received no comments. However, ONRR solicited comments and received six comments in response to this information collection request. Five of those comments agreed with the content of this ICR. One commenter disagreed with the amount of time and processes that ONRR uses to calculate the burden hours. ONRR acknowledged and provided responses to all commenters accordingly.

Comments that you submit in response to this 30-day notice are a matter of public record. ONRR will include or summarize each comment in its 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 can ask ONRR in your comment to withhold your personal identifying information from public review, ONRR cannot guarantee that it will be able to do so.

Abstract: (a) General Information: The Secretary of the U.S. Department of the Interior (''Secretary'') is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary is also responsible for collecting royalty information from lessees who produce minerals from Federal and Indian lands and the OCS. Under various laws, the Secretary's responsibility is to (1) manage mineral resources production from Federal and Indian lands and the OCS; (2) collect the royalties and other mineral revenues due; and (3) distribute the funds collected.

ONRR uses the information collected in this ICR to ensure that a lessee properly pays royalty and other revenues due on coal, other solid minerals, and geothermal resources produced from Federal and Indian lands. A lessee submits some of the information collected in this ICR to claim a coal washing or a transportation allowance. ONRR shares the data with the Bureau of Land Management, Bureau of Indian Affairs, and Tribal and State governments for their land and lease management responsibilities. The requirement to report accurately and timely is mandatory. Please refer to the chart for all reporting requirements and associated burden hours.

(b) Information Collections: This ICR covers the paperwork requirements under 30 CFR parts:

- 1202, subpart H, which pertains to geothermal resources royalties.
- 1206, subparts F, H, and J, which pertain to product valuation of Federal coal, geothermal resources, and Indian coal.
- 1210, subparts E and H, which pertain to forms and reports for solid minerals and geothermal resources leases.
- 1212, subparts E and H, which pertain to records and file maintenance for solid minerals and geothermal resources leases.
- 1217, subparts E, F, and G, which pertain to audits and inspections of coal, other solid minerals, and geothermal resources leases.
- 1218, subparts E and F, which pertain to the collection of royalties, rentals, bonuses, and other monies due for solid minerals and geothermal resources.

All data reported is subject to subsequent audit and adjustment. A lessee uses the following forms for coal and other solid minerals production, sales, royalty reporting, and allowances.

- *Form ONRR–4292, Coal Washing Allowance Report:* A lessee of any Federal or Indian lease producing coal must submit this form to claim a coal washing allowance.
- *Form ONRR–4293, Coal Transportation Allowance:* A lessee of any Federal or Indian lease producing coal must submit this form to claim a coal transportation allowance.
- *Form ONRR–4430, Solid Minerals Production and Royalty Report:* A Federal or Indian lessee must submit this form to report production, sales, royalties, certain rents, and other lease-related transactions on coal and other solid mineral leases.
- *Form ONRR–4440, Solid Mineral Sales:* A lessee must file this form for all coal and other solid minerals produced from Federal and Indian leases and any remote storage site from which the lessee sells Federal or Indian coal or other solid minerals.

Based on the average burden hours and responses for the last three years, there is a *decrease* of 1,081 in estimated annual responses and a *decrease* of 504 in estimated annual burden hours.

Title of Collection: Solid Minerals and Geothermal Collections—30 CFR parts 1202, 1206, 1210, 1212, 1217, and 1218.

OMB Control Number: 1012–0010.

Form Numbers: ONRR–4292, ONRR–4293, ONRR–4430, and ONRR–4440.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 100 reporters.

Total Estimated Number of Annual Responses: 8,341.

Total Estimated Number of Annual Burden Hours: 3,367 hours.

Estimated Completion Time per Response: 24.31 minutes.

Respondent's Obligation: The records maintenance and the filing of forms ONRR–4430 and ONRR–4440 are mandatory. The filing of forms ONRR–4292 and ONRR–4293, and the submission of solid minerals and geothermal resources information that do not have an ONRR form, are required to obtain or retain a benefit.

Frequency of Collection: Monthly, annually, and on occasion.

Estimated Annual Non-hour Cost Burden: ONRR has identified no ''non-hour'' cost burden associated with the collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA (44 U.S.C. 3501, *et seq.*)

Howard M. Cantor,

Acting Director, Office of Natural Resources Revenue.

[FR Doc. 2022–20013 Filed 9–15–22; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2022–0004; EEEE500000 223E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0028]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Well Operations and Equipment

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before October 17, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0028 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. 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. You may

also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on January 20, 2022 (87 FR 3121). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: BSEE uses the information to ensure safe drilling, workover, completion, and decommissioning operations and to protect the human, marine, and coastal environment. BSEE analyzes and evaluates these information/requirements to reduce the likelihood of a similar Deepwater Horizon event and to reduce the risk of fatalities, injuries, and spills. BSEE also utilizes these requirements in the approval, disapproval, or modification process for well operations.

Specifically, BSEE uses the information in Subpart G to ensure:

- certain well designs and operations have been reviewed by appropriate third parties/engineers/classification societies that, after one year, have been approved by BSEE;
- rig tracking data is available to locate rigs during major storms;
- casing or equipment repairs are acceptable and tested;
- up-to-date engineering documents are available;
- the Blowout Preventer (BOP) and associated components are fit for service for its intended use;
- that the BOP will function as intended;
- that BOP components are properly maintained and inspected;
- the proper engineering reviews and approvals for all BOP designs, repairs, and modifications are met.

Rig Movement Notification Report, Form BSEE–0144

We use the information to schedule inspections and verify that the equipment being used complies with approved permits. The information on this form is used by all 3 regions, but primarily in the Gulf of Mexico (GOM), to ascertain the precise arrival and departure of all rigs in OCS waters in the GOM. The accurate location of these rigs is necessary to facilitate the scheduling of inspections by BSEE personnel.

Items in **BOLD** are new changes to the form this renewal cycle. Information on form BSEE–0144:

- General Information—Identifies the date, lease operator, rig name/type/representative, and rig telephone number (**on location**).
- Rig Arrival Information—Identifies the rig arrival date; what type of work will be scheduled; if the rig is new to OCS and location rig came from; relevant well information; duration of operations, well surface location information, structure location information, **helideck information**, and optional information.
- Rig Departure Information—Identifies the rig departure date, well status, relevant well information, being skidded, obstruction issues, and optional information.
- Rig Stacking Information—Identifies rig arrival/departure date, warm or cold stacked and location, any modification, repairs, or construction and the date, relevant well information, optional information, obstruction issues.
- Certification Statement declaring the information submitted is complete and accurate to the best of signatory's knowledge.
- BSEE OCS Contact Information (**Updated**).

Title of Collection: 30 CFR 250, Subpart G, Well Operations and Equipment.

OMB Control Number: 1014–0028.

Form Number: Form BSEE–0144, *Rig Movement Notification Report.*

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential respondents are comprised of Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 150,081.

Estimated Completion Time per Response: Varies from 15 minutes to 2,160 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 350,615.

Respondent's Obligation: Responses are mandatory and required to obtain or retain a benefit.

Frequency of Collection: Submissions are generally on occasion, daily, weekly, monthly, quarterly, and biennially, depending upon the requirement.

Total Estimated Annual Nonhour Burden Cost: $6,732,500.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2022–20049 Filed 9–15–22; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2022–0008; EEEE500000 223E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0006]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Sulfur Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 17, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0006 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 29, 2022 (87 FR 18037). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 30 CFR 250, subpart P, concern sulfur operations on the OCS and are the subject of this collection. This request also covers the related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations. Currently, there are no active sulfur lease operations on the OCS. Therefore, this ICR and its relevant hours represent one potential respondent.

BSEE uses the information collected under subpart P to:

- ascertain that a discovered sulfur deposit can be classified as capable of production in paying quantities.
- ensure accurate and complete measurement of production to determine the amount of sulfur royalty payments due the United States; and that the sale locations are secure, production has been measured accurately, and appropriate follow-up actions are initiated.
- ensure the adequacy and safety of firefighting systems; the drilling unit is fit for the intended purpose; and the adequacy of casing for anticipated conditions.
- review drilling, well-completion, well-workover diagrams and procedures, as well as production operation procedures to ensure the safety of the proposed sulfur drilling, well-completion, well-workover and proposed production operations.
- monitor environmental data during sulfur operations in offshore areas where such data are not already available to provide a valuable source of information to evaluate the performance of drilling rigs under various weather and ocean conditions. This information is necessary to make reasonable determinations regarding safety of operations and environmental protection.

Title of Collection: 30 CFR 250, Subpart P, Sulfur Operations.

OMB Control Number: 1014–0006.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 510.

Estimated Completion Time per Response: Varies from 30 minutes to 12 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 897.

Respondent's Obligation: Responses are mandatory and are required to obtain/retain benefits.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: There are no non-hour cost burdens associated with this collection.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2022–20053 Filed 9–15–22; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2022–0007; EEEE500000 223E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0002]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Production Measurement Surface Commingling, and Security

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 17, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0002 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 29, 2022 [87 FR 18036]. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 30 CFR 250, subpart L, Oil and Gas Production Measurement, Surface Commingling, and Security, are the subject of this collection. This request also covers the related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations. BSEE uses the information collected under subpart L to ensure that the volumes of hydrocarbons produced are measured accurately, and royalties are paid on the proper volumes. Specifically, BSEE needs the information to:

Liquid Hydrocarbon Measurement

- Determine if measurement equipment is properly installed, provides accurate measurement of production on which royalty is due, and is operating properly;
- Ascertain if all removals of oil and condensate from the lease are reported;
- Obtain rates of production measured at royalty meters, which can be examined during field inspections;

Gas Measurement

- Ensure that the sales location is secure and production cannot be removed without the volumes being recorded;

Surface Commingling

- Review gas volume statements and compare them with the Oil and Gas Operations Reports to verify accuracy.

Miscellaneous & Recordkeeping

- Review proving reports to verify that data on run tickets are calculated and reported accurately.

Title of Collection: 30 CFR 250, Subpart L, Oil and Gas Production Measurement Surface Commingling, and Security.

OMB Control Number: 1014–0002.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 104,291.

Estimated Completion Time per Response: Varies from 15 minutes to 35 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 38,986.

Respondent's Obligation: Responses are mandatory, while others are required to obtain or retain benefits, or are voluntary.

Frequency of Collection: Submissions are generally on occasion and monthly.

Total Estimated Annual Nonhour Burden Cost: $255,643.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2022–20052 Filed 9–15–22; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2022–0006; EEEE500000 223E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0001]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Well-Workover Operations

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 17, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0001 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 29, 2022 [87 FR 18038]. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This authority and responsibility are among those delegated to BSEE. The regulations at 30 CFR 250, subpart F, Oil and Gas Well-Workover Operations are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations. BSEE uses the information collected (see A.12 for the actual information collected by BSEE) to analyze and evaluate planned well-workover operations to ensure that these operations result in personnel safety and protection of the environment. BSEE will use this evaluation in making decisions to approve, disapprove, or to require modification to the proposed well-workover operations. Specifically, BSEE uses the information collected to:

- review log entries of crew meetings to verify that safety procedures have been properly reviewed.
- review well-workover procedures relating to hydrogen sulfide (H2S) to ensure the safety of the crew in the event of encountering H2S.
- review well-workover diagrams and procedures to ensure the safety of well-workover operations.
- verify that the crown block safety device is operating and can be expected to function and avoid accidents.
- verify that the BOPE is in compliance with the latest WCR and API Standard 53.
- assure that the well-workover operations are conducted on well casing that is structurally competent.

Title of Collection: 30 CFR 250, Subpart F, Oil and Gas Well-Workover Operations.

OMB Control Number: 1014–0001.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or

operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 1,933.

Estimated Completion Time per Response: Varies from 1 hours to 6.5 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 5,284.

Respondent's Obligation: Responses are mandatory or are to retain/maintain benefits.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: We have identified no non-hour cost burdens associated with this collection of information.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2022–20051 Filed 9–15–22; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2022–0003; EEEE500000 223E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0019]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Oil and Gas Production Requirements

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before October 17, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0019 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on January 20, 2022 (87 FR 3122). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 30 CFR part 250, subpart K, concern Oil and Gas Production Requirements (including the associated forms) and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations. The information collected under subpart K is used in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. Specifically, BSEE uses the information to:

- evaluate requests to burn liquid hydrocarbons and vent and flare gas to ensure that these requests are appropriate;
- determine if a maximum production or efficient rate is required; and,
- review applications for downhole commingling to ensure that action does not result in harm to ultimate recovery.

The forms used in this ICR are:

Form BSEE–0126, Well Potential Test Report

BSEE uses this information for reservoir, reserves, and conservation analyses, including the determination of maximum production rates (MPRs) when necessary for certain oil and gas completions. This requirement implements the conservation provisions of the OCS Lands Act and 30 CFR 250. The information obtained from the well potential test is essential to determine if

an MPR is necessary for a well and to establish the appropriate rate. It is not possible to specify an MPR in the absence of information about the production rate capability (potential) of the well. The form asks for, in either fill in the blanks or check marks:

- general information about the well and the company;
- pertinent information relating to the well test; and
- 24-hour rates pertaining to test production.

Form BSEE–0128, Semiannual Well Test Report

BSEE uses this information to evaluate the results of well tests to determine if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. This information is collected to determine the capability of hydrocarbon wells and to evaluate and verify an operator's approved maximum production rate if assigned. The form was designed to present current well data on a semiannual basis to permit the updating of permissible producing rates, and to provide the basis for estimates of currently remaining recoverable gas reserves. The form requires, in either fill in the blanks or check marks:

- general information about the well;
- volumes;
- choke size;
- pressures;
- production method;
- API oil/condensate gravity; and
- date of test.

The ability to request a general departure or alternative compliance are throughout all of 30 CFR part 250 and the hour burdens are approved under 1014–0022 (subpart A). The hours associated with this request will be removed from this information collection.

Title of Collection: 30 CFR part 250, subpart K, Oil and Gas Production Requirements.

OMB Control Number: 1014–0019.

Form Number: BSEE–0126—Well Potential Test Report, and BSEE–0128—Semiannual Well Test Report.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 550 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 6,021.

Estimated Completion Time per Response: Varies from 1 hour to 100 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 37,750.

Respondent's Obligation: Most responses are mandatory, while others are required to obtain or retain benefits.

Frequency of Collection: On occasion, weekly, monthly, semi-annual, annual, and varies by section.

Total Estimated Annual Nonhour Burden Cost: $1,067,544.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2022–20047 Filed 9–15–22; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1082–1083 (Third Review)]

Chlorinated Isocyanurates From China and Spain; Hearing Update for the Subject Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: September 12, 2022.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), 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: On May 31, 2022, the Commission established a schedule for the conduct of the full five-year reviews (87 FR 34298). The Commission hereby gives notice that the hearing in connection with the reviews will be held in-person at the U.S. International Trade Commission Building beginning at 9:30 a.m. on September 29, 2022.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 22, 2022. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear as a witness via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may at their discretion for good cause shown, grant such requests. Requests to appear as a witness via videoconference due to illness or a positive COVID–19 test result may be submitted by 3 p.m. the business day prior to the hearing.

Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4 p.m. on September 28, 2022. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

For further information concerning this proceeding see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

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: September 12, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20011 Filed 9–15–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1238]

Certain Plant-Derived Recombinant Human Serum Albumins (''rHSA'') and Products Containing Same; Notice of the Commission's Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 in the above-captioned investigation. The Commission has determined to issue: (1) a limited exclusion order (''LEO'') prohibiting the unlicensed entry of infringing plant-derived recombinant human serum albumins (''rHSA'') and products containing the same covered by certain claims of U.S. Patent No. 10,618,951 that are manufactured by or on behalf of, or imported by or on behalf of, respondents Wuhan Healthgen Biotechnology Corp. (''Healthgen''); ScienCell Research Laboratories, Inc. (''ScienCell''); Aspira Scientific, Inc. (''Aspira''); and eEnzyme LLC (''eEnzyme'') or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns; and the entry of plant-derived rHSAs and products containing the same that include a false designation of origin that are manufactured by or on behalf of, or imported by or on behalf of, ScienCell, Aspira, or eEnzyme or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns; and (2) cease and desist orders (''CDOs'') directed against ScienCell, Aspira, and eEnzyme, and any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. This investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. For help accessing EDIS, please email *EDIS3Help@usitc.gov*. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 25, 2021, based on a complaint filed on behalf of Ventria Bioscience Inc. (''Ventria'') of Junction City, Kansas. 86 FR 6916 (Jan. 25, 2021). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain plant-derived rHSA and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 10,618,951 (''the '951 patent'') and 8,609,416 (''the '416 patent''). *Id.* The complaint also alleged violations of section 337 based on the importation into the United States, or in the sale of, certain plant-derived rHSA and products containing the same by reason of false designation of origin, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation named four respondents: Healthgen of Wuhan, China; ScienCell of Carlsbad, California; Aspira of Milpitas, California; and eEnzyme of Gaithersburg, Maryland (collectively, the ''Respondents''). *Id.* at 6917. The Office of Unfair Import Investigations (''OUII'') was also named as a party in this investigation. *Id.*

Of the four Respondents named in the notice of investigation, only Healthgen participated in the investigation. ScienCell, Aspira, and eEnzyme were found in default. *See* Order No. 13 (July 28, 2021), *unreviewed by* Comm'n Notice (Aug. 18, 2021). ScienCell, Aspira, and eEnzyme are collectively referred to herein as the ''Defaulting Respondents.''

Prior to the issuance of the final ID, the investigation terminated as to all asserted claims of the '416 patent, claims 2 and 3 of the '951 patent, and the false designation of origin claims against Healthgen. *See* Order No. 12 (July 16, 2021), *unreviewed by* Comm'n Notice (Aug. 10, 2021); Order No. 29 (Nov. 3, 2021), *unreviewed by* Comm'n Notice (Nov. 29, 2021). The false designation of origin claims against the Defaulting Respondents were not terminated. *See* Order No. 12 at 1. Accordingly, at the time the final ID issued, only claims 1 and 11–13 of the '951 patent remained pending against Healthgen, and only claims 1 and 11–13 of the '951 patent and the false designation of origin (or Lanham Act) claims remained pending against the Defaulting Respondents.

On April 7, 2022, the ALJ issued the final ID, which found that Respondents violated section 337. The ALJ found a violation of section 337 under section 337(a)(1)(B) by Healthgen as to infringement of the '951 patent and found the requirements of section 337(g)(1) met as to infringement of the '951 patent and the Lanham Act claim with respect to the Defaulting Respondents.

The final ID included the ALJ's recommendation on remedy, the public interest, and bonding (the ''RD''). The RD recommended that, if the Commission finds a violation of section 337, the Commission should issue a limited exclusion order against Healthgen and the Defaulting Respondents, cease and desist orders against the Defaulting Respondents, and impose a bond of one hundred percent (100%) of entered value during the period of Presidential review.

On April 19, 2022, Healthgen filed a petition for review of the final ID. On April 22, 2022, OUII filed a response to Healthgen's petition, and on April 27, 2022, Ventria filed a response to Healthgen's petition. On May 9, 2022, Ventria and Healthgen filed their public interest comments pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission also received several submissions from third parties in response to the Commission's **Federal Register** notice seeking comment on the public interest. 87 FR 21923–24 (Apr. 13, 2022).

On June 6, 2022, after considering the petition and responses thereto, the Commission determined to review the final ID in its entirety. 87 FR 35570–72 (June 10, 2022). The Commission requested briefing on the issues under review and on remedy, the public interest, and bonding. *Id.*

On review, and as explained in the simultaneously-issued Commission opinion, the Commission has determined that there has been a violation of section 337 with respect to the Asserted Patent by respondent Wuhan Healthgen Biotechnology Corp. (''Healthgen'') and that the requirements of section 337(g)(1) are met as to the defaulting respondents based on a violation of section 337 alleged in the complaint with respect to both the Asserted Patent claims and the Lanham Act claim. As to Ventria's allegations of a section 337 violation based on

infringement of the '951 patent, Ventria has shown such a violation only as to the clinical grade products. (Commissioner Stayin does not join the Commission's determination as to medium grade products and would find a violation as to all accused products.)

The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting (1) the unlicensed entry of infringing plant-derived recombinant human serum albumins (''rHSA'') and products containing the same manufactured by or on behalf of, or imported by or on behalf of, Healthgen or the Defaulting Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns; and (2) the entry of plant-derived recombinant human serum albumins (''rHSA'') and products containing same that fail to accurately designate the country of origin, and which are manufactured abroad by or on behalf of, or imported by or on behalf of, the Defaulting Respondents or any of their affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns. The Commission has determined to issue cease and desist orders against respondents ScienCell, Aspira, and eEnzyme.

The Commission has further determined that the public interest factors enumerated in subsections (d)(l) and (g)(1) (19 U.S.C. 1337(d)(l), (g)(1)) do not preclude issuance of the above-referenced remedial orders. Additionally, the Commission has determined to impose a bond of one hundred percent (100%) of the entered value of the covered products during the period of Presidential review (19 U.S.C. 1337(j)).

The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on September 12, 2022.

While temporary remote operating procedures are in place in response to COVID–19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.

Issued: September 12, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–20042 Filed 9–15–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On September 13, 2022, the Department of Justice lodged a proposed Consent Decree with the District Court of the Southern District of New York in a lawsuit entitled *United States* v. *American Iron & Metal Co., et al.,* Civil Action No. 22–7800.

In this action the United States seeks, as provided under the Comprehensive Environmental Response, Compensation and Liability Act, recovery of response costs from four parties regarding the Port Refinery Superfund Site (''Site'') in the Village of Rye Brook, New York. The proposed Consent Decree resolves the United States' claims and requires American Iron & Metal Co., Inc., Culp Industries, Inc., Paramount Global, and Public Service Company of New Hampshire, to pay, in aggregate, $437,255, in reimbursement of the United States' past response costs regarding the Site.

The publication of this notice opens the public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *American Iron & Metal Co., et al.,* Civil Action No. 22–7800, D.J. Ref. 90–11–3–1142/8. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please email your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–20071 Filed 9–15–22; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to section 33105(c) of Title 49, United States Code, and the delegation of the Secretary of Transportation's responsibilities under that Act to the Administrator of the Federal Highway Administration (49 CFR, section 1.95 (a)), the Secretary of Labor has certified to the Administrator and published this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 160.9 percent from its 1984 annual average of 311.1 to its 2021 annual average of 811.705.

Signed at Washington, DC.

Martin J. Walsh,

Secretary of Labor.

[FR Doc. 2022–20077 Filed 9–15–22; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to section 112 of the 1976 amendments to the Federal Election Campaign Act, 52 U.S.C. 30116(c), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (CPI–U) (1967=100) increased 449.6 percent from its 1974 annual average of 147.7 to its 2021 annual average of 811.705 and that it increased 53.0 percent from its 2001 annual average of

530.4 to its 2021 annual average of 811.705. Using 1974 as a base (1974=100), I certify that the CPI–U increased 449.6 percent from its 1974 annual average of 100 to its 2021 annual average of 549.563. Using 2001 as a base (2001=100), I certify that the CPI–U increased 53.0 percent from its 2001 annual average of 100 to its 2021 annual average of 153.036. Using 2006 as a base (2006=100), I certify that the CPI–U increased 34.4 percent from its 2006 annual average of 100 to its 2021 annual average of 134.410.

Signed at Washington, DC.

Martin J. Walsh,

Secretary of Labor.

[FR Doc. 2022–20076 Filed 9–15–22; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Governance and Performance Review Committee of the Legal Services Corporation Board of Directors will meet virtually on September 23, 2022. The meeting will commence at 1:00 p.m. EDT, and will continue until the conclusion of the Committee's agenda.

PLACE:

Public Notice of Virtual Meetings: LSC will conduct the September 23, 2022 meeting via Zoom.

Public Observation: Unless otherwise noted herein, the Governance and Performance Review Committee meeting will be open to public observation via Zoom. Members of the public who wish to participate remotely in the public proceedings may do so by following the directions provided below.

Directions for Open Session:

September 23, 2022

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/82943633088?pwd=aVphdUYvWk4wTW04UDBYeFpjVXpUQT09&from=addon*
  - Meeting ID: 829 4363 3088
  - Passcode: 10322
- To join the Zoom meeting with one tap from your mobile phone, please click dial:
  - +13017158592,,82943633088# US (Washington DC)
  - +13092053325,,82943633088# US
- To join the Zoom meeting by telephone, please dial one of the following numbers:
  - +1 301 715 8592 US (Washington DC)
  - +1 646 876 9923 US (New York)
  - +1 312 626 6799 US (Chicago)
  - +1 346 248 7799 US (Houston)
  - +1 408 638 0968 US (San Jose)
  - +1 253 215 8782 US (Tacoma)
  - Meeting ID: 829 4363 3088
  - Passcode: 10322

Once connected to Zoom, please immediately mute your computer or telephone. Members of the public are asked to keep their computers or telephones muted to eliminate background noise. To avoid disrupting the meetings, please refrain from placing the call on hold if doing so will trigger recorded music or other sound.

From time to time, the Governance and Performance Review Committee Chair may solicit comments from the public. To participate in the meeting during public comment, use the 'raise your hand' or 'chat' functions in Zoom and wait to be recognized by the Chair before stating your questions and/or comments.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes of the Committee's Open Session Meeting of July 1, 2022
3. Report on U.S. Department of Justice's Access to Justice Office and White House Legal Aid Interagency Roundtable (LAIR)
   - *Ron Flagg, President*
   - *Carol Bergman, Vice President for Government Relations & Public Affairs*
4. Report on Annual Board and Committee Evaluations
   - *Carol Bergman, Vice President for Government Relations & Public Affairs*
5. Consider and Act on Other Business
6. Public Comment
7. Consider and Act on Motion to Adjourn the Meeting

CONTACT PERSON FOR MORE INFORMATION: Kaitlin Brown, Executive and Board Project Coordinator, at (202) 295–1555. Questions may also be sent by electronic mail to *brownk@lsc.gov.*

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at *https://www.lsc.gov/about-lsc/board-meeting-materials.*

Dated: September 14, 2022.

Kaitlin D. Brown,

Executive and Board Project Coordinator, Legal Services Corporation.

[FR Doc. 2022–20201 Filed 9–14–22; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAmain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number, and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Program Monitoring Data Collections for National Science Foundation (NSF) Small Business Innovation Research

(SBIR)/Small Business Technology Transfer (STTR) Programs.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection for post-award output and outcome monitoring system.

Abstract: The NSF SBIR/STTR programs focus on transforming scientific discovery into products and services with commercial potential and/or societal benefit. Unlike fundamental or basic research activities that focus on scientific and engineering discovery itself, the NSF SBIR/STTR programs support the creation of opportunities to move fundamental science and engineering out of the lab and into the market at scale, through startups and small businesses representing deep technology ventures. Here, deep technologies refer to technologies based on discoveries in fundamental science and engineering. The NSF SBIR/STTR programs are designed to provide non-dilutive funding (financing that does not involve equity, debt, or other elements of the business ownership structure) at the earliest stages of technology research and development.

The NSF SBIR/STTR programs are Congressionally mandated. By investing federal research and development funds into startups and small businesses, NSF hopes to stimulate the creation of novel products, services, and solutions in the private sector, strengthen the role of small business in meeting federal research and development needs, increase the commercial application of federally-supported research results, build a strong national economy, and increase and develop the U.S. workforce, especially by fostering and encouraging participation of socially- and economically-disadvantaged and women-owned small businesses.

Both the NSF SBIR and NSF STTR programs have two phases: Phase I and Phase II. Phase I is a 6–12 month experimental or theoretical investigation that allows the awardees to determine the scientific, technical, and commercial merit of the idea or concept. Phase II further develops the proposed concept, building on the feasibility of the project undertaken in Phase I, with a goal of working toward the commercial launch of the new product, process, or service being developed.

The NSF SBIR/STTR programs request the Office of Management and Budget (OMB) approval of this clearance that will allow the programs to improve the rigor of our surveys for evaluations and program monitoring, as well as to initiate new data collections to monitor the immediate, intermediate, and long-term outcomes of our investments by periodically surveying the startup businesses and their founders/co-founders involved in the businesses. The clearance will allow the SBIR/STTR programs to rigorously develop, test, and implement survey instruments and methodologies.

The primary objective of this clearance is to allow the NSF SBIR/STTR programs to collect characteristics, output, and outcome information from the startup companies funded by the programs. This collection will enable the evaluation of the impacts of our investments in technology translation and innovation over time. The second, related objective is to improve our questionnaires and/or data collection procedures through pilot tests and other survey methods used in these activities. Under this clearance a variety of surveys could be pre-tested, modified, and used.

Following standard OMB requirements, NSF will submit to OMB an individual request for each survey project we undertake under this clearance. NSF will request OMB approval in advance and provide OMB with a copy of the questionnaire and materials describing the project.

Data collected will be used for planning, management, evaluation, and audit purposes. Summaries of output and outcome monitoring data are used to respond to queries from Congress, the Small Business Administration (SBA), the public, NSF's external merit reviewers who serve as advisors, including Committees of Visitors (COVs), NSF's Office of the Inspector General, and other pertinent stakeholders. These data are needed for effective administration, program monitoring, evaluation, outreach/marketing roadmaps, and for strategic reviews and measuring attainment of NSF's program and strategic goals, as identified by the President's Accountable Government Initiative, the Government Performance and Results Act Modernization Act of 2010, Evidence-Based Policymaking Act of 2018, and NSF's Strategic Plan.

All questions asked in the data collection are questions that are NOT included in the annual, final or outcomes reports, and the intention is to ask the grantees even beyond the period of performance on voluntary basis in order to capture impacts of the research that occur during and beyond the life of the award.

Grantees will be invited to submit information on a periodic basis to support the management of the NSF SBIR/STTR investment portfolio. Once the survey tool for a specific program is tested, grantees will be invited to submit these indicators to NSF via data collection methods that include, but are not limited to, online surveys, interviews, focus groups, phone interviews, etc. These indicators are both quantitative and descriptive and may include, for example, the characteristics of project personnel, sources of funding and support, knowledge transfer and technology translation activities, patents, licenses, publications, descriptions of significant advances, and other outcomes of the funded efforts.

Use of the Information: The data collected will be used for NSF internal and external reports, historical data, program level studies and evaluations, and for securing future funding for the maintenance and growth of the NSF SBIR/STTR programs. Evaluation designs could make use of metadata associated with the award and other characteristics to identify a comparison group to evaluate the impact of the program funding and other interesting research questions.

ESTIMATE OF PUBLIC BURDEN

Collection title	Number of respondents	Annual number of responses/ respondent	Annual hour burden
Program Monitoring Data Collections for National Science Foundation (NSF) Small Business Innovation Research (SBIR)/Small Business Technology Transfer (STTR) Programs.	400 startup businesses per year	1	400

For life-of-award monitoring, the data collection burden to awardees will be limited to no more than 30 minutes of the respondents' time in each instance.

Respondents: The respondents are either Principal Investigators (PIs) of the startup businesses that the NSF SBIR/STTR Programs awarded, founders, co-founders, and/or key personnel of the startup businesses. In the case of Business Survey, only one response from each startup/small business is anticipated.

Estimates of Annualized Cost to Respondents for the Hour Burdens: The overall annualized cost to the respondents is estimated to be $17,600. The following table shows the annualized estimate of costs to PI/Founders/Business Partners respondents, who are generally university assistant professors. This estimated hourly rate is based on a report from the American Association of University Professors, ''Annual Report on the Economic Status of the Profession, 2020–21,'' *Academe,* March–April 2021, Survey Report Table 1. According to this report, the average salary of an assistant professor across all types of doctoral-granting institutions (public, private-independent, religiously affiliated) was $91,408. When divided by the number of standard annual work hours (2,080), this calculates to approximately $44 per hour.

Respondent type	Number of respondents	Burden hours per respondent	Average hourly Rate	Estimated annual cost
PIs/Founders, Business Partners	400	1	$44	$17,600
Total	400			17,600

Estimated Number of Responses per Report: Data collection for the collections involves all Phase I awardees in the SBIR/STTR programs.

Dated: September 12, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–20025 Filed 9–15–22; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register**, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

DATES: Comments regarding this information collection are best assured of having their full effect if received by October 17, 2022.

FOR FURTHER INFORMATION CONTACT: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW, Room 10235, Washington, DC 20503, and Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

Copies of the submission may be obtained by calling 703–292–7556.

SUPPLEMENTARY INFORMATION: NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the 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 should be addressed to the points of contact in the **FOR FURTHER INFORMATION CONTACT** section.

Title of Collection: Grantee Reporting Requirements for Materials Research Science and Engineering Centers (MRSECs).

OMB Number: 3145–0230.

Overview of This Information Collection

The Materials Research Science and Engineering Centers (MRSECs) Program supports innovation in interdisciplinary research, education, and knowledge transfer. MRSECs build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. MRSECs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society.

MRSECs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. MRSECs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

MRSECs are required to submit annual reports on progress and plans, which are used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, MRSECs will be required to develop a set of management and performance indicators for submission annually to NSF via the Research Performance

Project Reporting module in *Research.gov* and an external technical assistance contractor that collects programmatic data electronically. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the MRSEC effort. Such reporting requirements are included in the cooperative agreement that is binding between the academic institution and NSF.

Each Center's annual report will address the following categories of activities: (1) research, (2) education, (3) knowledge transfer, (4) partnerships, (5) shared experimental facilities, (6) diversity, (7) management, and (8) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the Center has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

MRSECs are required to file a final report through the RPPR and external technical assistance contractor. Final reports contain similar information and metrics as annual reports, effectively they constitute the last annual report; the Program Officer maintains a cumulative database with all relevant achievements and metrics.

Use of the Information: NSF uses the information to continue funding of the Centers, and to evaluate the progress of the program.

Estimate of Burden: 80 hours per center for 20 centers for a total of 1,600 hours.

Respondents: Non-profit institutions.

Estimated Number of Responses per Report: One from each of the 20 MRSECs.

Dated: September 12, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–20015 Filed 9–15–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 19, 26, October 3, 10, 17, 24, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of September 19, 2022

Monday, September 19, 2022

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

Week of September 26, 2022—Tentative

There are no meetings scheduled for the week of September 26, 2022.

Week of October 3, 2022—Tentative

There are no meetings scheduled for the week of October 3, 2022.

Week of October 10, 2022—Tentative

Tuesday, October 11, 2022

10:00 a.m. NRC All Employees Meeting (Public Meeting); (Contact: Anthony DeJesus: 301–287–9219)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, October 13, 2022

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines (Public Meeting); (Contact: Jennie Rankin, 301–415–1530)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of October 17, 2022—Tentative

There are no meetings scheduled for the week of October 17, 2022.

Week of October 24, 2022—Tentative

There are no meetings scheduled for the week of October 24, 2022.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 14, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2022–20231 Filed 9–14–22; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–1151; NRC–2015–0039]

Westinghouse Electric Company, LLC; Columbia Fuel Fabrication Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has renewed Special Nuclear Materials (SNM) License No. SNM–1107 for the continued operation of the Westinghouse Electric Company, LLC (WEC) Columbia Fuel Fabrication Facility (CFFF) located in Hopkins, South Carolina. License No. SNM–1107 authorizes WEC to continue to operate the CFFF for a period of 40 years, and will expire on September 12, 2062. The CFFF manufactures nuclear fuel assemblies for commercial nuclear power reactors.

DATES: License No. SNM–1107 was issued on September 12, 2022, and is effective as of the date of issuance.

ADDRESSES: Please refer to Docket ID NRC–2015–0039 when contacting the

NRC about the availability of information regarding this action. You may obtain publicly available information related to this action using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2015–0039. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov*. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jenny Tobin, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–2328, email: *Jennifer.Tobin@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

Westinghouse Electric Company, LLC (WEC) is authorized to possess and use SNM under part 70 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Special Nuclear Material'' at its Columbia Fuel Fabrication Facility (CFFF) located in Hopkins, South Carolina. The CFFF is licensed to possess and process enriched uranium up to a maximum of 5 weight-percent uranium-235 for the manufacture of nuclear fuel assemblies for use in commercial nuclear power reactors.

II. Discussion

Pursuant to 10 CFR 2.106, the NRC is providing notice of the renewal of License No. SNM–1107, which authorizes WEC to continue the manufacture of nuclear fuel assemblies for use in commercial nuclear power reactors at its location in Hopkins, South Carolina.

WEC's request for the license renewal was previously noticed in the **Federal Register** (FR) on February 27, 2015 (80 FR 10727), with a notice of opportunity to request a hearing and to petition for leave to intervene. No requests were received.

The NRC prepared a final Environmental Impact Statement (EIS), NUREG- 2248, ''Environmental Impact Statement for the License Renewal of the Columbia Fuel Fabrication Facility in Richland County, South Carolina'' in support of WEC's license renewal application in accordance with the requirements of 10 CFR part 51. The final EIS was noticed in the **Federal Register** on August 5, 2022 (87 FR 48044).

The NRC determined that License No. SNM–1107 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and with the NRC's rules and regulations as set forth in 10 CFR chapter 1. Accordingly, this license was issued on September 12, 2022, and was effective immediately.

The NRC staff prepared a safety evaluation report for the renewal of License No. SNM–1107 and concluded that WEC can continue to operate the facility without posing an undue risk to the worker or to public health and safety.

III. Availability of Documents

In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' the details with respect to this action, including the safety evaluation report and accompanying documentation and license, are available electronically in the NRC's Electronic Reading Room at *https://www.nrc.gov/reading-rm/adams.html*. From this site, you can access ADAMS, which provides text and image files of the NRC's public documents. For further details related to this action, visit *https://www.regulations.gov* under Docket ID NRC–2015–0039.

The documents identified in the following table are available to interested persons through ADAMS accession numbers as indicated.

Document description	ADAMS accession No.
Letter from Malek, Elise, ''Westinghouse Revised SNM–1107 License Renewal Application,'' dated September 20, 2021	ML21263A217
NUREG–2248 ''Environmental Impact Statement for the License Renewal of the Columbia Fuel Fabrication Facility in Richland County, South Carolina,'' dated July 29, 2022 (published in the **Federal Register** on August 5, 2022, at 87 FR 84044).	ML22201A131
Special Nuclear Materials Renewed License SNM–1107, dated September 12, 2022	ML22157A350
NRC Safety Evaluation Report for the Renewal of License SNM–1107 for Westinghouse Electric Company LLC, Hopkins, South Carolina Docket Number 70–1151, dated September 12, 2022.	ML22207B617

Dated: September 12, 2022.

For the Nuclear Regulatory Commission.

Shana R. Helton,

Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2022–20026 Filed 9–15–22; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. In accordance with the Paperwork Reduction Act of 1995 and implementing OMB guidance, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB.

DATES: Submit comments on or before November 15, 2022.

ADDRESSES: Address written comments and recommendations for the proposed information collection to Virginia Burke, FOIA/Privacy Act Officer, by email at *pcfr@peacecorps.gov*. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA/Privacy Act Officer, at (202) 692–1887, or *PCFR@peacecorps.gov*.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Volunteer Application.

OMB Control Number: 0420–0005.

Form Number: PC–1502.

Type of Request: Reinstatement with change.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Respondents: Potential Volunteers.

Burden to the Public:

- Peace Corps Volunteer Application form.

(a) *Estimated number of applicants:* 15,000.

(b) *Frequency of response:* one time.

(c) *Estimated average burden per response:* 55–60 minutes.

(d) *Estimated total reporting burden:* 15,000 hours.

(e) *Estimated annual cost to respondents:* 0.00.

General Description of Collection: The information collected by the Peace Corps Volunteer Application form is used by the Peace Corps to collect essential information from individual applicants, including technical and language skills, and availability for Peace Corps service. The Peace Corps Office of Volunteer Recruitment and Selection (VRS) uses the information in its assessment of an individual's qualifications to serve as a Peace Corps Volunteer, including practical and cross-cultural experience, maturity, motivation and commitment. Selection for Peace Corps service is based on that assessment.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on September 12, 2022.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2022–20017 Filed 9–15–22; 8:45 am]

BILLING CODE 6051–01–P

OFFICE OF PERSONNEL MANAGEMENT

Virtual Hybrid Public Meeting

AGENCY: Federal Salary Council, Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Federal Salary Council will hold a virtual hybrid meeting on Friday, October 28, 2022, at the time shown below. There will be no in-person public gathering for this meeting. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under the United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid. The Council will hear public testimony about the locality pay program, review the results of pay comparisons, and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay areas and boundaries for 2024. This meeting is open to the public through advance registration. Individuals who wish to provide testimony or present material at the meeting should contact the Office of Personnel Management using the email address provided below. In addition, please be aware that the Council may need to set limits on the time that will be provided for hearing oral testimony in the meeting. However, the Council can consider lengthier input in written material provided in advance of the public meeting. There are no restrictions on format for such written input.

DATES: The virtual hybrid meeting will be held on Friday, October 28, 2022, beginning at 10 a.m. eastern daylight time.

ADDRESSES: This meeting will convene virtually, except that Federal Salary Council Members and Council support staff can participate in person at: Office of Personnel Management, 1900 E Street NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Joe Ratcliffe by phone at 202–936–3081 or email at *pay-leave-policy@opm.gov*.

SUPPLEMENTARY INFORMATION:

Public Participation: The October 28, 2022, meeting of the Federal Salary Council is open to the public through registration. All individuals who plan to attend the virtual hybrid public meeting to listen must register by sending an email to *pay-leave-policy@opm.gov* with the subject line ''October 28 FSC Public Meeting'' no later than Friday, October 21, 2022.

The following information must be provided when registering:

- Name/Title,
- Organization,
- Email address, and
- Area represented (if applicable).

Members of the press, in addition to registering for this event, must also RSVP to *media@opm.gov* by October 21, 2022.

A confirmation email will be sent upon receipt of the registration. If you do not receive the confirmation email within a business day of registering, please check your spam filter or junk email folder. Information for public participation will be sent to registrants the day before the virtual hybrid meeting.

U.S. Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2022–20028 Filed 9–15–22; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–104 and CP2022–108]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 20, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–104 and CP2022–108; *Filing Title:* USPS Request to Add Priority Mail Contract 760 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 12, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca Upperman; *Comments Due:* September 20, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–20086 Filed 9–15–22; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95741; File No. SR–PEARL–2022–36]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Equities Fee Schedule

September 12, 2022.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2022, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule (the ''Fee Schedule'') applicable to MIAX Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule applicable to MIAX Pearl Equities to: (1) increase the rebate for executions of all orders in securities priced below $1.00 per share that add displayed and non-displayed liquidity to the Exchange; and (2) increase the fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange.

Increase Standard Rebates for Added Liquidity in Securities Priced Below $1.00 per Share

The Exchange proposes to amend Section (1)(a) of the Fee Schedule, Standard Rates, to increase the standard rebates for executions of all orders in securities priced below $1.00 per share that add displayed and non-displayed liquidity to the Exchange. Currently, the Exchange provides a standard rebate of (0.05%)[3] of the total dollar value of any transaction in securities priced below $1.00 that add displayed or non-displayed liquidity to MIAX Pearl Equities. This rebate applies to all Equity Members,[4] including those that qualify for any of the Exchange's pricing tiers. These rebates are described in Section (1)(b) of the Fee Schedule, Liquidity Indicator Codes and Associated Fees. Liquidity Indicator Codes ''AA,'' ''AB,'' ''AC,'' and ''AR'' apply to the standard rebate for executions of all orders in securities priced below $1.00 per share that add displayed liquidity to the Exchange and Liquidity Indicator Codes ''Aa,'' ''Ab,'' ''Ac,'' ''Ap,'' and ''Ar'' apply to the standard rebate for executions of all

[3] Rebates are indicated by parentheses on the Fee Schedule. *See* Fee Schedule, General Notes.

[4] The term ''Equity Member'' means a Member authorized by the Exchange to transact business on MIAX Pearl Equities. *See* Exchange Rule 1901.

orders in securities priced below $1.00 per share that add non-displayed liquidity to the Exchange.

The Exchange now proposes to increase the standard rebate from (0.05%) to (0.10%) of the total dollar value of any transaction for executions of all orders in securities priced below $1.00 per share that add displayed or non-displayed liquidity to the Exchange and make the corresponding changes to the applicable Liquidity Indicator Codes. The purpose of increasing the rebate for executions of all orders in securities priced below $1.00 per share that add displayed or non-displayed liquidity to the Exchange is to incentivize Equity Members to submit additional orders that add displayed and non-displayed liquidity in sub-dollar volume to the Exchange. The Exchange notes that overall volumes in sub-dollar securities in the U.S. equities markets have had significant increases at certain times; however, the Exchange's volumes in these securities have been disproportionately lower than certain other venues, relative to the overall market share of the Exchange and such other venues, during these times. Thus, the Exchange's proposal to increase the rebate for executions of all orders in securities priced below $1.00 per share that add displayed and non-displayed liquidity to the Exchange is designed to encourage the submission of additional orders in sub-dollar securities in order to bring the Exchange's volumes in such securities in line with its overall market share in a manner that deepens liquidity and promotes price discovery to the benefit of all Equity Members. These proposed changes will also align the Exchange's rebates for such securities with that of at least one other competing exchange.[5]

Increase Standard Fee for Removing Liquidity in Securities Priced Below $1.00 per Share

Next, the Exchange proposes to increase the standard fee charged for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange. Currently, the Exchange charges a standard fee of 0.05% of the total dollar value of any transaction in securities priced below $1.00 that removes liquidity from MIAX Pearl Equities. The Exchange now proposes to increase the standard fee charged for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange from 0.05% to 0.20% of the total dollar value.[6] Liquidity Indicator Codes ''RA,'' ''Ra,'' ''RB,'' ''Rb,'' ''RC,'' ''Rc,'' ''RR,'' and ''Rr'' apply to the standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange. The Exchange proposes to make the corresponding changes to the applicable Liquidity Indicator Codes.

The purpose of increasing the standard fee charged for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange is for business and competitive reasons. The Exchange believes that increasing such fee as proposed would generate additional revenue to offset some of the costs associated with the Exchange's proposed pricing structure, which provides various rebates for liquidity-adding orders and discounted fees for liquidity-removing orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the modest increase proposed herein, the Exchange's proposed standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange (0.20% of the total dollar value) remains competitive with the standard fee to remove liquidity in securities priced below $1.00 per share charged by other equity exchanges.[7]

Conforming Changes to Liquidity Indicator Codes and Associated Fees Table

In conjunction with the Exchange's proposal to (1) increase the rebate for executions of all orders in securities priced below $1.00 per share that add displayed and non-displayed liquidity to the Exchange and (2) increase the fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange, the Exchange proposes to update the Liquidity Indicator Codes and Associated Fees table to reflect the aforementioned changes. The Exchange proposes to update the liquidity indicator codes as follows:

- Liquidity indicator code AA, Adds Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AA would receive a rebate of $0.0029 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code AB, Adds Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AB would receive a rebate of $0.0029 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code AC, Adds Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AC would receive a rebate of $0.0029 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code AR, Retail Order, Adds Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code AR would receive a rebate of $0.0037 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Aa, Adds Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Aa would receive a rebate of $0.0021 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ab, Adds Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ab would receive a rebate of $0.0021 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.
- Liquidity indicator code Ac, Adds Liquidity, Non-Displayed Order (Tape

[5] *See* MEMX Fee Schedule, Fee/(Rebate)—Securities below $1.00 (''B''), *available at https://info.memxtrading.com/fee-schedule/* (last visited August 30, 2022); *see also* Securities Exchange Act Release No. 95433 (August 5, 2022), 87 FR 49620 (August 11, 2022) (SR–MEMX–2022–22) (increasing the rebate for all executions of Added Displayed Sub-Dollar Volume to 0.10% of the total dollar value of the transaction).

[6] The proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description ''Removing Liquidity'' in Section (1)(a), Standard Rates.

[7] *See* MEMX Fee Schedule, Fee Code ''R,'' *supra* note 4 (charging a standard fee of 0.25% of the total dollar value to remove liquidity in securities priced below $1.00 per share); *see also* Cboe BZX Equities Fee Schedule, Standard Rates, *available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*) (last visited August 30, 2022) (charging a standard fee of 0.30% of total dollar value to remove liquidity in securities priced below $1.00 per share).

C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ac would receive a rebate of $0.0021 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Ap, Adds Liquidity and Executes at the Midpoint, Non-Displayed Midpoint Peg Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ap would receive a rebate of $0.0021 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Ar, Retail Order, Adds Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ar would receive a rebate of $0.0021 per share in securities priced at or above $1.00 and 0.10% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code RA, Removes Liquidity, Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RA would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code RB, Removes Liquidity, Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RB would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code RC, Removes Liquidity, Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RC would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code RR, Retail Order, Removes Liquidity, Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code RR would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Ra, Removes Liquidity, Non-Displayed Order (Tape A). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Ra would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Rb, Removes Liquidity, Non-Displayed Order (Tape B). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rb would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Rc, Removes Liquidity, Non-Displayed Order (Tape C). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rc would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

• Liquidity indicator code Rr, Retail Order, Removes Liquidity, Non-Displayed Order (All Tapes). The Liquidity Indicator Code and Associated Fees table would specify that orders that yield liquidity indicator code Rr would be subject to a fee of $0.0029 per share in securities priced at or above $1.00 and 0.20% of the transaction's dollar value in securities priced below $1.00.

Implementation

The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on September 1, 2022.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(4) of the Act [9] in particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of sixteen registered equities exchanges, and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 15–16% of the total market share of executed volume of equities trading.[11] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 1% of the overall market share.[12] The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C 78f(b)(5).

[11] *See* ''The Market at a Glance,'' *available at https://www.miaxoptions.com/* (last visited August 30, 2022).

[12] *See id.*

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance liquidity and market quality to the benefit of all Members and market participants.

The Exchange believes that the proposed increased rebate for executions of all orders in securities priced below $1.00 per share that add displayed and non-displayed liquidity to the Exchange is reasonable, equitable, and non-discriminatory because it would further incentivize Equity Members to submit displayed and non-displayed liquidity-adding orders in sub-dollar securities to the Exchange. The Exchange believes that this would deepen liquidity and promote price discovery in such securities to the benefit of all Equity Members, and such rebates would continue to apply equally to all Equity Members. The Exchange further believes that the proposed increased rebate is reasonable because at least one other exchange provides rebates for executions of liquidity-adding orders in sub-dollar securities that are lower than, equal to, and higher than the proposed rebate.[14]

The Exchange believes that the proposed change to increase the standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange is reasonable, equitable, and consistent with the Act because such a change is designed to generate additional revenue and decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the various rebates provided by the Exchange for liquidity-adding orders and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging added liquidity, as described above. The Exchange also believes the proposed increased standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity is reasonable and not unfairly discriminatory because it represents a modest increase from the current standard fee. Further, even with the proposed increase, the Exchange's standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity remains lower than, or similar to, the standard fee to remove liquidity in securities priced below $1.00 per share charged by competing equities exchanges.[15] The Exchange further believes that the proposal to increase the standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange is equitably allocated and not unfairly discriminatory because it will apply to all Equity Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed changes would encourage Equity Members to maintain or increase their order flow to the Exchange, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [16]

Intramarket Competition

As discussed above, the Exchange believes that the proposal would incentivize Equity Members to submit additional order flow, including displayed and non-displayed added liquidity in sub-dollar securities to the Exchange, thereby promoting price discovery and enhancing liquidity and market quality on the Exchange to the benefit of all Equity Members. Additionally, the Exchange believes this will enhance the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Equity Members by providing more trading opportunities and encourages Equity Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants.

The Exchange believes that the proposed change to increase the standard fee for executions of all orders in securities priced below $1.00 per share that remove liquidity from the Exchange will not impose any burden on intramarket competition because it represents a modest increase from the current standard fee and remains lower than, or similar to, the standard fee to remove liquidity in securities priced below $1.00 per share charged by competing equities exchanges.[17] Further, the proposed increased standard removal fee will apply to all Equity Members. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than 15–16% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates generally, including with respect to executions of all orders in securities priced below $1.00 per share that

[14] *See supra* note 5; *see also* NYSE Arca Equities Fee Schedule, III. Standard Rates—Transactions, available at *https://www.nyse.com/markets/nyse-arca/trading-info#trading-fees* (last visited August 30, 2022) (providing a standard rebate of 0.0% of the total dollar value of the transaction for liquidity-adding transactions in securities priced below $1.00 per share, and tiered rebates for such transactions ranging from 0.05% to 0.15% of the total dollar value of the transaction based on a participant achieving certain volume thresholds).

[15] *See supra* note 7; *see also* Cboe EDGX Equities Fee Schedule, Standard Rates, available at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/* (last visited August 30, 2022) (charging a standard fee of 0.30% of the dollar value to remove liquidity in securities priced below $1.00 per share).

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 47396 (June 29, 2005).

[17] *See supra* notes 7 and 15.

remove liquidity from the Exchange, and market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable.

As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage additional order flow to the Exchange and to generate additional revenue to offset some of the costs associated with the Exchange's current pricing structure and its operations generally, and such proposed rates are comparable to, and competitive with, rates charged by other exchanges.[18]

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [19] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. circuit stated: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .''.[20] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[18] *See supra* notes 5, 7, 14 and 15.

[19] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[20] *See NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSE–2006–21)).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[21] and Rule 19b–4(f)(2) [22] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–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–PEARL–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–PEARL–2022–36 and should be submitted on or before October 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20038 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 240.19b–4(f)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–265, OMB Control No. 3235–0273]

Proposed Collection; Comment Request; Extension: Rule 17Ad–10

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 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–10, (17 CFR 240.17Ad–10), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–10 generally requires registered transfer agents to: (1) create and maintain current and accurate securityholder records; (2) promptly and accurately record all transfers, purchases, redemptions, and issuances, and notify their appropriate regulatory agency if they are unable to do so; (3) exercise diligent and continuous attention in resolving record inaccuracies; (4) disclose to the issuers for whom they perform transfer agent functions and to their appropriate

regulatory agency information regarding record inaccuracies; (5) buy-in certain record inaccuracies that result in a physical over issuance of securities; and (6) communicate with other transfer agents related to the same issuer. These requirements assist in the creation and maintenance of accurate securityholder records, enhance the ability to research errors, and ensure the transfer agent is aware of the number of securities that are properly authorized by the issuer, thereby avoiding over issuance.

The rule also has specific recordkeeping requirements. It requires registered transfer agents to retain certificate detail that has been deleted for six years and keep current an accurate record of the number of shares or principal dollar amount of debt securities that the issuer has authorized to be outstanding. These mandatory requirements ensure accurate securityholder records and assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. This rule does not involve the collection of confidential information.

There are approximately 401 registered transfer agents. We estimate that the average number of hours necessary for each transfer agent to comply with Rule 17Ad–10 is approximately 80 hours per year, which generates an industry-wide annual burden of approximately 32,080 hours (401 times 80 hours). This burden is primarily of a recordkeeping nature but also includes a small amount of third-party disclosure. At an average staff cost of $50 per hour, the industry-wide internal labor cost of compliance (a monetization of the burden hours) is approximately $1,604,000 per year (32,080 × $50). In addition, we estimate that each transfer agent will incur an annual external cost burden of approximately $18,000 resulting from the collection of information. Therefore, the total annual external cost on the entire transfer agent industry is approximately $7,218,000 ($18,000 times 401). This cost primarily reflects ongoing computer operations and maintenance associated with generating, maintaining, and disclosing or providing certain information required by the rule.

The amount of time any particular transfer agent will devote to Rule 17Ad–10 compliance will vary according to the size and scope of the transfer agent's business activity. We note, however, that at least some of the records, processes, and communications required by Rule 17Ad–10 would likely be maintained, generated, and used for transfer agent business purposes even without the rule.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by November 15, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 12, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20020 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95738]

Order Granting Application by NYSE Chicago, Inc., for an Exemption, Pursuant to Section 36(a) of the Exchange Act, From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

September 12, 2022.

NYSE Chicago, Inc. (''Exchange'' or ''NYSE Chicago'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an application [1] for an exemption under Section 36(a) of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 0–12 thereunder [3] from the rule filing requirements of Section 19(b) of the Exchange Act [4] with respect to the rules of the Exchange governing its members' communications with the public. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Exchange Act, or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

NYSE Chicago has requested that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for a change to NYSE Chicago Rule 11.2210 governing its members' communications with the public that are effected solely by virtue of a change to Rule 2210 (Communications with the Public) of the Financial Industry Regulatory Authority, Inc. (''FINRA''), which is incorporated by reference into NYSE Chicago Rule 11.2210. Specifically, the Exchange requests that it be permitted to incorporate by reference a change made to FINRA Rule 2210 without the need for the Exchange to separately file a similar proposed rule change pursuant to Section 19(b) of the Exchange Act. The Exchange states that this exemption is appropriate because it would result in NYSE Chicago Rule 11.2210 being consistent with the relevant incorporated FINRA rule at all times, thus helping ensure identical regulation of joint members of NYSE Chicago and FINRA with respect to the rule, which is regulatory in nature, and not a trading rule.[5] The Exchange further states that without such an exemption, joint members of NYSE Chicago and FINRA could be subject to two different standards regarding their communications with the public and that, by helping ensure consistency between NYSE Chicago and FINRA rules of same purpose, the exemption

[1] *See* letter from David De Gregorio, Associate General Counsel, New York Stock Exchange, to Vanessa Countryman, Secretary, SEC, dated June 7, 2022 (''Exemptive Request'').

[2] 15 U.S.C. 78mm.

[3] 17 CFR 240.0–12 (Commission procedures for filing applications for orders for exemptive relief under Section 36 of the Exchange Act).

[4] 15 U.S.C. 78s(b).

[5] *See* Exemptive Request at 2. A self-regulatory organization (''SRO'') wishing to incorporate rules of another SRO by reference may submit a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, if, among other things, the rules to be incorporated are categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration). *See also* Exchange Act Release No. 49260 (Feb. 17, 2004), 69 FR 8500 (Feb. 24, 2004).

would facilitate FINRA's provision of regulatory services to the Exchange.[6]

As a condition of the requested exemption, the Exchange has agreed to provide written notice to its members whenever FINRA proposes a change to FINRA Rule 2210 that is incorporated by reference into NYSE Chicago Rule 11.2210.[7] Such notice would alert the Exchange's members to the FINRA proposed rule change and give them an opportunity to comment on it.[8] The Exchange would similarly inform members in writing when the Commission approves any such proposed rule change.[9]

The Commission has issued exemptions similar to the Exchange's request.[10] In granting one such exemption in 2022, the Commission repeated an earlier Commission statement that it would consider similar future exemption requests from other SROs, provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act;
- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[11]

The Exchange has satisfied each of these conditions. Moreover, granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and Exchange resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. The Commission therefore finds it appropriate in the public interest, and consistent with the protection of investors, to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rule the Exchange has incorporated by reference.

Accordingly, it is ordered, pursuant to Section 36 of the Exchange Act,[12] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act with respect to a change to NYSE Chicago Rule 11.2210 resulting solely from a change made to FINRA Rule 2210 without the need for the Exchange to separately file, pursuant to Section 19(b) of the Exchange Act, a proposed rule change similar to the one filed by FINRA, provided that the Exchange promptly provides written notice to its members whenever a change is proposed to FINRA Rule 2210, and provided that the Exchange informs its members in writing when the Commission approves any such proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20036 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* Exemptive Request at 2.

[7] *See* Exemptive Request at 2–3. The Exchange will provide such notice via a posting on the same website location where the Exchange posts its own rule filings pursuant to and within the timeframe required by Rule 19b–4(1) under the Exchange Act. The website posting will include a link to the location on FINRA's website where the applicable proposed rule change is posted. *Id.* at n.6.

[8] *See* Exemptive Request at 3.

[9] *Id.* at 3

[10] *See, e.g.,* Exchange Act Release No. 94707 (Apr. 12, 2022), 87 FR 22962 (Apr. 18, 2022) (order granting The Nasdaq Stock Market LLC and five affiliated national securities exchanges an exemption under Section 36(a) of the Exchange Act from the rule filing requirements of Section 19(b) of the Exchange Act with respect to certain of its rules incorporating by reference rules of FINRA) (''Nasdaq Order''); Exchange Act Release No. 83040 (Apr. 12, 2018), 83 FR 17198 (Apr. 18, 2018) (order granting MIAX PEARL, LLC, an exemption under Section 36(a) of the Exchange Act from the rule filing requirements of Section 19(b) of the Exchange Act with respect to certain of its rules incorporating by reference rules of the Miami International Securities Exchange, LLC); and Exchange Act Release No. 61534 (Feb. 18, 2010), 75 FR 8760 (Feb. 25, 2010) (order granting BATS Exchange, Inc., an exemption under Section 36(a) of the Exchange Act from the rule filing requirements of Section 19(b) of the Exchange Act with respect to certain of its rules incorporating by reference rules of the Chicago Board Options Exchange, Incorporated, FINRA, and the New York Stock Exchange, LLC).

[11] *See* Nasdaq Order at 22962 (footnotes omitted).

[12] 15 U.S.C. 78mm.

[13] 17 CFR 200.30–3(a)(76).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95735; File No. SR–CboeEDGX–2022–038]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Relating to the Sale of Open-Close Volume Data

September 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2022, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to offer a free trial during the months of September, October, November and December 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all EDGX Members and non-Members who have never before subscribed to the Intraday Open-Close historical files, effective September 1, 2022.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary EDGX Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary EDGX Options trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (*e.g.,* request for Intraday Open-Close Data for month of January 2022).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange seeks to re-establish a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities (Equities, Indexes & ETF's) is $500 per month. The Exchange now proposes to adopt a free trial available during the months of September, October, November and December 2022 (*i.e.,* September through December 2022) to provide a total up to three (3) historical months of Intraday Open-Close Data to any Member or non-Member that has not previously subscribed to this offering.[5] The Exchange notes that it previously offered this free trial period recently for the months of May, June and July 2022. The Exchange believes bringing back the proposed trial will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data to start purchasing Intraday Open-Close historical data. Particularly, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.[6] Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee change will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed,

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from Cboe Options, BZX, and C2 Options; and Open Close Reports from MIAX Options, Pearl, and Emerald.

[5] For example, if a Member or non-Member that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February and March 2022 during the month of September 2022, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March and April 2022 during the month of September 2022, then the data for January, February and March 2022 would be provided free of charge, and the new user would be charged $500 for the April 2022 historical file.

[6] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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.'' [12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt a fee waiver to attract future purchasers of historical Intraday Open-Close Data.

The Exchange believes that the proposed free trial for any Member or non-Member who has not previously purchased Intraday Open-Close historical data is reasonable because such users would not be subject to fees for up to 3 months' worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who have not previously purchased Intraday Open-Close historical data. Also as noted above, another exchange offers a free trial to new users for a similar data product [13] and the Exchange itself recently offered a similar free trial.[14] Lastly, the purchase of this data product is discretionary and not compulsory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule change is grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment indicators. This change will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by encouraging new market participants to investigate the product. Other exchanges are, of course, free to match this change or undertake other competitive responses, enhancing overall competition. Indeed, as discussed, another exchange currently offers a similar free-trial period for similar data.[15]

The proposed rule change will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed rule change will apply to all Members and non-Members who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f) of Rule 19b–4 [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeEDGX–2022–038 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[10] *See* supra note 2.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (August 31, 2022), available at *https://markets.cboe.com/us/options/market_statistics/*.

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[14] *See* Securities Exchange Act Release No. 34–94914 (May 13, 2022), 87 FR 30538 (May 19, 2022) (SR–CboeEDGX–2022–028).

[15] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2022–038. 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–CboeEDGX–2022–038 and should be submitted on or before October 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20033 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95734; File No. SR–CboeBZX–2022–047]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Relating to the Sale of Open-Close Volume Data

September 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2022, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to offer a free trial during the months of September, October, November and December 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all BZX Members and non-Members who have never before subscribed to the Intraday Open-Close historical files, effective September 1, 2022.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary BZX Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary BZX Options

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to Members and non-Members on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (*e.g.,* request for Intraday Open-Close Data for month of January 2022).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange seeks to re-establish a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities (Equities, Indexes & ETF's) is $750 per month. The Exchange now proposes to adopt a free trial available during the months of September, October, November and December 2022 (*i.e.,* September through December 2022) to provide a total up to three (3) historical months of Intraday Open-Close Data to any Member or non-Member that has not previously subscribed to this offering.[5] The Exchange notes that it previously offered this free trial period recently for the months of May, June and July 2022. The Exchange believes bringing back the proposed trial will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data to start purchasing Intraday Open-Close historical data. Particularly, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.[6] Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee change will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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.''[12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt a fee waiver to attract future purchasers of historical Intraday Open-Close Data.

The Exchange believes that the proposed free trial for any Member or non-Member who has not previously purchased Intraday Open-Close historical data is reasonable because such users would not be subject to fees for up to 3 months' worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from Cboe Options, C2 Options, and EDGX; and Open Close Reports from MIAX Options, Pearl, and Emerald.

[5] For example, if a Member or non-Member that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February and March 2022 during the month of September 2022, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March and April 2022 during the month of September 2022, then the data for January, February and March 2022 would be provided free of charge, and the new user would be charged $750 for the April 2022 historical file.

[6] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (August 31, 2022), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all Members and non-Members who have not previously purchased Intraday Open-Close historical data. Also as noted above, another exchange offers a free trial to new users for a similar data product [13] and the Exchange itself recently offered a similar free trial.[14] Lastly, the purchase of this data product is discretionary and not compulsory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule change is grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment indicators. This change will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by encouraging new market participants to investigate the product. Other exchanges are, of course, free to match this change or undertake other competitive responses, enhancing overall competition. Indeed, as discussed, another exchange currently offers a similar free-trial period for similar data.[15]

The proposed rule change will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed rule change will apply to all Members and non-Members who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f) of Rule 19b–4 [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2022–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2022–047. 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–CboeBZX–2022–047 and should be submitted on or before October 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20032 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

[13] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[14] *See* Securities Exchange Act Release No. 34–94911 (May 13, 2022), 87 FR 30520 (May 19, 2022) (SR–CboeBZX–2022–030).

[15] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–815, OMB Control No. 3235–0769]

Submission for OMB Review; Comment Request; Extension: Rule 139b

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 the Securities and Exchange Commission (the ''Commission'') has, in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3501 *et seq.*) (''PRA''), has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information, ''Rule 139b Disclosure of Standardized Performance,'' in connection with the Rule 139b (17 CFR 230.139b) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') that was adopted by the Commission on November 30, 2018, as discussed below.[1]

As directed by the Fair Access to Investment Research Act of 2017 (Pub. L. 115–66, 131 Stat. 1196 (2017) (the ''FAIR Act''), the Commission adopted rule 139b under the Securities Act to extend the safe harbor under rule 139 to a ''covered investment fund research report.'' Specifically, rule 139b provides a safe harbor to a broker-dealer who publishes or distributes, in the regular course of its business, research reports concerning one or more ''covered investment fund(s)'' while participating in the distribution of a covered investment fund's securities.

In the Adopting Release, the Commission adopted the provision that rule 139b include a standardized performance requirement. The Commission believes that standardized performance presentation is an appropriate requirement because investors tend to consider fund performance a significant factor in evaluating or comparing investment companies, and the requirement addresses potential investor confusion if a communication were not easily recognizable as research as opposed to an advertising prospectus or supplemental sales literature. Rule 139b requires that research reports about open-end funds that include performance information must present it in accordance with paragraphs (d), (e), and (g) of rule 482. Rule 139b also requires that research reports about closed-end funds that include performance information must present it in accordance with instructions to item 4.1(g) of Form N–2. Performance measures calculated by broker-dealers are not required to be kept confidential and there is no mandatory retention period. The Commission anticipates that compliance with these performance measures for each fund discussed in a research report, and for which the performance measures apply, would increase compliance costs for broker-dealers seeking to publish or distribute a covered investment fund research report.

It is difficult to provide estimates of the burdens and costs for those broker-dealers that will include performance information in a rule 139b research report. As discussed in the Adopting Release, this is difficult to estimate because current data collected does not reflect the affiliate exclusion, does not include the entire universe of covered investment funds, and it is uncertain what percentage of communications currently filed as rule 482 advertising prospectuses (or rule 34b–1 supplemental sales materials) will instead be published in reliance of rule 139b, as covered investment fund research reports.[2] For purposes of the PRA, we estimate that 10% of the rule 482 and rule 34b–1 communications currently filed by broker-dealers with FINRA (approximately 48,341) could be considered as rule 139b covered investment fund research reports. We estimate that broker-dealers will publish annually 4,834 (10% of 48,341) covered investment fund research reports. Moreover, we assume for purposes of the PRA that all estimated rule 139b research reports will include fund performance information. We further estimate that 1,169 broker-dealers would likely be respondents to the collection of information with a frequency of 4.1 responses per year.[3] Additionally, we estimate that each research report will require 3 hours of ongoing internal burden hours by a broker-dealers' personnel to comply with the rule 139b collection of information requirements, which for each broker-dealer is estimated to be 12.3 internal burden hours.[4] In sum, we estimate that rule 139b's requirements will impose a total annual internal hour burden of 14,379 hours on broker-dealers.[5] We do not think there is an external cost burden associated with this collection of information.

This collection of information requirement would not be mandatory for broker-dealers seeking to rely upon rule 139b, but would be necessary for those broker-dealers that would like to provide performance information in their covered investment fund research reports. Responses to the information collections 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.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by October 17, 2022 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 12, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20019 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

[1] See Release No. 33–10580 (Nov. 30, 2018) [83 FR 64180 (Dec. 13, 2018)] (''Adopting Release''). Rule 139b became effective on January 14, 2019.

[2] See Adopting Release, supra note 1, n. 413 and accompanying paragraph.

[3] Based on information provided by FINRA, for the period January 1, 2021 through December 31, 2021, there were an aggregate of 48,341 filings that were coded as either Rule 482 or Rule 34b–1 filings. Furthermore, the Commission estimates that for the period January 1, 2021 through December 31, 2021, there were 4,834 covered investment fund research reports/1,169 broker-dealers = 4.1 annual responses per broker-dealer.

[4] 4.1 annual responses per broker-dealer × 3 internal burden hours = 12.3 annual internal burden hours per broker-dealer.

[5] 12.3 annual burden hours * 1,169 broker-dealers.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95737; File No. SR–C2–2022–016]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Relating to the Sale of Open-Close Volume Data

September 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2022, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2 Options'') proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to offer a free trial during the months of September, October, November and December 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all C2 Trading Permit Holders (''TPHs'') and non-TPHs who have never before subscribed to the Intraday Open-Close historical files, effective September 1, 2022.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary C2 Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary C2 Options trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (*e.g.,* request for Intraday Open-Close Data for month of January 2022).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange seeks to re-establish a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities (Equities, Indexes & ETF's) is $500 per month. The Exchange now proposes to adopt a free trial available during the months of September, October, November and December 2022 (*i.e.,* September through December 2022) to provide a total up to three (3) historical months of Intraday Open-Close Data to any TPH or non-TPH that has not previously subscribed to this offering.[5] The Exchange notes that it previously offered this free trial period recently for the months of May, June and July 2022. The Exchange believes bringing back the proposed trial will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data to start purchasing Intraday Open-Close historical data. Particularly, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.[6] Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from Cboe Options, BZX, and EDGX; and Open Close Reports from MIAX Options, Pearl, and Emerald.

[5] For example, if a TPH or non-TPH that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February and March 2022 during the month of September 2022, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March and April 2022 during the month of September 2022, then the data for January, February and March 2022 would be provided free of charge, and the new user would be charged $500 for the April 2022 historical file.

[6] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee change will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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.''[12] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt a fee waiver to attract future purchasers of historical Intraday Open-Close Data.

The Exchange believes that the proposed free trial for any TPH or non-TPH who has not previously purchased Intraday Open-Close historical data is reasonable because such users would not be subject to fees for up to 3 months' worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all TPHs and non-TPHs who have not previously purchased Intraday Open-Close historical data. Also as noted above, another exchange offers a free trial to new users for a similar data product[13] and the Exchange itself recently offered a similar free trial.[14] Lastly, the purchase of this data product is discretionary and not compulsory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule change is grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment indicators. This change will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by encouraging new market participants to investigate the product. Other exchanges are, of course, free to match this change or undertake other competitive responses, enhancing overall competition. Indeed, as discussed, another exchange currently offers a similar free-trial period for similar data.[15]

The proposed rule change will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed rule change will apply to all TPHs and non-TPHs who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and paragraph (f) of Rule 19b–4[17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[9] *Id.*

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (August 31, 2022), available at *https://markets.cboe.com/us/options/market_statistics/*.

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[14] *See* Securities Exchange Act Release No. 34–94912 (May 13, 2022), 87 FR 30542 (May 19, 2022) (SR–C2–2022–011).

[15] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–C2–2022–016 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–C2–2022–016. 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–C2–2022–016 and should be submitted on or before October 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20035 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95736; File No. SR–CBOE–2022–044]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule Relating to the Sale of Open-Close Volume Data

September 12, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 1, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule relating to the sale of Open-Close volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to offer a free trial during the months of September, October, November and December 2022 for an ad-hoc request of three (3) historical months of Intraday Open-Close historical data to all Cboe Options Trading Permit Holders (''TPHs'') and non-TPHs who have never before subscribed to the Intraday Open-Close historical files, effective September 1, 2022.

By way of background, the Exchange currently offers End-of-Day (''EOD'') and Intraday Open-Close Data (collectively, ''Open-Close Data''). EOD Open-Close Data is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary Cboe Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange also offers Intraday Open-Close Data, which provides similar information to that of Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[3] The Intraday Open-

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For example, subscribers to the intraday product will receive the first calculation of intraday data by

Continued

Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary Cboe Options trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (*e.g.,* request for Intraday Open-Close Data for month of January 2022).

Open-Close Data is subject to direct competition from similar end-of-day and intraday options trading summaries offered by several other options exchanges.[4] All of these exchanges offer essentially the same end-of-day and intraday options trading summary information.

Free Trial

The Exchange seeks to re-establish a free trial for historical ad hoc requests for Intraday Open-Close Data for new purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data are available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities (Equities, Indexes & ETF's) is $1,000 per month. The Exchange now proposes to adopt a free trial available during the months of September, October, November and December 2022 (*i.e.,* September through December 2022) to provide a total up to three (3) historical months of Intraday Open-Close Data to any TPH or non-TPH that has not previously subscribed to this offering.[5] The Exchange notes that it previously offered this free trial period recently for the months of May, June and July 2022. The Exchange believes bringing back the proposed trial will again serve as an incentive for new users who have never purchased Intraday Open-Close historical data to start purchasing Intraday Open-Close historical data. Particularly, the Exchange believes it will give potential subscribers the ability to use and test the data offering before signing up for additional months. The Exchange also notes another exchange offers a free trial for new subscribers of a similar data product.[6] Lastly, the purchase of Intraday Open-Close historical data is discretionary and not compulsory.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposed fee change will further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Open-Close Data is designed to help investors understand underlying market trends to improve the quality of investment decisions. Indeed, subscribers to the data may be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes Open-Close Data provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading and as noted above, is entirely optional. Moreover, several other exchanges offer a similar data product which offer same type of data content through end-of-day or intraday reports.[10]

The Exchange also operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 16% of the market share.[11] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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.''[12] Making similar data products available to market participants fosters competition in the marketplace, and

approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

[4] These substitute products are: Nasdaq PHLX Options Trade Outline, Nasdaq Options Trade Outline, ISE Trade Profile, GEMX Trade Profile data; open-close data from C2 Options, BZX, and EDGX; and Open Close Reports from MIAX Options, Pearl, and Emerald.

[5] For example, if a TPH or non-TPH that has never made an ad-hoc request for a specified month of Intraday Open-Close historical data wishes to purchase Intraday Open-Close Data for the months of January, February and March 2022 during the month of September 2022, the historical files for those months would be provided free of charge. If a new user wishes to purchase Intraday Open-Close historical data for the months of January, February, March and April 2022 during the month of September 2022, then the data for January, February and March 2022 would be provided free of charge, and the new user would be charged $1,000 for the April 2022 historical file.

[6] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] *See* supra note 4.

[11] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (August 31, 2022), available at *https://markets.cboe.com/us/options/market_statistics/.*

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt a fee waiver to attract future purchasers of historical Intraday Open-Close Data.

The Exchange believes that the proposed free trial for any TPH or non-TPH who has not previously purchased Intraday Open-Close historical data is reasonable because such users would not be subject to fees for up to 3 months' worth of Intraday Open-Close historical data. The Exchange believes the proposed free trial is also reasonable as it will give potential subscribers the ability to use and test the Intraday Open-Close historical data prior to purchasing additional months and will therefore encourage and promote new users to purchase the Intraday Open-Close historical data. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all TPHs and non-TPHs who have not previously purchased Intraday Open-Close historical data. Also as noted above, another exchange offers a free trial to new users for a similar data product [13] and the Exchange itself recently offered a similar free trial.[14] Lastly, the purchase of this data product is discretionary and not compulsory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment in which the Exchange must continually adjust its fees to remain competitive. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

As discussed above, Open-Close Data is subject to direct competition from several other options exchanges that offer substitutes to Open-Close. Moreover, purchase of Open-Close is optional. It is designed to help investors understand underlying market trends to improve the quality of investment decisions, but is not necessary to execute a trade.

The proposed rule change is grounded in the Exchange's efforts to compete more effectively. The Exchange is proposing to provide a free trial for market participants to test investment strategies and trading models, and develop market sentiment indicators. This change will not cause any unnecessary or inappropriate burden on intermarket competition, but rather will promote competition by encouraging new market participants to investigate the product. Other exchanges are, of course, free to match this change or undertake other competitive responses, enhancing overall competition. Indeed, as discussed, another exchange currently offers a similar free-trial period for similar data.[15]

The proposed rule change will not cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed rule change will apply to all TPHs and non-TPHs who have never made an ad-hoc request to purchase Intraday Open-Close historical data. Moreover, purchase of Intraday Open-Close historical files is discretionary and not compulsory.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and paragraph (f) of Rule 19b–4 [17] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2022–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2022–044. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2022–044 and should be submitted on or before October 7, 2022.

[13] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[14] *See* Securities Exchange Act Release No. 34–94913 (May 13, 2022), 87 FR 30534 (May 19, 2022) (SR–CBOE–2022–023).

[15] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile End of Day.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20034 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95742; File No. SR–NYSENAT–2022–17]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE National Schedule of Fees and Rebates

September 12, 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 August 29, 2022, NYSE National, Inc. (''NYSE National'' 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE National Schedule of Fees and Rebates (''Fee Schedule'') to reflect the fee for Directed Orders routed directly by the Exchange to an alternative trading system (''ATS''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to reflect the fee for Directed Orders routed directly by the Exchange to an ATS. The Exchange proposes to implement the fee change effective August 31, 2022.

Background

The Exchange operates in a highly competitive market. The Securities and Exchange Commission (''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.''[4]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.''[5] Indeed, equity trading is currently dispersed across 16 exchanges,[6] numerous alternative trading systems,[7] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 18% market share.[8] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities is less than 2%.[9]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. Accordingly, competitive forces constrain exchange transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

Proposed Rule Change

Pursuant to Commission approval, the Exchange adopted a new order type known as Directed Orders.[10] A Directed Order is a Limit Order[11] with instructions to route on arrival at its limit price to a specified ATS with which the Exchange maintains an electronic linkage. Under Exchange rules, the ATS to which a Directed Order is routed would be responsible for validating whether the order is eligible to be accepted, and if such ATS determines to reject the order, the order would be cancelled. Directed Orders must be designated with a Time in Force modifier of Day[12] or IOC[13] or and are eligible to be designated for the Core Trading Session[14] only. Directed Orders that are the subject of this proposed rule

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[6] *See* Cboe U.S. Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[7] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[9] *See id.*

[10] *See* Rule 7.31(f)(4). *See also* Securities Exchange Act Release No. 95426 (August 4, 2022), 87 FR 48718 (August 10, 2022) (SR–NYSENAT–2022–06).

[11] A Limit Order is defined in Rule 7.31(a)(2) as an order to buy or sell a stated amount of a security at a specified price or better.

[12] Pursuant to Rule 7.31(b)(1), any order to buy or sell designated Day, if not traded, will expire at the end of the designated session on the day on which it was entered.

[13] Pursuant to Rule 7.31(b)(2), a Limit Order may be designated with an Immediate-or-Cancel (''IOC'') modifier.

[14] The Core Trading Session for each security begins at 9:30 a.m. Eastern Time and ends at the conclusion of Core Trading Hours. *See* Rule 7.34(a)(2). The term ''Core Trading Hours'' means the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time. *See* Rule 1.1.

change would be routed to OneChronos LLC (''OneChronos'').

In anticipation of the scheduled implementation of routing functionality to OneChronos,[15] the Exchange proposes to amend the Fee Schedule to state that the Exchange will not charge a fee for Directed Orders routed to OneChronos. To reflect the no fee, the Exchange proposes to amend current Section II. Routing Fees (All ETP Holders) to state ''No fee for Directed Orders routed to OneChronos LLC'' for securities priced at or above $1.00. The Exchange also proposes to amend the rule text regarding the current routing fee of $0.0030 per share to clarify that the fee would apply to ''all other'' executions. Additionally, the Exchange proposes to define ''Directed Orders'' under Section I. A. As proposed, the term ''Directed Orders'' would mean a Limit Order with instructions to route on arrival at its limit price to a specified alternative trading system (''ATS'') with which the Exchange maintains an electronic linkage. The Exchange also proposes to renumber current definitions (5) through (7) to (6) through (8), respectively, in conjunction to the changes discussed herein.

The Exchange believes that the Directed Orders functionality would facilitate additional trading opportunities by offering ETP Holders the ability to designate orders submitted to the Exchange to be routed to OneChronos for execution. The Exchange believes the functionality could create efficiencies for ETP Holders that choose to use the functionality by enabling them to send orders that they wish to route to OneChronos through the Exchange by leveraging order entry protocols already configured for their interaction with the Exchange. ETP Holders that choose not to utilize Directed Orders would continue to be able to trade on the Exchange as they currently do.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[17] 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.

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

In particular, the Exchange believes the proposed rule change is a reasonable means to incent ETP Holders to utilize the Directed Orders functionality and allow ETP Holders to evaluate its efficacy. The proposed routing of orders to OneChronos is provided by the Exchange on a voluntary basis and no rule or regulation requires that the Exchange offer it. Nor does any rule or regulation require market participants to send orders to an ATS generally, let alone to OneChronos. The routing of orders to OneChronos would operate similarly to the Primary Only Order already offered by the Exchange, which is an order that is routed directly to the primary listing market on arrival, without interacting with the interest on the Exchange Book.[19]

The Exchange believes its proposal equitably allocates its fees among its market participants. The Exchange believes that the proposal represents an equitable allocation of fees because it would apply uniformly to all ETP Holders, in that all ETP Holders will have the ability to designate orders submitted to the Exchange to be routed to OneChronos, and each such ETP Holder would not be charged a fee when utilizing the new functionality. While the Exchange has no way of knowing whether this proposed rule change would serve as an incentive to utilize the new order type, the Exchange expects that a number of ETP Holders will utilize the new functionality because it would create efficiencies for ETP Holders by enabling them to send orders that they wish to route to OneChronos through the Exchange, thereby enabling them to leverage order entry protocols already configured for their interactions with the Exchange.

The Exchange believes that the proposal is not unfairly discriminatory. The Exchange believes it is not unfairly discriminatory as the proposal to not charge a fee would be assessed on an equal basis to all ETP Holders that use the Directed Order functionality. The proposal to not charge a fee would also enable ETP Holders to evaluate the efficacy of the new functionality. Moreover, this proposed rule change neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that this proposal does not permit unfair discrimination because the changes described in this proposal would be applied to all similarly situated ETP Holders. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees. The Exchange further believes that the proposed rule change would not permit unfair discrimination among ETP Holders because the Directed Order functionality would be available to all ETP Holders on an equal basis and each such participant would not be charged a fee for using the functionality.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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,[20] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. 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

[15] *See https://www.nyse.com/publicdocs/nyse/notifications/trader-update/110000456275/OneChronos_August_2022_Trader_Update_Final.pdf.*

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] *See supra* note 4.

[19] *See* Rule 7.31(f)(1).

[20] 15 U.S.C. 78f(b)(8).

of individual stocks for all types of orders, large and small.'' [21]

Intramarket Competition. The Exchange believes the proposed amendment to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change is a reasonable means to incent ETP Holders to utilize the Directed Orders functionality and allow ETP Holders to evaluate its efficacy. The Directed Orders functionality would be available to all ETP Holders and all ETP Holders that use the Directed Orders functionality to route their orders to OneChronos will not be charged a routing fee. The proposed routing of orders to OneChronos is provided by the Exchange on a voluntary basis and no rule or regulation requires that the Exchange offer it. ETP Holders have the choice whether or not to use the Directed Orders functionality and those that choose not to utilize it will not be impacted by the proposed rule change. The Exchange also does not believe the proposed rule change would impact intramarket competition as the proposed rule change would apply to all ETP Holders equally that choose to utilize the Directed Orders functionality, and therefore the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading is currently less than 2%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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.

[21] *See supra* note 4.

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) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 [23] 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) [24] 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–NYSENAT–2022–17 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–NYSENAT–2022–17. 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–NYSENAT–2022–17, and should be submitted on or before October 7, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–20039 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95739; File No. SR–MEMX–2022–17]

Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Connectivity Fees

September 12, 2022.

On July 5, 2022, MEMX LLC (''MEMX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Fee Schedule to adopt Connectivity Fees. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

Register on July 21, 2022.[4] On September 1, 2022, MEMX withdrew the proposed rule change (SR–MEMX–2022–17).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–20037 Filed 9–15–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 11861]

Certification Related to Foreign Military Financing for Colombia under Section 7045(B)(2)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022

Pursuant to the authority vested in the Secretary of State, including under section 7045(b)(2)(B) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2022 (Div. K, Pub. L. 117–103), I hereby certify that:

i. The Special Jurisdiction for Peace and other judicial authorities, as appropriate, are sentencing perpetrators of gross violations of human rights, including those with command responsibility, to deprivation of liberty;

ii. The Government of Colombia is making consistent progress in reducing threats and attacks against human rights defenders and other civil society activists, and judicial authorities are prosecuting and punishing those responsible for ordering and carrying out such attacks;

iii. The Government of Colombia is making consistent progress in protecting Afro-Colombian and Indigenous communities and is respecting their rights and territories; and

iv. Military officers credibly alleged, or whose units are credibly alleged, to be responsible for ordering, committing, and covering up cases of false positives and other extrajudicial killings, or of committing other gross violations of human rights, or of conducting illegal communications intercepts or other illicit surveillance, are being held accountable, including removal from active duty if found guilty through criminal, administrative, or disciplinary proceedings.

This Certification shall be published in the **Federal Register** and shall be transmitted, along with the accompanying Memorandum of Justification, to Congress.

Dated: September 9, 2022.

Antony J. Blinken,

Secretary of State.

[FR Doc. 2022–20109 Filed 9–15–22; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0189]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: HANA HOU (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 October 17, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0189 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0189 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–2022–0189, 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 HANA HOU is:

—*Intended Commercial Use of Vessel:* ''Day and overnight sailing for a small group.''

—*Geographic Region Including Base of Operations:* ''Hawaii.'' (Base of Operations: Lahaina, HI).

—*Vessel Length and Type:* 44′ Sail (Catamaran).

The complete application is available for review identified in the DOT docket as MARAD 2022–0189 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.

[4] *See* Securities Exchange Act Release No. 95299 (July 15, 2022), 87 FR 43563.

[5] 17 CFR 200.30–3(a)(12).

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–2022–0189 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. 2022–20102 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0188]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: EL DEPORTIVO (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 October 17, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0188 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0188 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–2022–0188, 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 EL DEPORTIVO is:

—*Intended Commercial Use of Vessel:* ''Vessel is to be used as charter vessel, as a commercial passenger vessel.''

—*Geographic Region Including Base of Operations:* ''Puerto Rico.'' (Base of Operations: Fajardo, PR).

—*Vessel Length and Type:* 54.5′ Motor.

The complete application is available for review identified in the DOT docket as MARAD 2022–0188 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–2022–0188 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. 2022–20101 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0192]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: THE LUFF BOAT (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 October 17, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0192 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0192 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–2022–0192, 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 THE LUFF BOAT is:

—*Intended Commercial Use of Vessel:* ''Yacht tendering services—Southeast Alaska is becoming more popular with private yachts that come unprepared for the Alaskan weather. Most have support vessels are incapable of safely transferring their guests to from shore and docks. I would like to utilize THE LUFF BOAT to fill this gap. There currently are no vessels in Alaska that meet the quality, comfort, style, speed and safety that these clients expect.''

—*Geographic Region Including Base of Operations:* ''Alaska.'' (Base of Operations: Juneau, AK).

—*Vessel Length and Type:* 53′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2022–0192 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–2022–0192 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. 2022–20103 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0191]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: START UP (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 October 17, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0191 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0191 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–2022–0191, 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 START UP is:

—*Intended Commercial Use of Vessel:* ''Taking people sailing for day cruises in Santa Monica Bay.''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Marina del Rey, CA).

—*Vessel Length and Type:* 36′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2022–0191 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–2022–0191 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

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(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. 2022–20104 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2022–0190]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CHARM (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 October 17, 2022.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2022–0190 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2022–0190 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–2022–0190, 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 CHARM is:

—*Intended Commercial Use of Vessel:* ''Sailing trips in local waters for up to 12 passengers.''
—*Geographic Region Including Base of Operations:* ''Florida, New York, Massachusetts, Rhode Island.'' (Base of Operations: Fort Lauderdale, FL).
—*Vessel Length and Type:* 55′ Sail (Catamaran)

The complete application is available for review identified in the DOT docket as MARAD 2022–0190 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–2022–0190 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

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(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. 2022–20100 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before October 17, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 8, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
8228–M	Bureau Of Alcohol Tobacco, Firearms & Explosives.	172.101(c), 172.102(c)(1), 172.203(k), 173.56(b).	To modify the special permit to remove paragraph 7.b. from the special permit.
11859–M	Mission Systems Orchard Park Inc.	173.301(f), 178.65, 173.302(a)(1).	To modify the special permit to authorize a new part number.
13027–M	Hernco Fabrication & Services, Inc.	173.241, 173.242, 173.243, 173.202, 173.203.	To modify the special permit to authorize additional hazardous materials.
20357–M	Jingmen Hongtu Special Aircraft Manufacturing Co., Ltd.	178.274(b), 178.276(b)(1)	To modify the special permit to authorize ammonia and different packaging.
21018–M	Packaging And Crating Technologies, LLC.	172.200, 172.300, 172.400, 172.600, 172.700(a), 173.185(b), 173.185(c), 173.185(f).	To modify the special permit to clarify certain requirements, to remove certain packaging specifications, and to remove certain paperwork requirements.
21139–M	KULR Technology Corporation	172.200, 172.700(a), 173.185(b).	To modify the special permit to increase the authorized aggregate energy content of a single inner package to 2.5 kWh.
21167–M	KULR Technology Corporation	173.185(a)(1), 172.101(j)	To modify the special permit to increase the authorized aggregate energy content of a single inner package to 2.5 kWh.
21193–M	KULR Technology Corporation	172.200, 172.300, 172.700(a), 172.400, 172.500, 172.600, 173.185(f).	To modify the special permit to increase the authorized aggregate energy content of a single inner package to 2.5 kWh.
21324–N	Absolute Accuracy, LLC	173.304(d), 173.306(a)(3)	To authorize the manufacture, mark, sale, and use of certain non-DOT specification containers conforming to all regulations applicable to a DOT specification 2Q inner non-refillable metal receptacle, except as specified herein, for the transportation in commerce of hazardous materials authorized by this special permit.
21382–N	CU Aerospace LLC	173.232(g)(3)	To authorize the transportation in commerce of compressed gases in a non-DOT specification package.
21391–N	Rothenberger USA, Inc	172.301(c), 178.65(i)(2)(v)	To authorize the transportation in commerce of Propylene in cylinders with an incorrect manufacturer registration number.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21406–N	Quantumscape Battery, Inc	172.200, 172.300, 172.400, 172.600, 172.700(a), 173.185(e).	To authorize the transportation in commerce of prototype lithium metal cells in non-specification packaging.
21420–N	RML Group Limited	173.185(e), 173.185(e)(6)	To authorize the transportation in commerce of prototype and low production lithium ion batteries that have not passed the UN-required tests and exceed 35 kg net weight via cargo-only aircraft.
21423–N	Environmental Protection Agency.	Subchapter C	To authorize the transportation in commerce of hazardous materials in support of the recovery and relief operations from and within New Mexico disaster areas under conditions that may not meet the Hazardous Materials Regulations (HMR).
Special Permits Data—Denied			
Special Permits Data—Withdrawn			

[FR Doc. 2022–20119 Filed 9–15–22; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification of Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before October 3, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 8, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof;
Special Permits Data			
9847–M	FIBA Technologies, Inc	173.302a(b)(2), 173.302a(b)(3), 173.302a(b)(4), 173.302a(b)(5), 180.205(c), 180.205(f), 180.205(g), 180.205(i), 180.209(a), 180.213.	To modify the special permit to change the special permit marking requirements. (modes 1, 2, 3, 4).
11379–M	ZF Passive Safety Systems US Inc.	173.301(h), 173.302a(a)	To modify the special permit to authorize a reduced frequency of cylinder burst testing. (modes 1, 2, 3, 4, 5).
11440–M	Altivia Specialty Chemicals LLC.	172.203(a), 172.301(c), 173.227(c).	To modify the special permit to authorize additional hazardous materials. (modes 1, 2, 3).
11598–M	Metalcraft, Inc.	173.301(f), 173.304a(a)(2)	To modify the special permit to authorize an additional hazardous material. (modes 1, 3, 4, 5).
11859–M	Mission Systems Orchard Park Inc.	173.301(f), 178.65, 173.302(a)(1), 178.65(a)(2).	To modify the special permit to update the maximum service pressure and minimum test pressure. (modes 1, 2, 4).
14492–M	Tankbouw Rootselaar B.V	178.274(b), 178.276(a)(2), 178.276(b)(1).	To modify the special permit to explicitly authorize the transportation in commerce of ammonia. (modes 1, 2, 3).
15689–M	Cummins Inc	172.200, 172.301(c), 177.834(h).	To modify the special permit to authorize an additional hazardous material. (mode 1).

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof;
20274–M	Bollore Logistics USA Inc	172.101(j), 172.300, 172.400, 173.301, 173.302a(a)(1), 173.304a(a)(2).	To modify the special permit to reference an additional French approval. (modes 1, 4).
20529–M	Texas Instruments Incorporated.	173.187	To modify the special permit to authorize a larger UN 4H2 packaging. (mode 1).
20932–M	Jingjiang Asian-pacific Logistics Equipment Co., Ltd.	178.274(b)(1), 178.276(a)(2)(ii)(B), 178.276(b)(1).	To modify the special permit to authorize alternative pressure relief devices. (modes 1, 2, 3).
21088–M	LogBATT GmbH	173.24(g)	To modify the special permit to authorize additional types of lithium batteries. (modes 1, 2, 3).
21136–M	Hanwha Cimarron LLC	173.302(a)(1)	To modify the special permit to amend paragraph 7.d.(5) to only refer to Tests Nos. 4, 5, and 6. of ISO 1496–3. (modes 1, 2, 3).

[FR Doc. 2022–20118 Filed 9–15–22; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before October 17, 2022.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 8, 2022.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data			
21422–N	Superior Refining Company LLC.	173.6(a)(1)(i), 173.6(b)(4)	To authorize the transportation in commerce of gasoline and petroleum distillates in glass packagings under the materials of trade exception in quantities that exceed what is authorized in 173.6 for the purpose of testing. (mode 1).
21425–N	Lucid USA, Inc	172.101(j)	To authorize the transportation in commerce of lithium batteries exceeding 35 kg via cargo-only aircraft. (mode 4).
21426–N	Spaceflight, Inc	173.185(a)(1)	To authorize the transportation in commerce of low production or prototype lithium batteries contain in equipment via cargo-only aircraft. (mode 4).
21427–N	Walmart Inc	Subchapter C	To authorize the transportation in commerce of hazardous materials meeting the definition of ''consumer commodities'' via contracted delivery platforms as not subject to the requirements of the Hazardous Materials Regulations. (mode 1).
21428–N	Livewire EV LLC	172.101(j), 173.220(d), 173.185(a)(1).	To authorize the transportation in commerce of prototype lithium batteries, and those installed in vehicles, via cargo-only aircraft. (mode 4).
21431–N	Philips Medical Systems MR, Inc.	171.22	To authorize the transportation in commerce of MRI scanners utilizing the newly adopted provisions of the ICAO TI prior to their incorporation into the HMR. (mode 4).
21432–N	Koch Fertilizer, LLC	171.7(n)(15), 172.203(a), 173.315(l)(5).	To authorize the transportation in commerce of anhydrous ammonia in cargo tanks using an alternative test method for determining minimum water content using online NIR technology. (mode 1).

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21433–N	Pyrotek Special Effects Lititz	173.306(k)	To authorize the transportation in commerce of used and partially full 2Q cans of flammable gas (Salamander or G-Flame cans) in accordance with the exception for aerosols in § 107.306(k). (mode 1).
21435–N	Zhejiang Dongcheng Printing Industry Co., Ltd.	173.304(d)	To authorize the manufacture, marking, sale and use of a non-DOT specification non-refillable inside container similar to a 2Q specification container. (modes 1, 2, 3, 4).
21437–N	Linde Gas & Equipment Inc	173.181(d)(1), 173.181(d)(1)(ii).	To authorize the transportation in commerce of DOT specification combination packagings that consist of a UN1A1 2 port inner drum, with a capacity other than 10 or 20 liters, inside a UN1A2 drum containing UN 3394, Organometallic Substance, Liquid, Water Reactive, 4.2 (4.3). (modes 1, 2, 3).
21438–N	Samsung SDI America, Inc	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft. (mode 4).
21441–N	K&M Transportation Services, LLC.	173.196(b)(2)	To authorize the transportation in commerce of infectious substances in alternative packaging. (mode 1).

[FR Doc. 2022–20117 Filed 9–15–22; 8:45 am]
BILLING CODE 4909–60–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2022–0096]

Enhancing the Safety of Vulnerable Road Users at Intersections; Request for Information

AGENCY: Department of Transportation (DOT).

ACTION: Notice; request for information (RFI).

SUMMARY: Improving the safety of pedestrians, bicyclists, and other vulnerable road users (VRUs) is of critical importance to achieving the objectives of DOT's National Roadway Safety Strategy (NRSS), and DOT's vision of zero fatalities and serious injuries across our transportation system. According to data from the National Highway Traffic Safety Administration (NHTSA), in 2020 there were 10,626 traffic fatalities in the United States at roadway intersections, including 1,674 pedestrian and 355 bicyclist fatalities. These fatalities at intersections represent 27% of the total of 38,824 road traffic deaths recorded in 2020. Separately, considerable development efforts have been made into automation technologies over the past two decades, including in the areas of vehicle automation, machine vision, perception and sensing, vehicle-to-everything (V2X) communications, sensor fusion, image and data analysis, artificial intelligence (AI), path planning, and real-time decision-making. DOT is interested in receiving comments on the possibility of adapting existing and emerging automation technologies to accelerate the development of real-time roadway intersection safety and warning systems for both drivers and VRUs in a cost-effective manner that will facilitate deployment at scale.

DATES: Written submissions must be received within 30 days of the publication of this RFI. DOT will consider comments received after this time period to the extent practicable.

ADDRESSES: Please submit any written comments to Docket Number DOT–OST–2022–0096 electronically through the Federal eRulemaking Portal at *https://www.regulations.gov.* Go to *https://www.regulations.gov* and select ''Department of Transportation (DOT)'' from the agency menu to submit or view public comments. Note that, except as provided below, all submissions received, including any personal information provided, will be posted without change and will be available to the public on *https://www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at *https://www.transportation.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For further information contact *safeintersections@dot.gov.* You may also contact Mr. Timothy A. Klein, Director, Technology Policy and Outreach, Office of the Assistant Secretary for Research and Technology (202–366–0075) or by email at *timothy.klein@dot.gov.*

SUPPLEMENTARY INFORMATION: DOT is committed to the vision of zero fatalities and serious injuries on our Nation's roadways, and improving the safety of vulnerable road users (VRUs) at intersections is an important component of that vision. According to data from NHTSA, in 2020 there were 10,626 traffic fatalities in the United States at intersections, including 1,674 pedestrians and 355 bicyclists. These fatalities at intersections represent 27% of the total of 38,824 road traffic deaths recorded in 2020. Ensuring VRU safety is an urgent issue as it is essential to allowing pedestrians, bicyclists, wheelchair users, and others the safe use of roadways in urban and rural environments in the United States. Reducing crashes at roadway intersections is an important component of making our streets safer for all users.

Considerable development efforts have occurred in automation and vehicle automation technologies over the past two decades, including in the areas of machine vision, perception and sensing, vehicle-to-everything (V2X) communications, sensor fusion, image and data analysis, artificial intelligence (AI), path planning, and real-time decision-making on board vehicles. For the purposes of this RFI, these automation technologies are considered to include but are not limited to advanced driver assistance systems (ADAS), automated driving systems (ADS) and associated vehicle connectivity technologies, as well as other automation technologies that can enhance the safety of VRUs at roadway intersections. DOT is interested in receiving comments on the feasibility of adapting these automation technologies to the application of warning systems that provide real-time safety and warning alerts for both VRUs and drivers at intersections in a cost-effective manner that will facilitate the deployment of these systems at scale. Such safety systems could warn of and mitigate the effects of an impending crash at an intersection for VRUs and vehicles alike.

A Conceptual VRU and Vehicle Warning System

The on-vehicle automation technologies currently being developed for fully automated vehicle operation—including machine vision, perception, sensor fusion, real-time decision-

making, artificial intelligence and V2X—could be used today to enhance safety for all road users. Consider the deployment of these technologies as infrastructure assets at each roadway intersection, pedestrian crossing, and railroad crossing, in order to alert approaching vehicles of the approach or incursion of pedestrians, bicyclists and other VRUs, and vice versa. A conceptual VRU and vehicle warning system will likely be made up of fixed infrastructure assets that use robust sensing and computational technologies to perform optimally across a range of environmental and operational conditions, including non-line-of-sight (NLOS) conditions. The conceptual intersection safety system that is described in this RFI should not be considered as prescriptive, but merely one potential configuration amongst many possible designs.

At busy roadway intersections across any particular time period there will be a large number of vehicle and VRU movements, including vehicles turning, pedestrians crossing the roadway, bicyclists crossing the roadway, etc. For the majority of these movements, including those that involve close interaction between drivers and VRUs, the vehicle-VRU interaction will proceed without incident. A small fraction of those interactions might involve near-misses where a vehicle comes close to colliding with another vehicle or a VRU at a roadway intersection. A much smaller fraction of those interactions results in a collision between vehicles and VRUs, resulting in injury or in a smaller fraction yet, an entirely avoidable pedestrian or VRU fatality. It is the intent of this RFI to investigate the possibility of developing new technologies, or new technology and/or system combinations, to prevent vehicle-VRU crashes while facilitating normal traffic flows and VRU movements.

For the purposes of this RFI, VRUs are defined as pedestrians, bicyclists, and micro-mobility device users, including users of scooters, e-skateboards, wheelchairs, etc. Vehicles are defined as any roadway vehicles including passenger cars, trucks, vans, public transit buses, and commercial vehicles. Equipping each roadway intersection location today with the requisite machine vision hardware, computational capability, networking, communications, and safety alerting and warning technology would likely cost hundreds of thousands of dollars per roadway intersection. While this concept of repurposing mobile (vehicle) automation technologies in the fixed domain is not new, it has not been commercialized or implemented at scale due to the high system costs involved and the complexities of developing a standardized and proven safety solution. There is an imperative to reduce the cost of providing advanced safety systems that can ensure the safety of all road users at roadway intersections, pedestrian crossings, trail-roadway crossings, and railroad crossings. A cost reduction of 10–100x for such a system—down to under $10,000 for the hardware and software ''stack'' per intersection—would significantly accelerate the implementation and deployment of these potentially life-saving road safety technologies. As an example of the potential of cost reduction in an adjacent domain, LiDAR units for automated vehicles (AVs) have seen a 100x reduction in cost while progressing from large roof-mounted electro-mechanical systems to smaller solid-state devices.

An effective roadway intersection safety system (designated here as a ''conceptual VRU and vehicle warning system'') will likely require machine vision, perception or sensing (LiDAR, radar, cameras, acoustics etc. mounted on stationary structures), sensor fusion, computation, communications, and warning systems to be developed, tested and validated, and integrated along with software for vision, sensing, and decision-making (to include AI). The intention of this RFI is to ascertain the state of the art of relevant automation technologies, and the potential for re-purposing existing and emerging technologies for this stationary intersection safety application. The reduction in the cost of these life-saving systems by a factor of 10–100x through the targeted application of automation technologies would allow for the development of a new, standardized VRU warning system that could significantly benefit system end-users, including State, local, Tribal and territorial DOTs and jurisdictions.

Additional Considerations for a VRU and Vehicle Warning System

The development of an automated VRU and vehicle warning system should incorporate the use of existing standards and protocols to the greatest extent possible. System-to-vehicle and vehicle-to-system communications and networking (V2X), using standard and emerging protocols, will likely be required (note that ''system'' here can include fixed infrastructure elements or communication with portable devices). For instance, smart mobile phone notifications for either VRUs or approaching vehicles using near-field communications (such as Bluetooth) might be a useful additional warning technology, beyond other alerting systems, but the use of smart electronic devices by VRUs should not be a requirement for the efficacy of an intersection safety system. Virtual machine vision systems incorporating ''crowd-sourced'' vehicle-based real-time imaging and information sharing (moving and parked vehicles) could also be of use. Ensuring night-time, low light, and reduced visibility (*e.g.,* fog, rain, snow) operation will be critical for such an intersection safety system. It is anticipated that developers of VRU and vehicle warning systems will benefit from the collection of large amounts of data and imagery from the operation of a real-world roadway intersection to develop vision systems and train machine learning (ML) algorithms. This data could be developed and shared to accelerate the parallel development of effective solutions.

Important considerations for any intersection safety technology include its efficacy of operation while not degrading existing levels of safety or traffic operation; its ability to be implemented and deployed at scale; the system cost; consistent and reliable system operation and performance; operation under all weather, lighting and environmental conditions; reliability and maintenance requirements; personnel and training requirements; ease of deployment; ease of calibration and customization at a specific intersection location; its potential for rapid commercialization and deployment within 3–5 years; upgradeability and modularity, and interoperability and data transfer capability with existing signal operating systems and traffic management systems, while avoiding technological lock-in.

It is not anticipated that a single technical solution or system will be suitable for implementation at all roadway intersections, but it is anticipated that a single solution can be developed that will suit a large proportion of the most crash-prone intersections. These technologies may also serve to enhance the use of Data-Driven Safety Analysis (DDSA) techniques that can inform State, local, Tribal, and territorial DOTs in their decision making, and allow them to target the implementation of infrastructure investments that improve safety and equity. Once deployed in multiple locations, real-time data sharing between adjacent or neighboring intersection safety systems could further improve the safety of local road networks.

General Considerations for the Development of a VRU and Vehicle Warning System

First, the addition of a VRU and vehicle warning system should not degrade the baseline performance of any existing intersection. It is acknowledged that a hardware and software-based intersection safety system may have significant additional 'soft' costs beyond the cost of construction (or bill of materials for its constituent components)—permitting, installation, testing, calibration, operation (although operation should be fully automated), training, maintenance, integration with other existing systems, R&D costs, etc. A VRU and vehicle warning system should ideally leverage existing components, systems and technologies to the greatest extent possible (including open, interoperable communications to maximize the accessibility and safety benefits), should meet all applicable Federal and State standards, should be suitable both for new installations and retrofits, and its software should use transparent non-opaque algorithms. Any system installation, use, operation, and maintenance should be expeditious and minimally disruptive to the road users. It is anticipated that determining the performance of any intersection safety system will require extensive testing in both benign and extreme environments, including for electromagnetic compatibility, and will probably require extensive data collection for overall system development, testing, validation and calibration.

System Components and Hardware and Software Technologies—A Conceptual Design

A conceptual design for a VRU and vehicle intersection safety system would likely require the following elements and would probably need to account for the associated features or considerations (these potential design elements should not be considered to be prescriptive, but merely representative of the current state of the art):

- *Sensing and perception.* A perception system will likely require machine vision that includes cameras, LiDAR and radar that provide a full field of view under all lighting and weather conditions, and to provide redundancy. The resolution, bandwidth, latency, power consumption, and cost considerations of the vision and perception system will be important.
- *Sensor fusion, image and data analysis.* This will likely require high computational throughput (of the order of gigapixels per second), and should utilize industry-standard computational and networking bus architectures. The real-time image and data analysis should sense the movement of individual VRUs and vehicles, and be capable of inferring intent. Privacy protections should be maintained, and precise timing (derived from global navigation satellite systems [GNSS] or secondary or back-up sources that can be space- or land-based) should be used. It is likely that the sensor fusion, image, and data analysis will require significant levels of AI (and ML) capability and be capable of high gigabit per second data throughputs.
- *Path planning and prediction.* The discrete paths of motion of all vehicles and VRUs in or near the intersection (perhaps as many as twenty or more items of interest) will likely need to be tracked and predicted simultaneously in order to determine potential or impending vehicle-VRU conflicts. This computation, logic and decision-making will likely need to be performed by a high bandwidth, low latency, high speed microprocessor-based system located at the intersection (perhaps in a roadside unit, or RSU). The real-time decision-making process will need to result in an ''alert or no alert/warning or no warning'' output that minimizes false positives and false negatives while ultimately providing safe and actionable warnings to the VRUs and/or approaching vehicles.
- *Data handling and storage.* Large quantities of data (potentially terabytes of data per day per intersection) may be required to be stored and archived, with attention paid to anonymization, privacy, and cybersecurity threats. This will likely include local storage as well as cloud- or edge-based archiving.
- *Communications and networking.* A roadside unit or other form of infrastructure (*i.e.,* Access Point, small-cell set-up, or edge-computer) will likely be required to house the computational hardware as well as providing full connectivity—perhaps to include 5G connectivity, V2X, Wi-Fi or other near-field communications, and GPS or its equivalent (for precision timing). The roadside infrastructure will likely provide secure interconnection to the intersection traffic signals (via a signal cabinet) and to a central traffic management system for that jurisdiction (potentially through a wireless or fiber optic link).
- *Warning system.* A VRU and vehicle warning system will likely require audible alarms, visual alerts, and other more advanced real-time alerts, such as haptic or projected images, for example. It will require real-time interconnection with the intersection's traffic signals, perhaps to adjust signal timing in real-time. The alerting system will need to be capable of alerting VRUs who are visually or hearing impaired, and offer ADA-compliant operation.
- *Other intersection safety system considerations.* A fully automated system is desired that does not degrade the underlying existing safety of an intersection, is upgradeable by virtue of a modular hardware and software design, uses open architectures to the fullest extent possible, including potentially open-source software, utilizes industry-accepted software development practices and is intrinsically cybersecure and maintains data privacy protections.

This RFI is intended to inform DOT on the status of automation technologies and other complementary technologies that can be used to improve or enhance the safety of pedestrians, bicyclists, and other VRUs at or near roadway intersections. DOT seeks information on the state of the art, and emerging trends in, perception, machine vision, sensor fusion, real-time image and data analysis, path planning, decision-making, connectivity, and warning systems that could be implemented in real-time at intersections to improve pedestrian and other VRU safety.

Specific Questions

Responses to this RFI are intended to inform DOT on the status of technologies that can be used to improve or enhance the safety of pedestrians, bicyclists, and other VRUs at or near roadway intersections, including the status of the current technical development or deployment of those technologies.

DOT is providing the following questions to prompt feedback and comments. DOT encourages public comment on any or all of these questions, and also seeks any other information commenters believe is relevant.

DOT is requesting information from all interested entities and stakeholders, including innovators and technology developers, researchers and universities, transportation system operators, transportation-focused groups, organizations and associations, and the public.

The questions to which DOT is interested in receiving responses are:

(A) General Technical Considerations

1. What is the overall feasibility of developing an effective intersection safety system for vulnerable road users (VRUs) based on existing and emerging mobile (vehicle) automation technologies (including other

complementary technologies) as described in this RFI?

2. What perception, machine vision, and sensor fusion technologies (and other sensing modalities or combinations) are best suited to an effective intersection safety and VRU and vehicle warning system?

3. What real-time image and data analysis techniques are best suited to provide the required machine vision and perception for an effective intersection safety system?

4. What techniques are most effective in providing real-time vehicle and VRU path planning and prediction capabilities at fixed roadway intersections?

5. What new and emerging technologies can enhance machine-based decision making at intersections—including determining potential vehicle-VRU conflicts, incidents, dilemma zones, and encroachment in real-time?

6. What is the potential role of AI and/or ML in perception, image analysis, data analysis and decision-making at intersections, both in real-time and asynchronously? What is the potential for real-time learning and group learning across a number of similarly-equipped intersections?

7. How could such a system work effectively with all types of VRUs (pedestrians, bicyclists, wheel-chair users, users of electric scooters, etc.) and all types of vehicles (cars, trucks, vans, transit buses, commercial vehicles, etc.)?

(B) System Installation and Deployment

1. How can the required installation, setup and calibration requirements for a perception and decision-making based intersection safety system be minimized?

2. What pedestrian and VRU alerting and warning methodologies and systems would be most useful, including for example, visual (or projected), audible, haptic, connected, other?

3. What vehicle driver alerting and warning systems would be most useful, to alert drivers in real-time of impending conflicts at intersections?

4. What potential modes of connectivity, such as V2X (V2N, V2P, V2V, V2I . . .), cellular or Wi-Fi, for connecting vehicles, infrastructure, signals, and VRUs, would be most useful and effective to assure the greatest degree of accessibility for all intersection users?

5. What industry standards, best practices, processes, protocols, and interoperability requirements and capabilities are needed or best suited for the development of an effective intersection safety system?

6. How can interfaces with traffic signal controllers and traffic management systems be best implemented? What data storage and curation of the system performance history (on-board, at the edge or in the cloud) are required?

7. How can issues related to reduced visibility (*e.g.,* night-time, low light, bad weather) be addressed and mitigated during both the development and deployment of an effective intersection safety system?

8. Are there any existing research and development efforts, deployments, or pilot demonstrations underway that aim to provide some or all of the capabilities described in this RFI?

(C) Human Factors and Performance Measurement

1. What human behavioral considerations are most important in the implementation of an intersection safety system to ensure maximum VRU and driver compliance with the warnings and alerts provided?

2. What are the most relevant human factors, cognition and human-machine interface (HMI) considerations for both VRUs and drivers to ensure the maximum efficacy of an intersection safety system?

3. What metrics, key performance indicators, and measures of success are important for determining the performance and efficacy of an intersection safety system?

4. How would testing and validation of an intersection safety system best be accomplished before full system deployment at active intersections?

5. How can a testing and validation plan be devised that would balance testing and development safety with the ultimate real-world performance of an intersection safety system?

6. What performance data would be required to validate the testing and efficacy of an intersection safety system, and how could that performance data be generated?

7. What measurement and statistical approaches are applicable to real-time decision-making at intersections? How can decision or warning errors be minimized (*e.g.,* through reducing false positives and/or false negatives)?

(D) Development Costs and Time to Deployment

1. What is the potential schedule and cost to develop an effective intersection safety system? What are the potential future hardware and software ''stack'' costs for a system that can be deployed at the scale of (for example) 100,000 commercial installations after 3–5 years of development?

2. What equity considerations factor into the potential testing, implementation, and deployment of an effective intersection safety system?

3. What team composition of development, commercialization and deployment partners would be required to achieve the successful commercialization and deployment of such a system?

4. For what proportion of intersections (signalized and/or unsignalized) would such a system be well-suited? What characteristics or measures are important in determining whether a specific intersection is well-suited for the implementation of an effective intersection safety system? How could such a system be further developed or adapted for use in rural areas?

5. What are the installation, calibration, training, maintenance, and operating considerations for deployment of such a system across its full life-cycle by a range of potential end-users, including State, local, Tribal and territorial DOTs, cities and towns?

(E) Please Comment on Any Other Issues Relevant to the Development, Commercialization, and Deployment of an Effective Intersection Safety System

Confidential Business Information

Do not submit information whose disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ''CBI'') to *Regulations.gov*. Comments submitted through *Regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted.

Issued in Washington, DC, on September 13, 2022.

Robert C. Hampshire,

Deputy Assistant Secretary for Research and Technology.

[FR Doc. 2022–20188 Filed 9–15–22; 8:45 am]

BILLING CODE 4910–9X–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 October 17, 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.

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: IVES Request for Transcript of Tax Return.

OMB Number: 1545–1872.

Form Number: 4506–C.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related products. Form 4506–C is used to permit the cleared and vetted Income Verification Express Service (IVES) participants to request tax return information on the behalf of the authorizing taxpayer.

Current Actions: There are changes being made to the form at this time.

The following changes are being implemented:

- Make changes in coordination with Taxpayer First Act (TFA) for 2023 implementation;
- Add IVES participant number;
- Add IVES client name and contact information;
- Add optional Field Unique Identifier;
- Provide a clearer separation of requesting tax transcripts (line 6) vs informational transcripts (line 7);
- Updated signature requirement for each taxpayer;
- Add checkbox for electronically signed forms;
- Add checkbox for forms authorized by Authorized Representatives.

Additionally, IRS is making an administrative change to move the Form 4506–T from being approved under OMB control 1545–1872 to 1545–2154.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 15,370,941.

Estimated Time per Respondent: 0.92 hours.

Estimated Total Annual Burden Hours: 14,141,266.

2. Title: Request for Transcript of Tax Return and Disclosure of returns and return information.

OMB Number: 1545–2154.

Regulation Project Numbers: 4506–T, 4506T–EZ and 4506T–EZ(SP).

Abstract: Form 4506–T is used to request all products except copies of returns. The information provided will be used to search the taxpayers account and provide the requested information and to ensure that the requestor is the taxpayer, or someone authorized by the taxpayer to obtain the documents requested. Individuals can use Form 4506T–EZ to request a tax return transcript that includes most lines of the original tax return. The tax return transcript will not show payments, penalty assessments, or adjustments made to the originally filed return. Form 4506T–EZ (SP) is the Spanish translated version of the Form 4507T–EZ. It is also used to request a tax return transcript that includes most lines of the original tax return.

Current Actions: There are changes being made to the form at this time.

The following changes are being implemented:

Form 4506–T:

- Example for tax year/period updated;
- Removal of Line 5 (Customer File Number).

Form 4506T–EZ:

- Removal of Line 5 (Customer File Number).

Additionally, IRS is making an administrative change to move the Form 4506–T from being approved under OMB control 1545–1872 to 1545–2154.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or Households, Farms, and Businesses and other for-profit organizations.

Estimated Number of Respondents: 2,812,960.

Estimated Time per Respondent: 0.78 hours.

Estimated Total Annual Burden Hours: 2,203,485.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–20079 Filed 9–15–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Departmental Offices Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

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 November 15, 2022 to be assured of consideration.

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–2022–0016 and the specific Office of Management and Budget (OMB) control number 1505–0267. 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.

OMB Control Number: 1505–0267.

Type of Review: Extension of a currently approved collection.

Description: The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, added Section 104A of the Community Development Banking and Financial Institutions Act of 1994 (the ''Act''). Section 104A authorizes the Secretary of the Treasury to establish the Emergency Capital Investment Program (Program) to support the efforts of low- and moderate-income community financial institutions to, among other things,

provide loans, grants, and forbearance for small businesses, minority-owned businesses, and consumers, especially in low-income and underserved communities, including persistent poverty counties, that may be disproportionately impacted by the economic effects of the COVID–19 pandemic by providing direct and indirect capital investments in low-and moderate-income community financial institutions.

Applications, a state regulator response form, and eligible applicant intent to participate form were previously approved under OMB Control Number 1505–0267. Following review of the applications, Treasury will enter into letter agreements (agreements) with participating financial institutions. These agreements contain standardized information collection necessary for the legal closing process. The agreements collect information from applicants in two general categories: (1) administrative information needed to facilitate payments and notifications and (2) disclosures to Treasury (*e.g.,* litigation or exceptions to representations and warranties). Participants are the only parties that can provide information of this type to Treasury. Treasury will publish this form on the Treasury website. Based on this publication, Treasury will provide an opportunity for eligible applicants to review the terms and conditions of the investments prior to indicating to Treasury whether the institution intends to participate in the Program.

Form Name: Letter Agreements; Applicant Notification Letter.

Affected Public: Private Sector, Businesses or other for-profits, Non-profit institutions.

Estimated Number of Respondents: 372 respondents.

Frequency of Response: One time annually.

Estimated Total Number of Annual Responses: 372 total responses (186 annual responses to Letter Agreements; 186 annual responses to Applicant Notification Letter).

Estimated Time per Response: 8 hours annually for Letter Agreements; 15 minutes for response to Applicant Notification Letter.

Estimated Total Annual Burden Hours: 1535 hours.

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.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2022–20130 Filed 9–15–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Tribal Consultation and Request for Comments on New Agreement Template Draft for VA's Indian Health Services/Tribal Health Program Reimbursement Agreements

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Veterans Health Administration (VHA) will facilitate a tribal consultation session regarding the expansion of VA's Indian Health Services/Tribal Health Program's (IHS/THP) Reimbursement Agreements Program to include Purchase Referred Care (PRC) and Contracted Travel. VA seeks tribal feedback to assist with drafting an updated Reimbursement Agreement template for the lower 48 states. Input requested includes, but is not limited to, the agreement scope of service, payment rates and invoicing or billing submissions.

DATES: VA will hold an in-person consultation on Tuesday, September 27, 2022, between 4:30 p.m. and 6 p.m. (EST) at the Hyatt Regency Washington, 400 New Jersey Ave. NW, Washington, DC 20001, which will be hosted by the National Indian Health Board. Additionally, VA will hold a virtual consultation on September 30, 2022, between 1–2 p.m. (EST). Written comments must be received on or before September 30, 2022.

ADDRESSES: Participants can attend the in-person consultation at the Hyatt Regency Washington, 400 New Jersey Avenue NW, Washington, DC 20001. Participants can also access the virtual session by logging into: *https://vacctraining.adobeconnect.com/r400v3p2dbjq/.*

Written comments may also be submitted by any of the following methods: *Email: tribalgovernmentconsultation@va.gov* or *Mail:* Department of Veterans Affairs, VHA 16, 810 Vermont Avenue NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Ms. Kara Hawthorne, Program Manager, VA Office of Integrated Veteran Care, at *Tribal.Agreements@va.gov* or 303–780–4826. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Utilizing the authorities found in 25 U.S.C. 1645(c), Sharing Arrangements with Federal Agencies; and 38 U.S.C. 8153, Sharing of Health-Care Resources, VA, IHS/THP and Urban Indian Organizations (UIO) have created the Reimbursement Agreements Program. This program provides a means for IHS/THP and UIO health facilities to receive reimbursement from VA for direct care services provided to eligible American Indian/Alaska Native Veterans. These tribal consultation sessions are seeking input from tribal governments regarding a draft agreement that expands the current agreements to include PRC and Contract Travel. The draft agreement was sent to tribal leadership and can be obtained by emailing *Tribal.Agreements@va.gov.* Expansion of the agreements to cover such care is authorized by, and consistent with, section 2 of the Proper and Reimbursed Care for Native Veterans Act, Public Law 116–311, which amended section 405(c) of the Indian Health Care Improvement Act (codified at 25 U.S.C. 1645) by clarifying the authority to reimburse for direct care services provided by IHS/THP or UIO health facilities regardless of whether the services are provided directly by such organizations, through purchased/referred care, or through a contract for travel described in 25 U.S.C. 1621I(b).

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 12, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2022–20068 Filed 9–15–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for the Appointment to the Advisory Committee on Tribal and Indian Affairs, Indian Health Service, Billing Area Representative

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Office of Public and Intergovernmental Affairs (OPIA), Office of Tribal Government Relations (OTGR), is seeking nominations of qualified candidates to be considered for appointment as a member of the Advisory Committee on Tribal and Indian Affairs (''the Committee'') to represent the Indian Health Service, Billings Area.

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on October 7, 2022.

ADDRESSES: All nomination packages (Application, should be mailed to the Office of Tribal Government Relations, 810 Vermont Ave. NW, Suite 915H (075), Washington, DC 20420 or email us at *tribalgovernmentconsultation@va.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Birdwell and David ''Clay'' Ward, Office of Tribal Government Relations, 810 Vermont Ave. NW, Ste 915H (075), Washington, DC 20420, Telephone (202) 461–7400. A copy of the Committee charter can be obtained by contacting Mr. David ''Clay'' Ward or by accessing the website managed by OTGR at *https://www.va.gov/TRIBALGOVERNMENT/index.asp.*

SUPPLEMENTARY INFORMATION: In carrying out the duties set forth, the Committee responsibilities include, but not limited to:

(1) Identify for the Department evolving issues of relevance to Indian tribes, tribal organizations and Native American Veterans relating to programs and services of the Department;

(2) Propose clarifications, recommendations and solutions to address issues raised at tribal, regional and national levels, especially regarding any tribal consultation reports;

(3) Provide a forum for Indian tribes, tribal organizations, urban Indian organizations, Native Hawaiian organizations and the Department to discuss issues and proposals for changes to Department regulations, policies and procedures;

(4) Identify priorities and provide advice on appropriate strategies for tribal consultation and urban Indian organizations conferring on issues at the tribal, regional, or national levels;

(5) Ensure that pertinent issues are brought to the attention of Indian tribes, tribal organizations, urban Indian organizations and Native Hawaiian organizations in a timely manner, so that feedback can be obtained;

(6) Encourage the Secretary to work with other Federal agencies and Congress so that Native American Veterans are not denied the full benefit of their status as both Native Americans and Veterans;

(7) Highlight contributions of Native American Veterans in the Armed Forces;

(8) Make recommendations on the consultation policy of the Department on tribal matters;

(9) Support a process to develop an urban Indian organization confer policy to ensure the Secretary confers, to the maximum extent practicable, with urban Indian organizations; and

(10) With the Secretary's written approval, conduct other duties as recommended by the Committee.

Authority: The Committee was established in accordance with section 7002 of Public Law 116–315 (H.R.7105—Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020). In accordance with Public Law 116–315, the Committee provides advice and guidance to the Secretary of Veterans Affairs on all matters relating to Indian tribes, tribal organizations, Native Hawaiian organizations and Native American Veterans. The serves in an advisory capacity and advises the Secretary on ways the Department can improve the programs and services of the Department to better serve Native American Veterans. Committee makes recommendations to the Secretary regarding such activities. Nominations of qualified candidates are being sought to fill the current vacancy on the Committee.

Membership Criteria: OTGR is requesting nominations for the current vacancy on the Committee. The Committee is composed of 15 members. As required by statute, the members of the Committee are appointed by the Secretary from the general public, including:

(1) At least one member of each of the 12 service areas of the Indian Health Service is represented in the membership of the Committee nominated by Indian tribes or tribal organization.

(2) At least one member of the Committee represents the Native Hawaiian Veteran community nominated by a Native Hawaiian Organization.

(3) At least one member of the Committee represents urban Indian organizations nominated by a national urban Indian organization.

(4) Not fewer than half of the members are Veterans, unless the Secretary determines that an insufficient number of qualified Veterans were nominated.

(5) No member of the Committee may be an employee of the Federal Government.

In accordance with Public Law 116–315, the Secretary determines the number and terms of service for members of the Committee, which are appointed by the Secretary, except that a term of service of any such member may not exceed a term of two years. Additionally, a member may be reappointed for one additional term at the Secretary's discretion.

Professional Qualifications: In addition to the criteria above, VA seeks—

(1) Diversity in professional and personal qualifications;

(2) Experience in military service and military deployments (please identify your Branch of Service and Rank);

(3) Current work with Veterans;

(4) Committee subject matter expertise; and

(5) Experience working in large and complex organizations.

Requirements for Nomination Submission:

Nominations should be type written (one nomination per nominator). Nomination package should include: (1) a letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone numbers, and email address; (3) the nominee's curriculum vitae or resume, *not to exceed five pages* and (4) a summary of the nominee's experience and qualification relative to the *professional qualifications* criteria listed above.

The individual selected for appointment to the Committee shall be invited to serve a two-year term. All members will receive travel expenses and a per diem allowance in accordance with the Federal Travel Regulations for any travel made in connection with their duties as members of the Committee.

The Department makes every effort to ensure that the membership of its Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, males & females, racial and ethnic minority groups, and Veterans with disabilities are given consideration for membership. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: September 13, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–20136 Filed 9–15–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Justice

Antitrust Division

United States v. Cargill Meat Solutions Corp., et al.; Proposed Final Judgments and Competitive Impact Statement; Notice

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Cargill Meat Solutions Corp., et al.; Proposed Final Judgments and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that proposed Final Judgments, Stipulations, and a Competitive Impact Statement have been filed with the United States District Court for the District of Maryland in *United States of America* v. *Cargill Meat Solutions Corp., et al.,* Civil Action No. 1:22–cv–01821. On July 25, 2022, the United States filed a Complaint alleging that three poultry processors (Cargill, Sanderson Farms, and Wayne Farms), as part of a conspiracy with other poultry processors that together employ more than 90 percent of all poultry processing plant workers in the United States, conspired to collaborate with and assist their competitors in making decisions about worker compensation, including wages and benefits, and to exchange information about current and future compensation plans for their processing plant workers, in violation of section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint also alleges that data consultants, including WMS & Co. and its CEO, G. Jonathan Meng, facilitated the processors' collaboration and compensation information exchanges, in violation of section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Final Judgments, filed at the same time as the Complaint, require Cargill, Sanderson Farms, Wayne Farms, WMS, and Meng to cease their information-sharing and facilitation of such conduct. In addition, the settling defendants are prohibited from sharing or facilitating the sharing of competitively sensitive information among competitors and required to cooperate with the United States' ongoing investigation. Additionally, under the terms of the proposed settlement with Cargill, Sanderson Farms, and Wayne Farms, the court will appoint an external monitor to ensure compliance with the terms of the settlement and the antitrust laws. Cargill, Sanderson Farms, and Wayne Farms will also pay restitution to affected poultry processing workers.

Copies of the Complaint, proposed Final Judgments, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Maryland. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be submitted in English and directed to Lee Berger, Chief, Civil Conduct Task Force, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8600, Washington, DC 20530 (email address: *Lee.Berger@usdoj.gov*).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

United States District Court for the District of Maryland

United States of America, 450 Fifth Street NW, Washington, DC 20530, Plaintiff; v. *Cargill Meat Solutions Corporation, 825 East Douglas Avenue, 9th Floor, Wichita, KS 67202, Cargill, Inc., 15407 McGinty Road West, Wayzata, MN 55391, G. Jonathan Meng, 734 Wild Rose Road, Silverthorne, CO 80498, Sanderson Farms, Inc., 127 Flynt Road, Laurel, MS 39443, Wayne Farms, LLC, 4110 Continental Drive, Oakwood, GA 30566, Webber, Meng, Sahl and Company, Inc., d/b/a/ WMS & Company, Inc., 1200 E High Street, Suite 104, Pottstown, PA 19464,* Defendants.

Civil Action No.: 22–cv–1821
(Gallagher, J.)

Complaint

Americans consume more poultry than any other animal protein. Before poultry is prepared for consumption, it passes through a complex supply chain that includes hatcheries that hatch chicks from eggs; growers that raise poultry until the birds are ready for slaughter; and poultry processing plants where workers perform dangerous tasks under difficult conditions to slaughter and pack chickens and turkeys for distribution to consumers.

Poultry processing plant workers deserve the benefits of free market competition for their labor. For at least two decades, however, poultry processors that employ more than 90 percent of all poultry processing plant workers in the United States conspired to (i) collaborate with and assist their competitors in making decisions about worker compensation, including wages and benefits; (ii) exchange information about current and future compensation plans; and (iii) facilitate their collaboration and information exchanges through data consultants. This conspiracy distorted the normal bargaining and compensation-setting processes that would have existed in the relevant labor markets, and it harmed a generation of poultry processing plant workers by artificially suppressing their compensation.

Poultry processors have also engaged in deceptive practices associated with the ''tournament system.'' Under this system, growers are penalized if they underperform other growers, but poultry processors control the key inputs (like chicks and seed) that often determine a grower's success. Poultry processors often fail to disclose the information that growers would need to evaluate and manage their financial risk or compare offers from competing processors.

The United States of America brings this civil action under Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 202(a) of the Packers and Stockyards Act, 7 U.S.C. 192(a), to enjoin this unlawful conduct.

Table of Contents

I. Nature of the Action

1. From chicken noodle soup to golden-roasted Thanksgiving turkey, Americans love to eat poultry. Americans consume more poultry than any other animal protein, including beef and pork.

2. By the time poultry is served in a home kitchen, restaurant, or school cafeteria, it has passed through a complex supply chain that includes hatcheries, growers (*i.e.,* farmers who raise live poultry for meat or eggs), and poultry processors, which employ hundreds of thousands of workers who process chicken or turkey for distribution to customers or secondary processing plants.

3. Poultry processing plant workers play a vital role in the poultry meat supply chain. These workers catch, slaughter, gut, clean, debone, section, and pack chickens and turkeys into saleable meat. Many of them withstand physically demanding and often dangerous working conditions. For example, a ''live hanger'' in a poultry processing plant grabs, lifts, and hangs for slaughter about 30 living birds per minute, as each bird claws, bites, and flaps its wings. These workers risk injuries ranging from exhaustion to mutilation to provide for themselves and their families. In doing so, they help make food available to families nationwide.

4. Like all workers, poultry processing plant workers deserve the benefits of free market competition for their labor, including wages and benefits that are set through a competitive process that is free from anticompetitive coordination between employers. Instead, for at least the past 20 years, poultry processors that dominate local employment markets for poultry processing plant workers and employ more than 90 percent of all such workers in the United States collaborated on and assisted each other with compensation decisions. Their conspiracy included sharing data and other information—directly and through consultants—about their current and future compensation plans. Rather than make compensation decisions independently, these processors chose to help each other at the expense of their workers. As a result, they artificially suppressed compensation in the labor markets in which they compete for poultry processing plant workers, and deprived a generation of poultry processing plant workers of fair pay set in a free and competitive labor market.

5. Through communications over decades, which occurred in large groups, small groups, and one-to-one, these poultry processors agreed that they would assist each other by discussing and sharing information about how to compensate their poultry processing plant workers. As one poultry processor wrote to another about sharing wage rates, ''I am interested in sharing this information with you. . . . I am hoping we can develop a collaborative working relationship.'' The poultry processors' collaboration on compensation decisions, including their exchange of compensation information, took many forms over the years of the conspiracy. For example:

a. An employee of one poultry processor emailed eight competitors that ''It's that time of year already'' and requested ''your companies projected salary budget increase recommendation.'' Her coworker added, ''Seriously—any info you can give us will be helpful.'' [1]

b. A group of competing poultry processors exchanged ''disaggregated raw [identifiable] data regarding the compensation of hourly-paid workers . . . broken down by plant and location''; base pay and bonuses ''for each specific salaried position'' included in their survey; any ''planned increase in the salary range for the current budget year''; any ''planned increase in the salary range for the next budget year''; the dates of planned future increases; and ''disaggregated, raw data for some benefits.'' Employees of these poultry processors then met in

[1] In quotes throughout the Complaint, all spelling and grammatical errors are transcribed as they were found in the primary source text, without [*sic*] notions.

person and discussed specific compensation, including attendance bonuses and overtime work payments.

c. When one poultry processor human resources employee emailed two competitors to ask ''what your starting rate is for these kids hired right out of college,'' she noted in the same correspondence that her employer was ''in the midst of completely revamping our Plant Management Trainee program.'' Without further prompting, her competitor shared detailed wage information for its Beginner and Advanced Trainee program.

d. One poultry processor emailed others, ''I had a question for the group also. We are trying to determine what is reasonable for salaried employee to be compensated for working 6 and/or 7 days in a work week when the plant is running. . . Do you pay extra for these extra days worked for salaried (exempt) employees?'' and ''If so, how is that calculated?''

e. Nearly the entire poultry industry has subscribed to exchanges of information through a data consultant that includes compensation information that is so disaggregated that industry participants could determine the wages and benefits their competitors pay for specific positions at specific plants across the country.

6. These collaborations demonstrate a clear agreement between competitors to ask for help with compensation decisions and to provide such help to others upon request. As part of this agreement to collaborate, the poultry processors shared information about *current* and *future* compensation decisions. They also shared *disaggregated* and *identifiable* information, which could readily be traced to a particular competitor or even a particular plant.

7. Even apart from their collaboration on compensation decisions, the poultry processors' information exchanges—standing alone—also violated the Sherman Act. The poultry processors, both directly and through data consultants, shared compensation information so detailed and granular that the poultry processors could determine the wages and benefits their competitors were paying—and planning to pay—for specific job categories at specific plants. The compensation information the poultry processors exchanged allowed them to make compensation decisions that benefited themselves as employers and suppressed competition among them for workers.

8. Defendants Cargill Meat Solutions Corporation and Cargill, Inc. (together, ''Cargill''), Sanderson Farms, Inc. (''Sanderson''), Wayne Farms, LLC (''Wayne''), Webber, Meng, Sahl & Co., Inc. (''WMS''), and WMS President G. Jonathan Meng participated in this unlawful conspiracy, together with other poultry processors and another consulting firm.[2]

9. The poultry processors kept their collaboration and information exchanges secret in an attempt to hide their anticompetitive conduct. As a condition for membership in the survey exchange facilitated by one data consultant, the poultry processors promised that they would keep the compensation information exchanged confidential. When the survey group members met to collaborate on compensation decisions, they asked and expected the data consultant to leave the room when they discussed current and future compensation decisions. Even when one processor left the survey due to legal concerns in 2012, the poultry processors did not end their anticompetitive conduct; the other survey participants continued collaborating and exchanging information.

10. When antitrust authorities and private class-actions began to surface anticompetitive conduct in other parts of the poultry industry, the poultry processors grew alarmed about the risk that their conspiracy would be found out. One of them warned the others about ''a private investigator'' who was asking ''questions about the types of information we shared at our meeting, the survey and other questions that I will simply call 'general anti-trust fishing' questions. . . . So just a little reminder that the bad-guys are still out there, and why we hold strict confidences about discussing wages.''

11. For at least two decades, poultry processors that dominated local markets for poultry processing plant work and controlled more than 90 percent of poultry processing plant jobs nationwide agreed to help each other make decisions about current and future compensation for their hourly and salaried plant workers, to exchange information about current and future compensation decisions, and to facilitate such exchanges through data consultants. The processors used the information they received through their collaboration and exchanges to make decisions on compensation for their workers. Indeed, they found it so useful that when fear of antitrust liability finally motivated several poultry processors to remove disaggregated compensation information from their exchanges, one processor complained that the new survey ''has suffered significant obscuring of results . . . and I would ask—is it still useful information any longer?''

12. The agreement to collaborate on compensation decisions and exchange information had the tendency and effect of suppressing competition for poultry processing workers and thereby suppressing these workers' compensation. The poultry processors' conspiracy is a scheme among competing buyers of labor that collectively possess market power over the purchase of poultry processing plant labor. By conspiring on decisions about compensation, these firms, with the assistance of consultants, collaborated to control the terms of employment of poultry processing plant jobs. Ultimately, the conspiracy gave the poultry processors the ability to suppress competition and lower compensation below the levels that would have prevailed in a free market.

13. The agreement to collaborate with and assist competing poultry processors in making compensation decisions, to exchange compensation information, and to facilitate this conduct through consultants is an unlawful restraint of trade in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. It should be enjoined.

14. Defendants Sanderson and Wayne have further acted deceptively to their growers, the farmers responsible for raising the poultry for slaughter. These Defendants compensate their growers through the ''tournament system,'' under which growers' base compensation is adjusted up or down depending on how each grower performs relative to others on defined metrics. But Sanderson and Wayne supply growers with the major inputs that contribute to growers' performance, such as chicks and feed, and these Defendants' contracts with growers omit material information about the variability of the inputs provided to growers. Because Sanderson and Wayne do not adequately disclose the risk inherent in their tournament systems to growers, growers cannot reasonably evaluate the range of potential financial outcomes, manage their risks, or compare competing poultry processors. This failure to disclose is deceptive and violates the Section 202(a) of the Packers and Stockyards Act, 1921, as amended and supplemented, 7 U.S.C. 192(a). These deceptions should be enjoined.

[2] The Complaint labels conspirators other than the Defendants with pseudonyms because the United States has an ongoing investigation into this conduct.

II. Jurisdiction and Venue

15. Each Defendant has consented to personal jurisdiction and venue in the District of Maryland.[3]

16. Defendants WMS and Meng sell services to clients throughout the United States, including in Maryland. WMS's and Meng's services included collecting, compiling, and providing data on poultry processing worker compensation across the United States, including information about poultry processing workers in Maryland.

17. Defendants Cargill, Sanderson, and Wayne sell poultry meat throughout the United States. As of 2022, poultry processing in the U.S. was a $30 billion industry. Each of these three Defendants is engaged in interstate commerce and activities that substantially affect interstate commerce. The collaboration between these Defendants in making compensation decisions, including through exchanges of processing plant compensation information that involved all Defendants, also substantially affects interstate commerce.

18. The Court has subject matter jurisdiction under 28 U.S.C. 1331, 28 U.S.C. 1337, and Section 4 of the Sherman Act, 15 U.S.C. 4, to prevent and restrain Defendants from violating Section 1 of the Sherman Act, 15 U.S.C. 1.

19. Venue is proper in this judicial district under Section 12 of the Clayton Act, 15 U.S.C. 22 and 28 U.S.C. 1391(b), and (c) because one or more of the Defendants and co-conspirators transacted business, was found, and/or resided in this District; a substantial part of the events giving rise to the United States' claim arose in this District; and a substantial portion of the affected interstate trade and commerce described herein has been carried out in this District. The Court has personal jurisdiction over each Defendant under 15 U.S.C. 22, 5.

20. Regarding violations by Defendants Sanderson and Wayne of the Packers and Stockyard Act, 1921, as amended and supplemented, 7 U.S.C. 181 *et seq.,* the Court has jurisdiction under 28 U.S.C. 1345 and 7 U.S.C. 224.

III. Terms of Reference

21. This Complaint refers to the consultants and poultry processors involved in the conspiracy as follows:

22. The consultant conspirators include Defendants WMS and G. Jonathan Meng (together, the ''Consultant Defendants'') and Consultant Co-Conspirator 1.[4]

23. The poultry processor conspirators include Cargill, Sanderson, and Wayne (together, the ''Processor Defendants''), and Processor Co-Conspirators 1 through 18, inclusive, which are distinct poultry processing companies. Processor Co-Conspirators 8, 14, and 18 include subsidiaries that were also involved in the conspiracy. These subsidiaries are identified, when relevant, through letter notation (*e.g.,* Processor Co-Conspirator 8a or 14b).

24. The Processor Defendants, together with Processor Co-Conspirators 1 through 18, inclusive, are the ''Processor Conspirators.''

25. Acts in furtherance of the conspiracy to collaborate with and assist competitors, to exchange information, and to facilitate such collaboration and exchanges can be summarized as detailed on the following page:

CONDUCT INVOLVED IN CONSPIRACY

Descriptor	Anticompetitive conduct
Collaboration on Compensation Decisions (''Collaboration Conduct'').	Poultry processors attended in-person meetings and engaged in direct communications with their competitors to collaborate with and assist each other in making compensation decisions, including through the direct exchange of compensation information and the indirect exchange of such information facilitated by consultants WMS and Consultant Co-Conspirator 1. Such compensation decisions and compensation information exchanges included current and future, disaggregated, and identifiable confidential compensation information related to poultry processing plant workers. This collaboration was anticompetitive, and it suppressed poultry processing plant worker compensation. *Period:* 2000 or earlier to present.
Exchange of Compensation Information Facilitated by WMS (''WMS Exchange'').	As part of the Processor Conspirators' conspiracy to collaborate on compensation decisions, they paid Defendants WMS and Jonathan Meng to facilitate a poultry processing plant worker compensation survey, designed and with rules set by the Processor Conspirators, which included the exchange of current and future, disaggregated, and identifiable confidential compensation information related to poultry processing plant workers. This exchange was anticompetitive, and it suppressed poultry processing plant worker compensation. *Period:* 2000 or earlier to 2020.
Exchange of Compensation Information Facilitated by Consultant Co-Conspirator 1 (''Consultant Co-Conspirator 1 Exchange'').	As part of the Processor Conspirators' conspiracy to collaborate on compensation decisions, they submitted to and purchased from Consultant Co-Conspirator 1 current, disaggregated, and identifiable confidential compensation information related to poultry processing plant workers. This exchange was anticompetitive, and it suppressed poultry processing plant worker compensation. *Period:* 2010 or earlier to present.

IV. Defendants

A. Cargill

26. Cargill Meat Solutions Corporation is a Delaware company headquartered in Wichita, Kansas. Cargill Meat Solutions Corporation owns poultry processing plants, employs and compensates the workers in these plants, and employs executives and other representatives that set compensation for its plant workers throughout the United States. Cargill Meat Solutions Corporation participated in the anticompetitive compensation information exchanges with representatives of its competitors for poultry processing plant workers.

27. Cargill, Inc. is a privately-held company headquartered in Wayzata, Minnesota. Cargill, Inc. is the parent company of Cargill Meat Solutions Corporation. Cargill, Inc. participated in the anticompetitive compensation information exchanges with representatives of its competitors for poultry processing plant workers.

[3] In addition, Defendant Cargill, Inc. owns and operates facilities, and employs workers, in Maryland. Processor Co-Conspirator 14a and Processor Co-Conspirator 14b reside in Maryland. Processor Co-Conspirator 14b owns poultry processing plants and employs and compensates the company's plant workers located in Maryland, while Processor Co-Conspirator 14a sets compensation for its plant workers working in Maryland. Processor Co-Conspirator 2 also owns and operates poultry plants in Maryland, at which it compensates its plant workers. Defendants WMS and Meng sold services to Processor Co-Conspirators 14a, 14b, and 2.

[4] As noted above, co-conspirators have been designated with pseudonyms because the United States has an ongoing investigation into this conduct.

28. Defendants Cargill, Inc. and Cargill Meat Solutions Corporation are referred to collectively as ''Cargill,'' unless otherwise noted for specificity.

29. From at least 2000 until the present, Cargill participated in the anticompetitive agreement to collaborate with and assist its competitors in making decisions about compensation for poultry processing plant workers, including through the exchange of current and future, disaggregated, and identifiable wage and benefit information, by engaging in the following conduct in the following years:

a. *Collaboration Conduct:* at least 2000 to present;

b. *WMS Exchange:* 2000–2019; and

c. *Consultant Co-Conspirator 1 Exchange:* 2010 to present.

30. As a result of its anticompetitive conduct, Cargill set and paid artificially suppressed wages and benefits for its hourly and salaried poultry processing plant workers.

B. Wayne

31. Wayne is a Delaware company headquartered in Oakwood, Georgia. Continental Grain Company is the controlling shareholder of Wayne. Wayne owns poultry processing plants, employs and compensates the workers in these plants, and employs executives and other representatives that set compensation for its plant workers throughout the United States.

32. From at least 2000 until the present, Wayne participated in the anticompetitive agreement to collaborate with and assist its competitors in making decisions about compensation for poultry processing plant workers, including through the exchange of current and future, disaggregated, and identifiable wage and benefit information, by engaging in the following conduct in the following years:

a. *Collaboration Conduct:* at least 2000 to present;

b. *WMS Exchange:* 2000–2019; and

c. *Consultant Co-Conspirator 1 Exchange:* 2010 to present.

33. As a result of its anticompetitive conduct, Wayne set and paid artificially suppressed wages and benefits for its hourly and salaried poultry processing plant workers.

C. Sanderson

34. Sanderson is a publicly-held Mississippi company headquartered in Laurel, Mississippi. Sanderson owns poultry processing plants, employs and compensates the workers in these plants, and employs executives and other representatives that set compensation for its plant workers throughout the United States.

35. From at least 2000 until the present, Sanderson participated in the anticompetitive agreement to collaborate with and assist its competitors in making decisions about compensation for poultry processing plant workers, including through the exchange of current and future, disaggregated, and identifiable wage and benefit information, by engaging in the following conduct in the following years:

a. *Collaboration Conduct:* at least 2000 to present;

b. *WMS Exchange:* 2000–2011; and

c. *Consultant Co-Conspirator 1 Exchange:* 2010 to present.

36. As a result of its anticompetitive conduct, Sanderson set and paid artificially suppressed wages and benefits for its hourly and salaried poultry processing plant workers.

D. WMS

37. WMS is a Pennsylvania corporation located in Pottstown, Pennsylvania. WMS provides compensation consulting services, including through the use of compensation surveys, for clients in a broad range of industries.

38. From 2000 to 2020, WMS administered surveys that facilitated the Processor Conspirators' conspiracy by gathering, sorting, and disseminating disaggregated and identifiable information about current and future compensation for poultry processing plant workers.

39. From 2000 to 2002 and 2004 to 2019, WMS also facilitated, supervised, and participated in in-person meetings at which the Processor Conspirators assembled to discuss current and future, disaggregated, and identifiable poultry processing plant worker compensation decisions and information.

40. Through its administration of surveys and participation at annual in-person meetings of the Processor Conspirators, WMS facilitated the Processor Conspirators' sharing of their confidential, competitively sensitive information about compensation for poultry processing plant workers.

41. WMS's involvement in this conspiracy artificially suppressed compensation for poultry processing plant workers.

E. Jonathan Meng

42. G. Jonathan Meng is an individual residing in the State of Colorado. Since 2000, Meng has been the President of WMS.

43. From 2000 to the present, Meng has had primary responsibility at WMS for designing and presenting compensation surveys, collecting survey data, developing new clients, maintaining client relationships, and obtaining payment for services rendered.

44. Meng personally administered and supervised WMS's surveys, which disseminated the Processor Conspirators' current and future, disaggregated, and identifiable information about compensation for poultry processing plant workers.

45. From 2000 until 2019, Meng, representing WMS, also facilitated, supervised, and participated in in-person meetings at which the Processor Conspirators assembled to discuss current and future, disaggregated, and identifiable poultry processing plant worker compensation information.

46. By administering and supervising the surveys and meetings of the poultry processing defendants, Meng facilitated the Processor Conspirators' sharing of confidential, competitively sensitive information about compensation for poultry processing plant workers.

47. Meng's facilitation of this conspiracy artificially suppressed compensation for poultry processing plant workers.

F. Co-Conspirators

48. Several entities conspired with the Defendants during the following years to collaborate with and assist competing poultry processors in making compensation decisions, to exchange compensation information, and to facilitate this conduct: Consultant Co-Conspirator 1 (at least 2010 to the present); Processor Co-Conspirator 1 (at least 2002 to the present); Processor Co-Conspirator 2 (at least 2015 to the present); Processor Co-Conspirator 3 (at least 2010 to the present); Processor Co-Conspirator 4 (at least 2004 to the present); Processor Co-Conspirator 5 (at least 2014 to the present); Processor Co-Conspirator 6 (at least 2000 to the present); Processor Co-Conspirator 7 (at least 2000 to the present); Processor Co-Conspirator 8 (at least 2005 to the present); Processor Co-Conspirator 9 (at least 2014–2015); Processor Co-Conspirator 10 (at least 2009 to the present); Processor Co-Conspirator 11 (at least 2005 to the present); Processor Co-Conspirator 12 (at least 2010 to the present); Processor Co-Conspirator 13 (at least 2009 to the present); Processor Co-Conspirator 14 (at least 2000 to the present); Processor Co-Conspirator 15 (at least 2000 to the present); Processor Co-Conspirator 16 (at least 2014 to the present); Processor Co-Conspirator 17 (at least 2019 to the present); and

Processor Co-Conspirator 18 (at least 2000 to the present).

V. Factual Allegations

A. Poultry Industry Background

1. Hatcheries and Growers

49. Poultry are domesticated fowl, including chicken and turkey, bred for their meat and eggs.

50. Poultry processors own hatcheries, in which they hatch chicks or poults (baby turkeys) from eggs. Poultry processors supply these young birds to growers. Growers are farmers who raise the birds to specifications set by, and with feed and supplies provided by, the poultry processors with which they contract. When the growers have finished raising the birds and the birds are ready for slaughter, the processors pay the growers for their services per pound of poultry.

51. This arrangement allocates substantial risk to growers. Many poultry processors historically compensate growers through a tournament system. Processors control the chicks or poults, feed, and other inputs that are supplied to growers. The grower, in addition to raising the chicks, often must make substantial financial investments to build or improve chicken barns to meet the processor's specifications. Growers are compensated through a base payment set in a contract between the processor and the grower. But the processor can adjust the base payment up or down based on how a grower compares to other growers (which the processor selects) on production and efficiency metrics. In practice, these ''performance'' adjustments make it very difficult for growers to project and manage the risk they face when entering a contract with a processor—particularly since processors control the key inputs to poultry growing.

52. Growers' contracts often do not disclose the true financial risk that the grower faces, including basic information like the number and size of flocks they are guaranteed. Similarly, growers often do not receive disclosures that would allow them to assess the tournament system. Growers often have little or no choice in which processor they contract with because there are limits to how far live poultry can be transported, and therefore only processors with nearby facilities are reasonable options.

2. Poultry Processing Plants

53. Once grown, the birds are packed into trucks and driven to primary poultry processing plants. Primary poultry processing plants tend to be built near hatcheries and growing facilities, which are usually in rural areas.

54. Once the birds arrive at primary processing plants, poultry processing plant workers take the birds from the trucks and hang, slaughter, clean, segment, and pack the meat. This work is generally performed on a poultry processing line, where workers perform the same task repeatedly. Poultry processing plants are kept at cold temperatures to preserve the meat processed inside. The machinery necessary to process poultry carcasses and meat products is very loud, making it difficult for workers on the poultry processing line to hear and communicate. Slaughtering and packing poultry often results in blood and gore covering work surfaces and workers' protective gear. Moreover, the meat and byproducts of the slaughter process create a foul-smelling atmosphere that is slippery from fat, blood, and other byproducts and waste from the slaughter process.

55. Processing plants employ salaried workers to manage this slaughter process and ensure that the processing plants comply with relevant health and safety laws, among other things.

56. Meat from the birds slaughtered in primary processing plants is either sold to customers (*e.g.,* grocery stores, restaurants, and other retailers) or sent to secondary processing plants at which the meat is further prepared for consumption, such as being sliced for deli packs or breaded.

3. Poultry Processing Plant Workers and Compensation

a. Poultry Processing Plant Work and Workers

57. According to the U.S. Bureau of Labor Statistics, over 240,000 people worked in the U.S. poultry processing industry as of June 2020. Some of these workers worked in Maryland.

58. Many poultry processing plant jobs require physical stamina because they are performed standing on the poultry processing line. These jobs also demand tolerance of unpleasant conditions including low temperatures, bad odors, blood and viscera, loud machinery noise, and, in some cases, dim lighting. Poultry processing plant work also can be dangerous, including because of the risk of injury from cutting instruments and repetitive-motion tasks. Many workers must stand on the processing line repeating the same rapid motions continuously. These motions can involve handling live, clawed birds, heavy lifting, and the use of sharp cutting instruments, all of which are physically demanding and involve a high risk of injury.

59. In a competitive labor market, employers compete to attract and retain workers—much like manufacturers compete to attract potential customers in a downstream product market. Poultry processing plants compete with each other to attract workers who can perform this difficult work, and potential and current poultry processing plant workers seek out employers that will provide the best compensation for their labor.

60. Many jobs in poultry processing plants present unique characteristics that make it difficult for workers to switch to a different kind of job. The difficulty of switching to other jobs is enhanced by the specific skills developed and circumstances faced by workers in poultry processing firms. Workers in poultry processing plants often face constraints that reduce the number of jobs and employers available to them, limiting the number of competitors for their labor. Poultry processing plant workers also share common attributes that they bring with them to their jobs and develop common skills when performing these jobs. As a result of these poultry processing plant workers' common constraints, attributes, and skills, poultry processors are distinguishable from other kinds of employers from the perspective of poultry processing plant workers.

61. *Common constraints facing poultry processing plant workers:* Many poultry processing plant workers face constraints in finding employment that greatly restrict their job options. For these workers, poultry processing plants offer opportunities that are not available in other industries. Workers who cannot speak, read, or write English or Spanish, for example, can still perform poultry processing plant line work, which is primarily physical labor and done under conditions so loud as to make speaking and hearing difficult. Similarly, workers with criminal records, probation status, or lack of high school or college education are often able to work at poultry processing plants even when other jobs are not available to them. These workers distinguish poultry processors, whose doors remain open to them, from employers in other industries, in which jobs are not available to them.

62. In addition, many poultry processing plants are located in rural areas, in which workers often have fewer job alternatives—especially for full-time, year-round work—as compared to workers in other areas.

63. Poultry processing workers' inability to access jobs in many, and

sometimes any, other industries that would provide them with steady and year-round work is evidenced by the conditions these workers tolerate.

64. *Common attributes of poultry processing plant jobs:* As discussed above, poultry processing plant workers must be able to tolerate particularly challenging working conditions. An employer that requires a particular trait in its employees will generally recruit and retain workers with that trait by offering compensation or other inducements that are more attractive than those offered to these workers by employers that do not value that trait. This makes such an employer distinguishable and more appealing to such employees, who have that trait. The physical stamina and other attributes required for poultry processing plant work mean that poultry processors will compensate or otherwise reward workers who possess those attributes more highly than employers in other industries. From the perspective of the prospective poultry processing plant worker, poultry processing plant jobs are distinguishable from and likely more valuable than other lower-paid work that does not value and reward such attributes. In other words, other jobs are not reasonable substitutes for poultry processing plant jobs.

65. *Common skills of poultry processing plant workers:* Poultry processing plant workers develop special skills on the job. Workers learn these skills through the repetitive and, at times, difficult or dangerous tasks they perform on the poultry processing line. Poultry processing plant workers learn how to handle and slaughter live birds, wield knives and blades, section poultry carcasses, clean meat in a manner consistent with health and safety standards, manage other workers performing these tasks, examine and repair the necessary machinery, maintain health and safety standards, and, crucially, perform these tasks efficiently so as not to slow down the plant line. Workers in management or other less physically demanding jobs also build industry-specific skills, including expertise in effective plant management and retention of employees. Just as with the common attributes of poultry processing plant workers who take plant jobs, the common skills of workers who stay and learn plant jobs help to define the relevant labor market. Not all potential workers can develop these important skills, and many fail out of poultry processing plant jobs within weeks. A worker with the skills to succeed on the line is most valuable to other poultry processing plants—and thus will receive the most compensation from poultry processors. Thus, from the workers' perspective, poultry processing plants are not reasonable substitutes for other employers.

b. Competition for Poultry Processing Plant Workers

66. The Processor Conspirators, which compete to hire and retain poultry processing plant workers, control more than 90 percent of poultry processing plant jobs nationwide. In some local areas, they control more than 80 percent of these jobs.

67. These poultry processors use similar facilities, materials, tools, methods, and vertically-integrated processes to produce processed poultry and downstream products in which they compete for sales to similar sets of customers. They also compete with each other for processing plant workers.

68. Poultry processors recruit workers in many different ways. They advertise for workers, use recruitment agencies, and rely on word of mouth or personal connections, sometimes offering referral bonuses, to attract friends or family of existing workers to come to their plants. The processors recruit workers in their plants' local areas but also more broadly. For example, poultry processors sometimes target workers in other states and even internationally.

c. Setting and Adjusting Plant Worker Compensation

69. Poultry processors compensate hourly and salaried plant workers through wages and benefits.

70. Hourly poultry processing plant workers' wages typically consist of a base pay rate set according to their role, with upward adjustments or bonuses offered based on factors including seniority, skill, productivity, and shift time. Salaried poultry processing plant workers' wages typically consist of annual salaries and may include annual or performance bonuses.

71. Processing plants also typically offer benefits to their hourly and salaried workers. These benefits can include personal leave, sick leave, health and medical insurance, other types of insurance, and retirement plans or pensions, among others.

72. Poultry processors also control working conditions within their plants, which can affect a poultry processing plant worker's job experience. These conditions include the quality of mechanical and safety equipment at the plant, temperature, and the speed at which the plant line moves, which determines the speed at which the workers have to perform their work.

73. Poultry processors typically make certain compensation-related decisions at the corporate level, which affect their workers nationwide. For example, poultry processors generally set overall labor compensation budgets, some plant worker wages, and some plant worker benefits in a centralized manner and at the national level. To illustrate, an executive at a poultry processor who manages compensation for the entire company may determine the health benefits for all of the line workers at all of the company's plants.

74. Poultry processors also typically adjust some wages and benefits at the corporate level, but for a regional or local area, on the basis of local factors. For example, an executive managing compensation for an entire poultry processing company may consider a particular plant's needs and the pay at other nearby plants when deciding the base rate per hour for shoulder cutters on the plant line. As a result, shoulder cutters across all of the processor's plants may receive different base rates.

B. Defendants' Conspiracy To Collaborate on Compensation Decisions, Share Compensation Information, and Use Consultants To Facilitate Their Conspiracy

75. The Processor Conspirators, facilitated by the Consultant Defendants and Consultant Co-Conspirator 1, collaborated on compensation decisions, including by exchanging competitively sensitive information about plant worker compensation. The exchange of such compensation information, much of it current or future, disaggregated, or identifiable in nature, allowed the poultry processors to discuss the wages and benefits they paid their poultry processing plant workers. This section of the Complaint first describes the nature of their conspiracy in broad terms and then details some specific examples of the conspirators' collaboration and exchanges of information.

76. The Processor Conspirators collaborated with and sought assistance from each other when making decisions about wages and benefits for their poultry processing plant workers. These decisions should have been made independently. As a result, rather than competing for workers through better wages or benefits, the Processor Conspirators helped each other make compensation decisions.

77. The compensation information that poultry processors exchanged included information for both hourly and salaried plant jobs. Through the exchanges, a poultry processor could learn its competitors' base wage rates for

a host of different poultry processing plant jobs, from live hangers to shoulder cutters to plant mechanics.

78. Through emails, surveys, data compilations, and meetings, the Processor Conspirators assembled a ''map'' of poultry processing plant worker compensation across the country. This ''map'' was broad enough to show nationwide budgets and granular enough to show compensation at individual poultry processing plants. The exchanges allowed the poultry processors to learn not only the current state of compensation in their industry but also, in some cases, plans for the next year's compensation. The poultry processors exchanged information about nationwide, regional, and local wages and benefits.

79. As one example, in December 2009, Processor Co-Conspirator 18's Director of HR emailed Processor Co-Conspirator 14's Compensation Manager seeking a chart of information about Processor Co-Conspirator 14's current start rates and base rates for certain workers at specific Processor Co-Conspirator 14 plants in Maryland, Delaware, Virginia, North Carolina, South Carolina, Tennessee, Kentucky, and Alabama. Processor Co-Conspirator 18's Director of HR also asked Processor Co-Conspirator 14's Compensation Manager, ''if you have negotiated, scheduled increases please list, or if it is a non-union facility and they have an annual increase just tell me that and what month.'' In the Processor Co-Conspirator 18 employee's own words, the purpose of this request, and the survey Processor Co-Conspirator 18 was building at the time (the Chicken Industry Wage Index, discussed below), was ''to use the data to set wage rates and use when negotiating with the Union . . . . I am interested in sharing this information with you . . . . *I am hoping we can develop a collaborative working relationship.* I appreciate you taking the time to speak to me today and supplying this information to me'' (emphasis added). Processor Co-Conspirator 14 responded, ''See completed information below,'' filling out the chart as its competitor and collaborator Processor Co-Conspirator 18 requested.

80. The conspiracy reduced incentives for the Processor Conspirators to bid up salaries to attract experienced workers or retain workers that might have left for other processing plants. The detailed knowledge of their competitors' current and future compensation gave each Processor Conspirator a path to paying its own poultry processing plant workers less than it would have absent the on-demand access they possessed to current and future, disaggregated, and identifiable information about its competitors.

81. The Processor Conspirators took pains to keep their collaboration secret, and they controlled which processors could participate in their information exchanges.

82. The conspiracy brought together rival poultry processors that competed with each other for workers. In a functioning labor market, the Processor Conspirators would have *avoided* sharing such confidential compensation information. Thus, their agreement distorted the mechanism of competition between poultry processors for poultry processing plant workers. This competitive distortion resulted in compensation that was not determined competitively but rather was suppressed—less than what workers would have been paid but for the anticompetitive conduct.

83. Unlike the Processor Conspirators, many of which are large, sophisticated corporate entities, the poultry processing plant workers lacked access to a comparable ''map'' of poultry processing plant compensation. To understand the wages they could earn, whether at plants in their local region or far across the country, workers had to rely on word-of-mouth or their own time- and labor-intensive research. These workers suffered from deep information asymmetries as a result of the Processor Conspirators' and Consultant Defendants' anticompetitive conduct.

1. WMS Poultry Industry Survey Group

84. From at least 2000 to 2020, a group of poultry processors, including all Processor Conspirators, agreed to participate in an exchange of compensation information facilitated by Defendant WMS (the ''WMS Survey Group'').

85. Through the WMS Survey Group, all of the Processor Conspirators exchanged current and future, disaggregated, and identifiable information about their plant workers' wages and benefits. They also met annually in person to discuss these exchanges. At these meetings, the Processor Defendants shared additional compensation information and collaborated on compensation decisions.

a. WMS Survey Group History, Rules, and Control by Processor Conspirators

86. Before 2000 and potentially as early as the 1980s, many of the Processor Conspirators, including Defendants Cargill, Sanderson, and Wayne, as well as Processor Co-Conspirators 6, 7, 14, 15, 17, and 18, participated in a group similar to the WMS Survey Group, but in which they directly exchanged compensation data with each other without the participation of WMS.

87. Beginning in 2000, the Processor Conspirators hired WMS and Defendant Jonathan Meng to provide a veneer of legitimacy for their collaboration and information exchange.

88. Meng believed that in hiring him and WMS, the Processor Conspirators were not trying to comply with the antitrust laws, but instead were trying ''to establish the *appearance* of compliance with the Safe Harbor guidelines and antitrust law and obtain compensation data in a matter that sometimes *seemed* permissible.'' By ''Safe Harbor,'' Meng was referring to guidance antitrust authorities have provided about how companies can reduce the likelihood that an exchange of information between competitors is unlawful. Although this guidance does not immunize any competitor information exchange from the antitrust laws (and has never done so), the Defendants and Co-Conspirators were sharing the type of information that the guidance specifically identified as likely to violate the antitrust laws.

89. While Defendant WMS began administering the survey in 2000—issuing the survey forms, receiving responses from the participants, distributing the results, and presenting them in person every year at their annual meeting—the Processor Conspirators together controlled the categories of compensation information included in the survey and the requirements for group membership. The processors made these decisions through the WMS Survey Group's Steering Committee, on which Processor Co-Conspirators 6, 7, 14, 15, and 18 sat on a rotating basis from 2000 through 2020. The Steering Committee, along with the other WMS Survey Group participants, including Defendants Cargill, Sanderson, and Wayne and Processor Co-Conspirators 3, 8, 17, voted on potential new members in the WMS Survey Group. Thus, while WMS facilitated this scheme, including by collecting the information and tabulating the results, the Processor Conspirators themselves decided to collaborate on compensation decisions and exchange anticompetitive compensation information.

90. Processor Co-Conspirator 5's successful attempt to join the WMS Survey Group in October 2014 highlights the group's membership standards and what motivated poultry

processors from across the country to join. Processor Co-Conspirator 5's representative emailed Defendant WMS and Processor Co-Conspirators 6, 7, and 18, explaining, ''I was recently told of a committee/group that had gotten together in the past to talk about compensation in the poultry industry. I know we deal with a slightly different bird here at [Processor Co-Conspirator 5] than [Processor Co-Conspirator 6] and probably the majority in your group, but I would be interested in participating in that group if you think it would be appropriate . . . . If you're open to Midwestern Turkey company participating in this . . . I'd love to be considered.'' An executive from Processor Co-Conspirator 6 responded, volunteering to send the request to the Steering Committee and noting that participants in the survey ''need[ ] to meet certain requirements that indicate you fit into the data study (ex. Number of plants, etc . . .).'' After some discussion among Defendant WMS and Processor Co-Conspirators 6, 7, 14, and 18, an executive from Processor Co-Conspirator 7 noted, ''Traditionally, if they meet the size criteria and there are no 'naysayers' from the existing party, they get the welcome handshake, no?''

91. In contrast, Meng detailed what occurred when, in 2014, some of the WMS participants considered including ''red meat processing complexes'' in the survey: the ''processors ultimately rejected that possibility.'' Meng stated in a sworn declaration to this Court, ''The reason why those processors declined to include the red meat processors in the [WMS Survey Group] is because the poultry processing labor market is distinct from the red meat processing labor market. Several of those processors told me this, and it is also evident to me from my own review of the markets.'' [5]

92. Members of the WMS Survey Group were required to attend each annual in-person meeting as a condition of participating in the compensation collaboration and information-exchange group. If a poultry processor did not attend regularly, it could be kicked out. As an executive for Processor Co-Conspirator 7 explained, ''Normally, any company that doesn't participate in the survey *and* attend for 2 consecutive years is removed from participation.'' This policy demonstrates that the opportunity to collaborate in person was an important feature of the WMS Survey Group.

[5] Meng filed his declaration before this Court on February 4, 2022 as ECF No. 580–4 in *Jien* v. *Perdue Farms, Inc.,* 19–cv2521 (D. Md.).

b. Compensation Data Exchanged Through WMS Survey Group

93. Attendees at the annual WMS Survey Group in-person meeting brought their current and future, disaggregated, and identifiable compensation data with them. The attendees then discussed that information confidentially. As one 2009 communication from Processor Co-Conspirator 6 to Defendants Cargill, Sanderson, Wayne, Processor Co-Conspirators 1, 4, 7, 8, 15, and 18, and Former Processor Co-Conspirator 2 put it: ''Hope all are planning to be there for the meeting. Just a reminder to bring you Data manual in case others have questions for you concerning your data. Please be prepared to discuss survey issues, questions, and details with WMS. We will also be sharing information in a round table discussion. *These discussions are expected to be kept confidential*'' (emphasis added). As Meng explained, ''In earlier years, the attendees typically brought this data to the roundtable sessions in hard-copy form using large binders. In later years, the attendees brought their laptop computers, which contained all the compensation data in electronic form.''

94. Through the WMS Survey Group, the Processor Defendants, facilitated by Defendant WMS, exchanged current and future, disaggregated, and identifiable data about their poultry processing plant worker compensation on an annual basis. The Processor Defendants gave each other accurate, detailed, and confidential information: as Processor Co-Conspirator 8 put it, ''The information obtained through participation can't be overstated.''

95. Through a single annual WMS survey or potentially a single in-person meeting, a processor could understand trends in poultry processing plant worker compensation nationwide. This information was especially important to processors competing for workers willing to move, even internationally, for plant work. But the Processor Conspirators also could compare notes on plant compensation in a particular local area to understand, for example, how one processor's base wage rate for line workers in a particular county compared to a nearby competitor's.

96. As detailed below, over many years, the poultry processors in the WMS Survey Group used the surveys and in-person meetings to compare planned future raises or changes in plant worker compensation. WMS's Meng explained that ''members of the [WMS Survey Group] said they wanted to know how much and when their competitors were planning to increase salaries and salary ranges.'' Comparing processors' compensation projections from the past year against their actual compensation levels in the current year revealed whether the Processor Conspirators had held to the prior year's projections, making any deviations from prior exchanged information easily detectible. This ability to check the information shared across time encouraged the participants to submit accurate information, because deviations between projected and actual compensation levels would be apparent. The Processor Conspirators' sharing of future compensation plans could also have disincentivized them from making real-time compensation changes to better compete against each other, maintaining wages at their projected levels and suppressing wages that might otherwise have risen through natural, dynamic competition.

97. From 2005 through 2017, the WMS survey showed future data, such as the median and average future salary merit increase for each company involved in the survey. From 2006 through 2019, the surveys included an additional column that allowed for easy comparison between the actual current year's percentage changes and the changes that had been projected in the previous year's survey. This enabled the survey participants to monitor whether their competitors adhered to the previous year's forecasts.

98. The Processor Conspirators discussed other compensation information during their face-to-face meetings. A 2015 email from Processor Co-Conspirator 18 to fellow WMS Steering Committee members and Processor Co-Conspirators 6, 7, and 14, stated, ''As you know the survey results do not provide hourly production projected budgets''—*i.e.,* future compensation information for hourly production line workers—''and this is typically a discussion during the roundtable sessions.'' Even more explicit is an internal Processor Co-Conspirator 18 email from 2005, in which one executive explained to another, ''The survey results will be shared at the meeting and we can get the 10th percentile and the other company's avg minimum of the range. I believe there are other poultry companies paying below our lowest salary. Although it won't be published in the survey results [the Processor Co-Conspirator 18 meeting participant] can also informally ask what minimum starting rates are.'' Again, this email exchange demonstrates that the opportunity to collaborate with their competitors in person was a key feature of the WMS Survey Group.

99. Meng's presentations at the WMS in-person meetings also featured current compensation information. For example, he explained in his sworn declaration, ''Specifically, those PowerPoint presentations focused on how the compensation data reported in the current year for both salaried and hourly-paid workers compared to the prior year or two years.''

100. Further, Meng stated that at the in-person WMS meetings, ''the private roundtable sessions that excluded me involved discussions between members of the [Processor Conspirators] regarding their compensation practices. Those discussions addressed, among other issues, the results of the [WMS surveys], the compensation data that particular individual processors had reported to the Survey, and plans for future compensation rates for salaried and hourly-paid workers.''

101. The Group's 2009 ''Operating Standards'' provided that each participating poultry processor must ''[a]gree and ensure that shared survey data or other information from discussions will be used and treated in a 'confidential' manner and definitely should not be shared with companies not participating in the survey. Failure to meet these requirements will result in immediate removal from the survey group.'' This condition for joining the WMS Survey Group shows that the participants considered the information exchanged to be nonpublic and restricted to survey participants.

102. Meng willingly participated in the processors' violation of antitrust law. To help create a false veneer of compliance with the antitrust laws, Meng would occasionally make statements that WMS's product ''complied with legal requirements.'' In August 2012, when the Steering Committee decided to make a change to the survey to distribute disaggregated and identifiable data regarding hourly workers, Meng raised a concern that this would not comply with antitrust agency guidance on information exchanges. Rather than forego exchanging this information, the Processor Conspirators on the Steering Committee asked that Meng not mention his concern to the other processors: ''what about just letting them respond as to any concerns as opposed to calling it out?''

c. WMS Survey Group Exchanges by Year, Defendant, and Type of Information Exchanged in Surveys and In-Person Meetings

103. The following chart lists the Processor Defendants that participated in the WMS Survey Group by year.

PROCESSOR DEFENDANTS' WMS SURVEY GROUP PARTICIPATION BY YEAR

2000–2011	Cargill, Sanderson, and Wayne.
2012–2019	Cargill and Wayne.

104. In the remainder of this section, allegations about events or conduct in each year of the WMS Survey Group apply to all of the Processor Defendants participating in the WMS Survey Group for that year, except where otherwise noted.

105. From at least 2000 through 2019, the members of the WMS Survey Group submitted their confidential compensation data to the WMS-run survey and received survey results containing their competitors' confidential compensation data. The types of data gathered and shared changed during the WMS Survey Group's over-20-year existence. In the following years, the WMS survey solicited, and the WMS survey results included:

a. *2000:* Confidential information about wages, salaries, benefits, and bonuses related to ''dozens of positions at poultry complexes,'' including plants, hatcheries, and feed mills;

b. *2001–2004:* Current and future, disaggregated, and identifiable salary and benefits information, as well as current, disaggregated, and identifiable hourly wage information, including ''what each member of the [WMS Survey Group] paid, on average, in hourly wages to poultry processing workers at each of their processing plants.'' The information was identifiable because the WMS survey included what was ''in effect, a key for identifying the identity of each poultry processor'';

c. *2005–2012:* Future salary information, including the dates and ranges of planned raises in salary by position, confidential information about hourly wages, and current and disaggregated benefits information;

d. *2013–2016:* Future salary information, including the dates and ranges of planned raises in salary by position; current, disaggregated, and identifiable hourly wage information, which enabled participants to determine specific competitors' current hourly compensation by plant; and current and disaggregated benefits information;

e. *2017:* Future salary information, including the dates and ranges of planned raises in salary by position, confidential information about hourly wages, and current and disaggregated benefits information; and

f. *2018–2019:* Confidential compensation information.

106. As discussed above, from 2001 through 2019, the members of the WMS Survey Group met in person annually to discuss poultry processing plant compensation. All participants were instructed by the Steering Committee to bring their individual compensation data with them to these meetings. From 2001 through 2017, the members of the WMS Survey Group held roundtable discussions about compensation practices from which they excluded any third parties, including Meng. In 2018 and 2019, Meng attended all sessions of the in-person meeting.

107. At these in-person WMS Survey Group meetings, the members of the WMS Survey Group collaborated on, assisted each other with, and exchanged current and future, disaggregated, and identifiable information about compensation for poultry processing workers, as described below:

a. *2007:* An ''agenda and group discussion topics'' list for the 2007 WMS Survey Group meeting states ''Are Smoking Cessation Programs included in your Health benefits? If not, do you have plans to implement? If currently included, please share your schedule of benefits.''

b. *2008:* Later correspondence between WMS Survey Group Members states that at the 2008 WMS Survey Group meeting, ''we discussed companies that are now charging higher insurance premiums for smokers.''

c. *2011:* In 2012, Meng emailed the WMS Survey Group members about notes they had taken at the prior year's in-person meeting, warning them that the notes disclosed details that put the processors at risk of having violated the antitrust laws. Meng wrote to the processors, ''you reference certain positions not included in the survey where 'we will all agree to contact each other for general position.' That comment and action goes against the Safe Harbor Guidelines.'' Thus, it appears that during the 2011 meeting, the Defendants present directly shared information that violated the antitrust laws.

d. *2015:* At the 2015 WMS Survey Group meeting, the participants discussed ''whether to distribute disaggregated, raw, plant-level data concerning hourly-paid workers'' through the WMS survey and that ''all members of the [WMS Survey Group] in attendance at the Meeting agreed to the continued distribution of such data.'' Notes taken at the 2015 WMS Survey Group roundtable meeting by Processor Co-Conspirator 18 record what each participant shared with the group in columns next to each processor's name. These notes suggest the processors

openly and directly shared with each other a wide range of detailed, non-anonymous, and current- or future compensation information, with a special focus on their rates of overtime pay (*i.e.,* pay for the 6th and 7th days of the week):[6]

i. Processor Co-Conspirator 3's column notes, ''6th and 7th day pay $150 flat rate''; ''Compress scales over 1 yr rate to start rate. Startign in Feb 2015'';

ii. Processor Co-Conspirator 6's column notes, ''Added seniority pay instead of doing an hourly increase. . . . Rolls w/vacation, up to 6% increase. It is a seniority premium'';

iii. Processor Co-Conspirator 8's column notes, ''Staffing plants is a big issue down 290 positions at springdale locations. $500 signing bonus $300 first 30 days $200 30 days'';

iv. Processor Co-Conspirator 14's column notes, ''NO 6th and 7th incentive'';

v. Processor Co-Conspirator 15's column notes, ''Hourly bonus program 17K employees'';

vi. Processor Co-Conspirator 17's column notes, ''6th and 7th day pay for weekly paid freguency $150 or comp day'';

vii. Defendant Wayne's column notes, ''$200 6th/$300 7th; some facilities if you work in 6 hours you get the full day based base pay'';

viii. Processor Co-Conspirator 2's column notes, ''$1.00 Attendnance bonus up from $0.25 . . . . Shoulder can earn up to $150 week . . . Benefits—Taking a harder look at their package''

ix. Processor Co-Conspirator 9's column—in its sole year of participation in the WMS Survey Group—notes, ''6th/7th day up to 6 hours, get ½ for 4 hours half day'';

x. The column for Processor Co-Conspirator 18b (now owned by Processor Co-Conspirator 18) notes, ''200 6th 275 7th day.''

xi. Processor Co-Conspirator 10's column notes, ''$1.00 Attendance bonus up from $0.25/Negotiated contract $55. 30 . . 30 3 Yr./ . . . . Supervisor offering 5000–8000'';

xii. The column for Former Processor Co-Conspirator 3, now owned by Processor Co-Conspirator 16, notes, ''Line Team Members want more money; based on survey we are in the middle'' and ''No Weekend Pay. But will be looking''; and

xiii. Processor Co-Conspirator 13's column notes, ''Currently does not have Weekend Pay for Supervisors.''

[6] As described above, all spelling and grammatical errors in documents quoted in this Complaint are *sic.*

e. *2017:* The 2017 WMS Survey Group meeting marked a turning point for the WMS Survey Group. That year, after the filing of a private antitrust class-action suit in the Northern District of Illinois alleging price-fixing by many participants in the downstream sale of chicken products, the processors and Meng became more concerned about antitrust risk. At least one executive from Processor Co-Conspirator 7—a Steering Committee member—traveled all the way to the 2017 meeting only to learn that his employer's legal counsel had directed him not to attend the sessions. At the 2017 meeting, the Defendants and Processor Conspirators in attendance ''all agreed,'' in the words of WMS's Jonathan Meng, ''that moving forward all questions about future increases would be removed from the survey.''

2. Direct Processor-to-Processor Collaboration and Information Exchanges

108. In addition to collaborating on setting compensation for plant workers through the WMS Survey Group, including through in-person meetings that involved direct exchanges of identifiable compensation information, the Processor Conspirators collaborated on and directly exchanged current and future, disaggregated, and identifiable information about plant workers' wages and benefits. These interactions occurred ad hoc and involved information about both local and nationwide compensation decisions.

109. That the conspirators repeatedly contacted each other to seek non-public competitive information shows the mutual understanding among these Processor Conspirators that they would collaborate with and assist each other on compensation decisions.

110. The relationships poultry processors established with their labor market competitors through groups like the WMS Survey Group created the opportunity to engage in ad hoc direct exchanges of compensation information. By exchanging large amounts of current and future, disaggregated, and identifiable data, the processors collaborated to accumulate a set of industry compensation information they could use to set their workers' wages and benefits at a nationwide level (for example, to set budgets on plant worker spending across the country) or locally (for example, to determine pay for shoulder cutters in a specific plant).

a. Chicken Industry Wage Index (''CHIWI'') Exchange

111. The collaboration and direct exchanges among processors included a survey that was designed and run by Processor Co-Conspirator 18, the Chicken Industry Wage Index or ''CHIWI.'' Through this survey, Defendant Wayne, along with Co-Conspirators 6, 7, 8, 14, 15, 17 and others, exchanged current and future, disaggregated, and identifiable compensation data from 2010 to 2013. The survey results were so disaggregated that they showed wages for each participant's specific processing plants. Processor Co-Conspirator 18 disclosed wages by region of the country, as defined by Consultant Co-Conspirator 1, making it easy for the processors to compare the CHIWI results with the current, disaggregated, and identifiable Consultant Co-Conspirator 1 compensation information discussed below.

112. A Processor Co-Conspirator 18 employee described CHIWI to others inside the company in 2013, noting that it was a ''survey with competing poultry companies. With this information, we feel that we are in a better position to strategically evaluate wages on a location by location level.''

113. In 2013, Processor Co-Conspirator 18 transferred the running of CHIWI, which it continued funding, to Defendant WMS. In a February 2013 letter from WMS to Processor Co-Conspirator 18 describing its planned administration of CHIWI, Meng noted ''WMS will develop the survey document for your approval based upon the templates provided earlier by [Processor Co-Conspirator 18].''

114. WMS administered the ''Hourly Survey'' (the renamed CHIWI) to the WMS Survey Group participants from 2013 to 2015, with all participants in the WMS Survey Group for those years submitting and receiving CHIWI-format compensation data. In 2016, WMS distributed a substantially similar survey of plant-level data for hourly workers along with its 2016 annual survey to Defendants Cargill and Wayne and Processor Co-Conspirators 1, 2, 3, 4, 5, 6, 7, 8, 10, 13, 14, 15, 17, and 18.

115. During Defendant WMS's administration of the Hourly Survey, WMS assisted Processor Co-Conspirator 18 in identifying some of the Processor Conspirators' exchanged compensation information presented in WMS surveys. In October 2014, a Processor Co-Conspirator 18 employee emailed WMS's Jonathan Meng, asking ''We need to know the number of [Processor Co-Conspirator 15] locations that participated in our last Hrly Prod Maint survey. Can you provide this as soon as you get a chance?'' Another WMS employee responded to this email that

same day, writing ''29 locations were reported by [Processor Co-Conspirator 15].'' Telling Processor Co-Conspirator 18 the number of locations of another processor's plants reported in a survey would assist Processor Co-Conspirator 18 in identifying the disaggregated survey results, which were broken out by plant. If Processor Co-Conspirator 18 knew how many plants a given processor had reported, Processor Co-Conspirator 18 could match the number of plants reported for a specific (anonymized) competing processor to crack the code and identify the processor.

116. Processor Co-Conspirator 18 and Defendants WMS and Meng were cognizant of, and worried about, the antitrust risk posed by CHIWI. After WMS took over the administration of CHIWI, a Processor Co-Conspirator 18 employee requested that Meng remove the note ''Sponsored by: [Processor Co-Conspirator 18]'' in the circulated report and replace it with the title ''WMS Poultry Hourly Wage Survey.'' Meng did not comply with this request, stating that ''I did not want the Poultry Industry Survey Group to conclude that WMS approved of the format of the [Processor Co-Conspirator 18] sponsored survey.'' On another occasion, Meng explained to Processor Co-Conspirator 18 executives that CHIWI included clear risk factors for a potentially anticompetitive exchange of information, noting that participating poultry processing firms were likely to be able to identify which processor operated which plant based on the details about the plants disclosed in the survey. Despite his warning, the Processor Co-Conspirator 18 executives requested that WMS proceed, and WMS willingly complied.

b. U.S. Poultry & Egg Association Member Processors' Exchanges

117. Some Processor Conspirators used their involvement with the U.S. Poultry & Egg Association, a nonprofit trade association for the poultry industry, to collaborate with other poultry processors on compensation decisions.

118. In November 2016, Processor Co-Conspirator 12's Director of Human Resources emailed, among others, Defendants Sanderson and Wayne and co-conspirators including Processor Co-Conspirators 1, 3, 5, 6, 8, 10, 11, 14, and 18, noting ''I understand Paul is out of the country''—likely a reference to the Director of the Association's HR and Safety Program—''so I hope you do not mind me reaching out to you directly. With the news on the new OT rule injunction, I am curious on how you plan to proceed? Wait and see or stay the course for any 12/1/16 plans you have already made?'' This question was a reference to a court order staying a federal rule mandating a change to overtime pay. Defendant Sanderson's Human Resource Manager replied, copying all recipients, ''We are in the process of implementing the new wages and I don't see that we will stop or change it,'' thus sharing Sanderson's future wage plans with its competitors directly.

119. In June 2017, the Director of the Association's HR and Safety Program emailed Defendants Cargill, Sanderson, and Wayne; Processor Co-Conspirators 3, 6, 7, 8, 9, 10, 12, 14, 15, 17, and 18; Consultant Co-Conspirator 1; as well as others, the results of a survey ''on pay ranges of Live Hang employees versus General Production employees,'' noting that ''sixteen sites'' participated. The survey questions sought the ''average per hour rate that you pay,'' meaning the current pay rate, of both Live Hang employees and General Production employees.

120. The U.S. Poultry & Egg Association also conducted in-person meetings between the processor competitors, similar to the WMS Survey Group. In fact, enough participants attended both in-person meetings that in September 2012, Processor Co-Conspirator 18 and Processor Co-Conspirator 7 discussed scheduling the WMS Survey Group meeting at the same location and around the same dates as the U.S. Poultry & Egg Association in-person meeting due to ''the people that attend both.'' In December 2016, Defendant Sanderson attended the U.S. Poultry & Egg Association meeting, four years after Sanderson's departure from the WMS Survey Group.

c. Processor Conspirators' Ad Hoc Direct Exchanges

121. The Processor Defendants also collaborated to exchange and discuss confidential compensation information directly in an ad hoc fashion. These direct exchanges were often between two or three competitors. Some processor-to-processor communications were between senior employees in processors' corporate offices and concerned nationwide compensation. Others were between processor employees at the local plant level, such as exchanges between competing plant managers that were then reported to processor executives at the national level.

122. In January 2009, an employee of Processor Co-Conspirator 14 emailed Defendants Cargill, Sanderson, and Wayne and Processor Co-Conspirators 6, 7, 8, 15, and 18, asking, ''I am curious to find out if anyone has (or is in discussions) about postponing plant or merit increases.'' In addition, in the same email, she noted, ''I know there has been some previous dialogue about plant and merit increases.''

123. In September 2013, an employee of Defendant Cargill sent Processor Co-Conspirator 18 her company's internal medical leave policy, which included a detailed description of benefits.

124. In January 2015, an employee of co-conspirator Processor Co-Conspirator 8 emailed his supervisors to tell them he had spoken with the HR Manager of a particular Processor Co-Conspirator 18 plant, who told him that ''[t]he $13.90 starting pay is for Breast Debone at their Green Forrest facility. The $13.90 is available once they qualify and then they are eligible for incentive pay on top of that. So in fact an experienced Shoulder Cutter could go there and get a $13.90 starting pay rate. He said that the normal starting rate was $10.50 per hour with $0.40 extra of 2nd shift and $0.45 extra for 3rd shift.'' This Processor Co-Conspirator 8 employee then mentioned he would contact HR managers at another Processor Co-Conspirator 18 plant, as well as a plant owned by Processor Co-Conspirator 17.

3. Exchange of Compensation Information Through Consultant Co-Conspirator 1

125. From at least 2010 to the present, the Processor Defendants also used another data consultant, Consultant Co-Conspirator 1, to collaborate with each other on compensation decisions through the exchange of current, disaggregated, and identifiable information about their poultry processing plant workers' wages and benefits, artificially and anticompetitively suppressing this compensation.

126. Consultant Co-Conspirator 1 gathers data from companies and distributes it to paying customers. Consultant Co-Conspirator 1 does not sell this data to the public; its reports are only available to its subscribers.

127. Publicly available information dating from both 2011 and 2020 shows Consultant Co-Conspirator 1 gathered data from over 95 percent of U.S. poultry processors, including all of the Processor Conspirators. Consultant Co-Conspirator 1 also admitted in *Jien* (19–cv–2521) that its subscribers have included all of the Processor Conspirators. Thus, it is likely that all Processor Defendants exchanged compensation information through Consultant Co-Conspirator 1 from at least 2010 to present.

128. The data Consultant Co-Conspirator 1 gathers and sells is current, disaggregated, and identifiable. Consultant Co-Conspirator 1 claims that it can minimize those risks to make this data ''safer'' to distribute by anonymizing the companies and processing plants for which it reports specific wages and salaries per job role. Although the plants reported in Consultant Co-Conspirator 1's data reports are not identified by name, they are grouped by region, and the list of all participants in the region is provided. Accordingly, the number of employees and other data provided per plant makes this data identifiable to other processors.

129. Processors are thus likely able to use Consultant Co-Conspirator 1's data reports to identify the wage and salary rates, as well as benefits, that each of their competitors is currently setting for each of its plants.

130. In addition to permitting competing poultry processors to collaborate on their wages and benefits at the individual plant level, Consultant Co-Conspirator 1's data reports also provide a means for processors to monitor whether their collaborators are following through on the compensation decisions they reported through the WMS Survey Group and the ad hoc compensation exchanges.

4. Processors' Collaboration and Assistance on Compensation

131. In a patchwork of different combinations, through different methods, and with respect to different types of compensation information, the Processor Defendants built a pervasive conspiracy across the poultry processing industry to collaborate on, and not merely exchange, poultry processing plant worker wages and benefits information.

132. As described above, many of the Processor Conspirators, including Defendants Cargill, Sanderson, and Wayne, as well as Processor Co-Conspirators 6, 7, 14, 15, 17, and 18, began exchanging compensation information directly, without involvement from WMS, as long ago as the 1980s. One employee of Processor Co-Conspirator 6 told WMS's Jonathan Meng that ''executives from each of those poultry processors would meet in a private room and bring enough copies of their salary and wage data to distribute to all the other attendees,'' and ''the attendees would then exchange and discuss their compensation schedules.'' According to one participant, these pre-2000 exchanges included an understanding between participants that they would not use the information they exchanged about each other's salaried compensation to attempt to hire away each other's salaried employees. This early conspiracy to collaborate helped foster the mutual understanding in which processors agreed to collaborate on, rather than compete over, poultry processing plant worker compensation.

133. In December 2008, for example, an executive at Processor Co-Conspirator 4 emailed Defendants Cargill, Sanderson, and Wayne and Processor Co-Conspirators 6, 7, 8, and 14, seeking details of each competitor's dental plan benefits, which her company was ''currently reviewing.'' The Processor Co-Conspirator 4 executive made clear that her company would use the information provided by its competitors to shape its own compensation decisions, explaining that ''[y]our responses to the questions below would greatly help us ensure we stay competitive within the industry.'' The questions she included related to eligibility for coverage, services included in the plan, ''annual deductible,'' and ''annual max per person.''

134. In September 2009, an executive at Defendant Wayne emailed Defendants Cargill, and Sanderson and Processor Co-Conspirators 6, 7, 8, 14, 15, and 18 informing them that ''[i]t's that time of year already'' because Wayne was ''working on 2010 budget increase recommendations.'' The executive then asked Wayne's competitors to send future, disaggregated, directly-exchanged (and thus identifiable) compensation information: ''What is your companies projected salary budget increase recommendation for 2010?'' Later in this email chain to the same group, the Wayne executive noted that her colleague's ''sanity is depending on your response. Seriously -any info you can give us will be helpful, we appreciate your help.'' Processor Co-Conspirator 14 and Processor Co-Conspirator 8 both responded to this email chain with their competitors and directly disclosed a projected (future) recommendation to increase their budgets for salaries by three percent.

135. In July 2015, an executive for Processor Co-Conspirator 14 emailed her peers at Defendant Sanderson and Processor Co-Conspirator 18, explaining that Processor Co-Conspirator 14 was ''in the midst of completely revamping our Plant Management Trainee program.'' Her email continued, ''and I was wondering if you would be willing to share with me . . . what your starting rate is for these kids hired right out of college?'' The Processor Co-Conspirator 14 employee sought current, disaggregated, and identifiable wage information from her competitors for the explicit purpose of assisting Processor Co-Conspirator 14 to make its own wage decisions for this cohort. Her peer at Sanderson responded the very next day to both Processor Co-Conspirator 14 and Processor Co-Conspirator 18, disclosing, among other information, that Sanderson's Beginning Trainee Program paid ''from 36,000 to 38,000, no signing bonuses'' and that Sanderson's Advance Trainee program paid ''from $48,000 to $87,000, no signing bonuses.''

136. In February 2016, the Director of Compensation at Processor Co-Conspirator 4 emailed Defendants Cargill and Wayne, as well as Processor Co-Conspirators 3, 6, 7, 8, 14, 15, 17, and 18. She thanked a Wayne employee and noted, ''that reminded me that I had a question for the group also. We are trying to determine what is reasonable for salaried employee to be compensated for working 6 and/or 7 days in a work week when the plant is running.'' The questions she asked included ''Do you pay extra for these extra days worked for salaried (exempt) employees?'' and ''If so, how is that calculated?'' The statement that Processor Co-Conspirator 4 was in the midst of ''trying to determine'' overtime pay decisions, and wanted to know what its competitors did in the same circumstances, likely made clear to the recipients that Processor Co-Conspirator 4 planned to use the information it gathered in its own decision-making. An employee from Processor Co-Conspirator 10 responded to all recipients, noting, ''We pay ⅕ of the weekly salary for the sixty and seventh days if working due to production. This includes supervisors and managers below the plant manager level and all are paid the same. If the day off is compensated by a paid benefit, other than sick time, we pay the sixth and seventh days. Sanitation and maintenance only get paid for the seventh day worked.''

137. In September 2016, an executive from Processor Co-Conspirator 7 sought future compensation information from Defendants Cargill and Wayne and Processor Co-Conspirators 3, 6, 8, 14, 15, 17, and 18 related to a new Fair Labor Standards Act salary threshold for exempt status, a federal requirement determining to which workers the processors would have to pay overtime wages based on salary. The Processor Co-Conspirator 7 executive asked his competitors to fill out a directly-exchanged survey form to indicate how they would change compensation plans for all employees and, more specifically, for first-line supervisor roles. Within a

week, Defendant Cargill and Processor Co-Conspirators 6, 8, 15, and 17 responded by sharing their future compensation plans, which the Processor Co-Conspirator 7 executive passed on (labeled by processor) to the entire group, reflecting, ''If more respond, I'll republish, but the target grouping pattern already appears pretty tight.'' The chart attached to the executive's email showed that eight of the ten processors selected ''most employees are receiving base salary increases to bring them to the threshold salary,'' thus ending the processors' obligation to provide these workers with overtime pay, and ''a smaller number will not receive a base increase but will receive overtime.'' Similarly, eight of the ten respondents selected, as to the first-line supervisors, ''are either above the salary threshold or will receive a base salary increase to the threshold.''

138. The Processor Defendants' collaboration also involved forms of compensation other than wages. In January 2010, an executive for Processor Co-Conspirator 18 wrote to Defendants Cargill, Sanderson, Wayne, and WMS and Processor Co-Conspirators 6, 7, 8, 15, and 17 for help because Processor Co-Conspirator 18 was ''considering a change to convert'' some of its plant worker jobs to a category that would provide them with fewer benefits: ''Production workers on the line do not get quite the same as our technical support jobs, nurses and clerical. The difference is 5 days daily sick pay, better vacation schedule, higher short-term disability pay and the ability to use our flexible (pre-tax) benefits saving plan.'' Processor Co-Conspirator 18 noted that a ''prompt response would be much appreciated'' from its competitors about whether ''any of you have a difference in benefits between'' these two job categories, to assist it in making this decision. Processor Co-Conspirator 7 responded to Processor Co-Conspirator 18's question, stating it did not.

139. A 2015 email exchange between Processor Co-Conspirators 8 and 18 provides detail on how the competitors may have viewed their relationships with each other as collaborators. On October 6, 2015, Processor Co-Conspirator 18 received an email from a Processor Co-Conspirator 8 executive asking, ''Would you mind sending me your current Health Insurance Rates? Also do you plan on raising them in 2016? Thanks you so much for your help.'' Processor Co-Conspirator 18 then discussed this request internally, noting, ''We don't count on them [Processor Co-Conspirator 8] for much so we don't owe them anything from our side.'' This view of the request for future and directly exchanged compensation information as part of a quid pro quo calculation—that to get the helpful information, you have to give the helpful information—helps explain why the competing processors were so willing to share compensation information when their competitors asked for it.

140. In designing the WMS survey, the WMS Survey Group participants collaborated to ensure the exchanged data included the type of disaggregated compensation information that antitrust agencies warned against as a risk factor for identifying information exchanges not designed in accordance with the antitrust laws. For example, in 2012, the Steering Committee, which then included Processor Co-Conspirators 6, 7, 14, 15, and 18, decided to distribute disaggregated and identifiable data regarding hourly plant workers. WMS's Jonathan Meng warned the Steering Committee that distributing this data would violate the guidance and proposed ways of presenting the data that would make it less identifiable. Processor Co-Conspirator 18, however, instructed Meng to let the WMS survey group know of the change to the survey design but not to ''call out'' Meng's concerns. Meng followed Processor Co-Conspirator 18's instructions and simply advised the Survey Group of the changes, stating that ''The Steering Committee has requested that the hourly wage information included in the report be expanded to include the raw data for each state. . . . The steering committee needs to know if you are in agreement with the proposed changes.'' Meng noted that under this plan, which he asked each WMS Group Participant to agree to explicitly, he would include disaggregated, identifiable wage data from Alabama, Arkansas, Georgia, Missouri, Mississippi, North Carolina, Tennessee, and Virginia. Later, Meng stated that ''everyone is in agreement with the change except [Processor Co-Conspirator 4] and [Processor Co-Conspirator 13], who have not responded yet.''

141. The WMS Survey Group participants, competitors in the market for poultry processing plant labor, also collaborated to standardize the job categories for which they each reported compensation data, ensuring they could match each other's compensation decisions. The Processor Defendants also may have worked, with assistance from Defendant WMS, to standardize job types and categories across their different enterprises. This made a comparison between each participant's jobs easier, and thus made the information swapped about each job category's compensation more accessible for use. With respect to salaried positions, the annual survey questionnaire was intended to permit participants to match all jobs to defined job categories while indicating when the matched job was, in the view of the participant, ''larger'' or ''smaller'' than the job as described in the questionnaire. Survey results reported the percentages of respondents indicating inexact job matches. In 2012, an employee for Processor Co-Conspirator 14 employee described in an email to a Processor Co-Conspirator 18 employee the prior year's WMS Survey Group in-person meeting, at which ''the discussion around the room was that some companies call this single incumbent job a Plant Safety Manager and some a Complex Safety Manager.'' This standardization for purposes of collaboration, enabled by WMS, made it easier for the Processor Defendants to determine and monitor consensus among themselves for compensation, enabling their conspiracy, which suppressed compensation.

5. Processors Recognize Their Agreement Likely Violated the Antitrust Laws and Attempt To Cover It Up

142. The Defendants at times expressed concern that their agreement was unlawful. Sometimes, fear of discovery or other outside events prompted them to change their views of the risk they were each engaged in. Nonetheless, they maintained secrecy throughout the conspiracy.

143. On February 14, 2012, Defendant Sanderson's HR Manager emailed Defendants Cargill and Wayne and Processor Co-Conspirators 7, 8, 15, and 17 along with Defendant WMS, notifying them that Sanderson would be ending its relationship with the WMS Survey Group. The HR Manager stated, ''On the advice of legal counsel, our Executives have decided that we can no longer participate in this type of survey.'' If the Defendants had not been previously aware of the legal risk involved in the WMS Survey Group exchange, this email put them on notice.

144. Private class actions related to this conduct and other allegedly anticompetitive behavior in the poultry industry caused the members of the WMS Survey Group to change some of their behavior. As noted above, at their 2017 in-person meeting, the participating Processor Conspirators, in the words of WMS's Jonathan Meng, ''all agreed that moving forward all questions about future increases would be removed from the survey. . . . It was also recommended by counsel for

[Processor Co-Conspirator 7] to have an Antitrust Attorney present for the general group discussions (post survey results).''

145. As Processor Co-Conspirator 7 described in October 2017, the Processor Conspirators would thereafter treat Meng as an ''Antitrust Guidon.'' In military terminology, a guidon is a flag flown at the head of a unit to signify that the commander is present. An executive at Processor Co-Conspirator 8 put it more bluntly, commenting that ''One thing that has changed is that the group will now have an attorney present for the full meeting to make sure no collusion and that the Safe Harbor provisions are all met and followed.'' Meng acknowledged in January 2018 to an executive for Processor Co-Conspirator 17 that ''I will be present at all sessions this year (which did satisfy [Processor Co-Conspirator 7's] counsel).''

146. But Meng's presence at meetings did not ultimately quell the Processor Conspirators' fears that their conduct was unlawful. From 2017 to 2020, spooked processors began dropping out of the WMS Survey Group due to, as an employee of Processor Co-Conspirator 14 put it, ''the 'big scare' ''—*i.e.,* a private class action alleging a broiler chickens price-fixing conspiracy.

147. In response to the elimination of disaggregated data from the survey, an executive for Processor Co-Conspirator 7 complained, ''how useful is the 'average rate report' now anyway? It has suffered significant obscuring of results due to aggregating, and I would ask—Is it still useful information any longer?''

148. Processor Co-Conspirator 13 left in 2018; that year, Defendant Wayne also considered leaving, but decided to remain in the group after heavy lobbying by Meng. Processor Co-Conspirators 1, 8, and 17 left in 2019.

149. In a 2019 email, an executive for Processor Co-Conspirator 7 noted that ''[Processor Co-Conspirator 8] was skittish very early on in the anti-trust concerns, including their attorneys contacting other companies to warn about attending our conference.''

150. In July 2019, an executive from Processor Co-Conspirator 7 sent an alert to Processor Co-Conspirator 14 and WMS describing a call his colleague received ''from someone representing themselves as a private investigator from New York. The caller had questions about the types of information we shared at our meeting, the survey and other questions that I will simply call 'general anti-trust fishing' questions. . . . So just a little reminder that the bad-guys are still out there, and why we hold strict confidences about discussing wages—and have Jon [Meng] at our entire meeting.'' Notably, the Processor Co-Conspirator 7 executive did not say the competing processors should take care not to discuss wages, but rather take care to keep such discussions in ''strict confidence.''

151. And if there were any question whom the WMS participants considered the ''bad-guys,'' Defendant WMS's presentation for the 2019 WMS Survey Group meeting features, at the top of the presentation's first slide, a quote from Shakespeare: ''The first thing we do, let's kill all the lawyers.''

152. The WMS Survey Group did not meet again after this 2019 meeting.

C. Defendants Sanderson's and Wayne's Deceptive Practices Toward Growers

153. Growers sign contracts with Sanderson and Wayne, respectively, to raise chickens. Growers often make substantial financial investments including building or upgrading their facilities. The success of those investments depends on the compensation system they receive.

154. Under the compensation system known as the tournament system, each contract provides an average or base price that the grower receives. But the average or base price is not necessarily what the grower actually receives. The growers' compensation depends on how each grower performs relative to other growers—in particular, on their performance relative to other growers at converting the inputs to bird weight. Growers who overperform the average are paid a bonus, while those that underperform the average are penalized. Sanderson and Wayne, however, control the major inputs the grower receives, including the chicks and feed. As a result, growers cannot reasonably assess the range of expected financial outcomes, effectively manage their risks, and properly compare contracts from competing processors.

155. Sanderson and Wayne do not adequately disclose the risk inherent in this system to the growers. Their contracts with growers omit or inadequately describe material key terms and risks that mislead, camouflage, conceal, or otherwise inhibit growers' ability to assess the financial risks and expected return on investment. For example, the grower contracts disclose neither the minimum number of placements nor the minimum stocking density that the grower is guaranteed. The contracts also lack material financial disclosures regarding poultry grower performance, including the range of that performance, and other terms relevant to the financial impact of the grower's investment.

156. Similarly, the contracts omit material information relating to the variability of inputs that can influence grower performance, including breed, sex, breeder flock age, and health impairments, on an ongoing basis, including at input delivery and at settlement (including information to determine the fairness of the tournament). Without this information, growers are impaired in their ability to manage any differences in inputs, or evaluate whether to invest in new infrastructure, that may arise from the Sanderson's and Wayne's operation of the tournament system. This failure to disclose is deceptive and violates the Section 202(a) of the Packers and Stockyards Act, 1921, as amended and supplemented, 7 U.S.C. 192(a). These deceptions should be enjoined.

VI. Elements of the Sherman Act Claim

A. The Agreement To Collaborate on Compensation Decisions, Exchange Compensation Information, and Facilitate Such Collaboration and Exchanges

157. As detailed above, the Processor Defendants collaborated on what should have been individual decisions about poultry processing plant worker compensation. As reflected by in-person meetings, correspondence, and the regular exchange of compensation information, the Processor Defendants and their co-conspirators had a mutual understanding that they would contact each other for advice, discussion, and competitively-sensitive compensation information to help each other make decisions about worker compensation at the nationwide and local level. This agreement undermined the competitive process, distorted the ordinary, free-market bargaining and compensation-setting mechanisms, and suppressed competition and compensation for poultry processing plant workers.

158. The Processor Defendants' exchanges of current and future, disaggregated, and identifiable information about poultry processing plant worker wages and benefits, through the facilitation provided by the Consultant Defendants and through direct exchanges with each other, supported this conspiracy to collaborate. However, even standing alone, these exchanges allowed each participant to more closely align its wage and benefit offerings with its competitors, harmed the competitive process, distorted the competitive mechanism, and suppressed competition and compensation for their poultry processing plant workers.

B. Primary Poultry Processing Plant Employment Is a Relevant Labor Market

159. The market for primary poultry processing plant labor is a relevant antitrust labor market. If a single employer controlled all the primary poultry processing plant jobs in a geographic market, it could profitably suppress compensation (either in wages or benefits) by a small but significant and non-transitory amount. In other words, if a poultry processing employer with buyer market power (monopsony power) chose to reduce or forgo raising its workers' wages and benefits, or otherwise worsen the compensation offered to workers, too few poultry processing workers would switch to other jobs to make the employer's choice unprofitable.

160. Labor markets are inextricably connected to the most personal choices workers make: how and where to live, work, and raise a family. In labor markets, employers compete to purchase labor from a pool of potential and actual workers by setting wages, benefits, and working conditions.

161. In choosing among potential employers, workers who may be different from each other—for example, who fill different types of jobs—may be similarly positioned with respect to potential employers. While hourly and salaried poultry processing jobs may attract different job applicants, poultry processing plants may constitute potential employers for those workers because of commonalities shared among hourly and salaried workers (and among workers filling different roles within those categories).

162. To poultry processing plant workers, all of the Processor Conspirators are close competitors for their labor. From the perspective of workers, poultry processing jobs are distinguishable from, and not reasonable substitutes for, jobs in other industries. Many processing plant workers share common constraints that make poultry processing plant jobs accessible to them while other year-round, full-time jobs are not. Poultry processing plant workers also share common attributes and learn job-specific skills, which the poultry industry compensates more than other industries would. Thus, these particular employers compete to offer jobs to this pool of labor that these workers both have access to and that offer value for their common attributes in a way that other industries might not. Many of these workers are able to find work in the poultry industry but not in other industries that seek workers with different skills, experience, and attributes.

163. Although poultry processing plants employ varied types of workers, they occupy a common labor market. All the workers were the target of a single overarching information-sharing conspiracy. All the workers have thus had their compensation information distributed without their consent by their employer to other employers who might hire them. All the workers have developed experience, familiarity, and expertise in poultry processing plants, and all or nearly all the workers have located their households near poultry processing plants, acquired friends or colleagues in poultry plants, and have or have developed the types of personal characteristics that enable them to tolerate the harsh conditions of poultry processing plants. As a result, workers who are unsatisfied with their current employer would normally seek, or at least consider, alternative employment in the poultry processing plants owned by their employer's co-conspirators.

164. Each of the Processor Conspirators sees poultry processing workers as sufficiently alike to find it worthwhile to place them in a common worksite, creating a cluster of jobs associated with particular market activity (poultry processing), just as grocery stores sell multiple products to customers who prefer the convenience of one-stop shopping. The common characteristics of the employees as required by the logistics of processing poultry explain why Defendants treat the employees together in the conspiracy. For these reasons, it is appropriate to consider all the workers as a common group of victims for the purpose of this action, even though the jobs in poultry processing plants differ.

165. Both chicken processing plants and turkey processing plants compete to purchase labor in this market because the jobs they seek to fill are similar. These industries use similar facilities, materials, tools, methods, job categories, and vertically-integrated processes to produce downstream products. These industries also exhibit similar difficult working conditions.

166. In addition, the poultry industry itself recognizes that poultry processing workers are a distinct market. The Processor Defendants' and Processor Conspirators' agreement to collaborate on compensation decisions included the exchange of information about both hourly and salaried plant jobs. The WMS Survey Group set criteria for membership that permitted both chicken and turkey processors to participate, but not other meat processors or other employers. When one member of the WMS Survey Group proposed including processors of red meat, this idea was rejected by the group ''because the poultry processing labor market is distinct from the red meat processing labor market.'' Informed by their knowledge and experience, the Processor Conspirators chose to include poultry processors in the WMS Survey Group and exclude other industries.

C. The Geographic Markets for Poultry Processing Plant Labor

167. The relevant geographic markets for poultry processing plant labor include both local submarkets and a nationwide market.

168. Local markets for poultry processing plant labor are relevant geographic markets. Many poultry processors adjust wages and benefits at a local level and based on local factors, meaning that a particular processor's compensation for job categories between different plants in different locations may differ. The Processor Conspirators made decisions affecting competition and competed on a local basis. Poultry processing workers reside within commuting distance from their plants.

169. The Processor Conspirators' anticompetitive agreement to collaborate on compensation decisions included the exchange of local data through the Consultant Defendants and Consultant Co-Conspirator 1 and the direct exchange of such data with the other Defendants and co-conspirators. For example, as Processor Co-Conspirator 18 noted in describing the CHIWI survey, ''With this information, we feel that we are in a better position to strategically evaluate wages on a location by location level.''

170. Employed poultry processing plant workers reside within commuting distance from the plant at which they work. In addition, many applicants to these jobs reside within commuting distance from the plant to which they have applied, at the time they have applied. Thus, if multiple processing plants are located within a worker's commuting boundary, those plants are potential competitors for that worker's labor.

171. The relevant local submarkets can be identified according to workers' willingness and ability to commute. The local submarkets here are those in which, according to data from the United States Department of Agriculture, at least two Processor Conspirators compete with each other for primary poultry processing plant workers. In these relevant local submarkets, it is likely that the Processor Conspirators together hold

market power, because they control over 80 percent, and in many local submarkets, control 100 percent, of primary poultry processing plant jobs. A hypothetical monopsonist of poultry processing plant labor jobs in each local labor submarket would likely be able to suppress compensation for poultry processing plant workers by a small, but significant, amount.

172. The local labor submarkets in which the Processor Defendants and Processor Conspirators have suppressed competition, which suppressed poultry processing plant workers' compensation, include:

a. the ''Eastern Shore Poultry Region'': containing eleven primary poultry processing facilities [7] in Hurlock, MD; Salisbury, MD; Princess Anne, MD; Harbeson, DE; Millsboro, DE; Selbyville, DE; Georgetown, DE; Milford, DE; Norma, NJ; Accomac, VA; and Temperanceville, VA, four of which are owned by Processor Co-Conspirator 14, five of which are owned by other Processor Conspirators, and two of which are owned by other poultry processors;

b. the ''Central Valley Poultry Region'': containing three primary poultry processing facilities in Fresno, CA and Sanger, CA, two of which are owned by Processor Co-Conspirator 7, and one of which is owned by another Processor Conspirator;

c. the ''West-Central Missouri Poultry Region'': containing two primary poultry processing facilities in California, MO and Sedalia, MO, one of which is owned by Defendant Cargill, and one of which is owned by another Processor Conspirator;

d. the ''Ozark Poultry Region'': containing nineteen primary poultry processing facilities in Huntsville, AR; Ozark, AR; Springdale, AR; Fort Smith, AR; Clarksville, AR; Dardanelle, AR; Green Forest, AR; Waldron, AR; Danville, AR; Carthage, MO; Cassville, MO; Southwest City, MO; Monett, MO; Noel, MO; Heavener, OK; and Jay, OK, three of which are owned by Processor Co-Conspirator 3, one of which is owned by Processor Co-Conspirator 17, one of which is owned by Defendant Wayne, one of which is owned by Defendant Cargill, twelve of which are owned by other Processor Conspirators, and one of which is owned by another poultry processor;

e. the ''Ouachita Poultry Region'': containing five primary poultry processing facilities in De Queen, AR; Grannis, AR; Hope, AR; Nashville, AR; and Broken Bow, OK, one of which is owned by Processor Co-Conspirator 15, and four of which are owned by another Processor Conspirator;

f. the ''East Texas Poultry Region'': containing four primary poultry processing facilities in Lufkin, TX; Nacogdoches, TX; Carthage, TX; and Center, TX, two of which are owned by Processor Co-Conspirator 15, and two of which are owned by another Processor Conspirator;

g. the ''River Valley Poultry Region'': containing three primary poultry processing facilities in Union City, TN; Humboldt, TN; and Hickory, KY, one of which is owned by Processor Co-Conspirator 15, and two of which are owned by another Processor Conspirator;

h. the ''Western Coal Fields Poultry Region'': containing two primary poultry processing facilities in Cromwell, KY and Robards, KY, one of which is owned by Processor Co-Conspirator 14, and one of which is owned by another Processor Conspirator;

i. the ''North/South Carolina Poultry Region'': containing seven primary poultry processing facilities in Lumber Bridge, NC; Rockingham, NC; Marshville, NC; St. Pauls, NC; Monroe, NC; and Dillon, SC, two of which are owned by Processor Co-Conspirator 14, two of which are owned by Processor Co-Conspirator 15, one of which is owned by Defendant Sanderson, two of which are owned by other Processor Conspirators, and one of which is owned by another poultry processor;

j. the ''Northern Georgia Poultry Region'': containing eleven primary poultry processing facilities in Cornelia, GA; Murrayville, GA; Gainesville, GA; Athens, GA; Canton, GA; Ellijay, GA; Cumming, GA; Bethlehem, GA; Marietta, GA; and Pendergrass, GA, two of which are owned by Processor Co-Conspirator 7, four of which are owned by Processor Co-Conspirator 15, one of which is owned by Defendant Wayne, two of which are owned by other Processor Conspirators, and two of which are owned by other poultry processors;

k. the ''Central Georgia Poultry Region'': containing two primary poultry processing facilities in Perry, GA and Vienna, GA, one of which is owned by Processor Co-Conspirator 14, and one of which is owned by another Processor Conspirator;

l. the ''Chattanooga Poultry Region'': containing two primary poultry processing facilities in Chattanooga, TN, one of which is owned by Processor Co-Conspirator 15, and one of which is owned by another Processor Conspirator;

m. the ''Central North Carolina Poultry Region'': containing two primary poultry processing facilities in Sanford, NC; and Siler City, NC, one of which is owned by Processor Co-Conspirator 15, and one of which is owned by another Processor Conspirator;

n. the ''Southern Alabama/Georgia Poultry Region'': containing seven primary poultry processing facilities in Enterprise, AL; Dothan AL; Jack AL; Union Springs AL; Bakerhill, AL; Montgomery AL; and Bluffton, GA, one of which is owned by Processor Co-Conspirator 15, three of which are owned by Defendant Wayne, two of which are owned by other Processor Conspirators, and one of which is owned by another poultry processor;

o. the ''Northern Alabama Poultry Region'': containing eleven primary poultry processing facilities in Guntersville, AL; Russellville, AL; Albertville, AL; Decatur, AL; Blountsville, AL; Collinsville, AL; Gadsden, AL; Jasper, AL; Cullman, AL; and Tuscaloosa AL, two of which are owned by Processor Co-Conspirator 15, two of which are owned by Defendant Wayne, five of which are owned by other Processor Conspirators, and two of are owned by other poultry processors;

p. the ''Western North Carolina Poultry Region'': containing four primary poultry processing facilities in Dobson, NC; Wilkesboro, NC; Morganton, NC; and Winston-Salem, NC, one of which is owned by Defendant Wayne, two of which are owned by other Processor Conspirators, and one of which is owned by another poultry processor;

q. the ''Virginia/West Virginia Poultry Region'': containing eight primary poultry processing facilities in Timberville, VA; Moorefield, WV; Dayton, VA; Edinburg, VA; Harrisonburg, VA; New Market, VA; and Hinton, VA, two of which are owned by Processor Co-Conspirator 15, one of which is owned by Defendant Cargill, two of which are owned by other Processor Conspirators, and three of which are owned by other poultry processors;

r. the ''Laurel Poultry Region'': containing six primary poultry processing facilities in Collins, MS; Laurel, MS; Hattiesburg, MS; Bay Springs, MS: and Moselle MS, two of which are owned by Defendant Sanderson, one of which was owned by Defendant Wayne until 2021 and is now owned by another Processor Conspirator, one of which is owned by another Processor Conspirator, and at

[7] The number of primary poultry processing facilities in the Complaint is based on data from the United States Department of Agriculture on chicken and turkey slaughtering from 2022 and excludes facilities designated as ''Very Small.''

least two of which are owned by other poultry processors; and

s. the ''Southern Georgia Poultry Region'': containing three primary poultry processing facilities in Moultrie, GA; Camilla, GA; and Bluffton, GA, one of is was owned by Defendant Sanderson, one of which is owned by another Processor Conspirator, and one of which is owned by another poultry processor.

173. The United States is also a relevant geographic market for primary poultry processing plant labor. Poultry processing plant jobs outside the United States are not reasonable substitutes for workers seeking employment in the United States.

174. Many poultry processors make significant compensation decisions at a nationwide level. The executives in charge of such decisions often set nationwide policies or budgets for processors' wages and benefits. These nationwide decisions then influence local decisions, such as setting different wage base rates between particular local plants. At least one Processor Conspirator, Defendant Sanderson, sets its processing plant workers' wages at a nationwide level, meaning workers in the same position at different plants in different local areas receive the same base compensation.

175. Poultry processors also sometimes recruit workers from beyond the local regions where particular plants are located. For example, they may make use of their current workers' personal connections to recruit their friends or family members internationally, such as by giving referral bonuses to current workers. And some workers move between states or internationally to take processing plant jobs.

176. The Processor Defendants also viewed themselves as part of a nationwide market for poultry processing plant work. They gave significant time, expertise, and money over at least two decades to participate in the nationwide WMS Survey Group, including traveling to Florida (or another resort destination) to meet in person and swap compensation information about both hourly and salaried workers with poultry processors from across the country. The Steering Committee of the WMS Survey Group restricted the Group's membership to poultry processors with at least three plant locations nationwide.

177. Informed by their knowledge of and experience with their labor pool of potential and actual poultry processing plant workers, the Processor Conspirators chose to compose the WMS Survey Group to include poultry processors nationwide. The Processor Conspirators are not likely to have wasted their time and money on useless information exchanges. Thus, the Processor Conspirators, with the help of Defendants WMS and Meng and Consultant Co-Conspirator 1, formed their agreement to collaborate on compensation decisions, including through the anticompetitive exchange of compensation information, at a nationwide level.

178. The Processor Conspirators together control more than 90 percent of poultry processing plant jobs nationwide. A hypothetical monopsonist of poultry labor jobs nationwide would likely be able to suppress compensation for poultry workers by a small, but significant, amount.

D. Market Power

179. Together, the Processor Conspirators control over 90 percent of poultry processing plant jobs nationwide; the four largest of the Processor Conspirators control about half of that share. The Processor Conspirators also control at least 80 percent of poultry processing jobs in relevant local submarkets.

180. Further, many poultry processing plants are located in rural areas near poultry grower operations. The processors likely have even greater buyer market power in these markets, in which there are often fewer full-time, year-round jobs available than in more heavily populated areas.

181. Finally, the nature of labor markets generally means employers have market power at far lower levels of market share than the Processor Conspirators have here. Labor markets are matching markets—employees cannot simply switch jobs like a customer switches from one beverage to another. Finding a new job takes time, effort, and often, money. The new employer has to offer the job to the worker, while the employee must overcome the inertia provided by an existing job, even if it is an unfavorable one, to seek out and find, interview for, and accept the new job. Employees often have less freedom to move to take a new job due to family commitments such as their spouse's employment, their children's education, or the need to provide care to family members. Thus, workers are more likely to stay in the jobs they already have than consumers are to continue to buy the same product; labor markets come with a level of ''stickiness'' that many product markets do not.

E. Anticompetitive Effects: Processor Conspirators' Conspiracy Anticompetitively Affected Decisions About Compensation for Plant Processing Workers

182. The Processor Conspirators' pervasive and decades-long conspiracy and anticompetitive exchange of current and future, disaggregated, and identifiable information, facilitated and furthered by the Consultant Defendants, suppressed compensation for poultry processing plant workers nationwide. This anticompetitive agreement distorted the competitive mechanism for wage-setting and robbed poultry processing plant workers of the benefits of full and fair competition for their labor.

183. In labor markets, reductions to absolute compensation are unusual. Thus, the anticompetitive effects of agreements in such markets are most likely to be reflected in compensation remaining flat or increasing at a lower rate than would have occurred without the anticompetitive conduct.

184. The Processor Defendants' anticompetitive information sharing about poultry processing plant worker compensation supported their larger conspiracy to collaborate with competitors on their own compensation decisions. Both their broader conspiracy to collaborate and their information sharing suppressed competition among them and led to compensation that was lower than it would have been without either the larger conspiracy or the information sharing alone.

185. As the Processor Defendants themselves admitted to each other in emails, they used the current and future, disaggregated, and identifiable compensation data they exchanged directly and through consultants when making compensation decisions company-wide and for specific positions and plant locations. Because the shared information allowed the Processor Defendants to understand how their competitors currently compensated plant workers, or were planning to in the future, the information they exchanged allowed the Processor Defendants to offer lower compensation than they would have had to absent their agreement. The Processor Defendants' collaboration distorted the typical competitive process in which they would have had to fully and fairly compete by making their own independent choices about what wages and benefits to offer workers.

186. Further, because of the length of time the Processor Defendants were able to engage in their conspiracy and their

financial interest in keeping their labor costs below competitive levels, they are likely to continue collaborating and exchanging compensation information unless they are enjoined from doing so.

187. Conduct by multiple Defendants in 2009 illustrates the types of effects likely to have occurred as a result of the Defendants' conduct.

188. In January 2009, an executive at Processor Co-Conspirator 14 emailed Defendants Cargill, Sanderson, and Wayne and Processor Co-Conspirators 6, 7, 8, 15, and 18 seeking her competitors' help on the question of ''plant and merit increases'' for the next year. She described to her competitors that ''Our fiscal year begins 03/30/09, and, we have recently started talking about delaying.'' She asked these competitors, ''I am curious to find out if anyone has (or is in discussions) about postponing plant or merit increases.'' In addition, in the same email, she noted, ''I know there has been some previous dialogue about plant and merit increases.'' This correspondence both makes clear that Processor Co-Conspirator 14 was seeking its competitors' assistance in making its own wage decisions and suggests that the competitors had held similar discussions before. The Processor Co-Conspirator 14 executive sent her email directly in response to a question from an executive for Processor Co-Conspirator 6 about making travel and scheduling arrangements to meet in person for the annual WMS Survey Group meeting.

189. In July 2009, a strikingly similar discussion took place between Processor Co-Conspirator 17 and Processor Co-Conspirators 8 and 18. Processor Co-Conspirator 8's Vice President of Human Resources emailed at least two of Processor Co-Conspirator 8's competitors, Processor Co-Conspirator 17 and Processor Co-Conspirator 18, disclosing to Processor Co-Conspirator 17 that ''we are working on budgets for our next fiscal year. . . . We are looking at a raise in September/Oct. and have not decided on the amount yet . . . we're surveying the other poultry companies to get a feel for what they are going to do.'' As a result, he asked Processor Co-Conspirator 17, ''Do you know what [Processor Co-Conspirator 17] is planning on giving in the way of % or $ amount for your processing plants? What month will the raise go into effect?'' He concluded, ''I will be happy to let you know our decision within the next week.'' Processor Co-Conspirator 17's VP of People Services responded to the Processor Co-Conspirator 8 executive that ''We have no plans at this time to give increases.''

190. The Processor Co-Conspirator 8 executive made a similar disclosure to Processor Co-Conspirator 18—''We are budgeting for our next fiscal year''—as well as a similar request—''and was wondering what [Processor Co-Conspirator 18] is going to do as far as Plant Wages in November? Do you know the % amount or $ amount that [Processor Co-Conspirator 18] will be giving in Springdale and Monett, MO?'' The Processor Co-Conspirator 8 executive also, as he did with Processor Co-Conspirator 17, promised an exchange: ''I will be able to give you ours within the next week or so as well.'' The Processor Co-Conspirator 18 executive responded, ''Sorry, we don't know yet what we are going to do,'' to which the Processor Co-Conspirator 8 executive replied ''will you please share with me once you know?''

191. A later document from July 2010 states that the effective date of Processor Co-Conspirator 18's last plant-wide wage raise was in November 2008, suggesting that Processor Co-Conspirator 18, like Processor Co-Conspirator 17, did not raise its wages in 2009.

192. While in the years before and after 2009, Processor Co-Conspirator 8 typically raised its hourly plant worker wages, in 2009 itself, after hearing directly from its competitor Processor Co-Conspirator 17, and potentially also from its competitor Processor Co-Conspirator 18, Processor Co-Conspirator 8 chose not to raise its hourly worker wages. Thus, because Processor Co-Conspirator 8 collaborated with its competitors through the direct sharing of future compensation information, and received comfort from those competitors that they did not plan to raise their employees' wages, Processor Co-Conspirator 8's processing plant employees suffered a harmful effect.

193. Evidence of harmful effects from an information-sharing conspiracy is not restricted to denials of wage raises or choices not to grant benefits. If each participant in a labor market is suppressing its compensation levels by using information about its competitors' compensation plans to make smaller and more targeted wage increases than it would have absent such information sharing, wages will rise more slowly, and for fewer workers, than they would have without the conspiracy.

194. For example, in 2013, Processor Co-Conspirator 18's Director of Labor Compensation informed her coworkers that in preparation for internal decision-making about plant wages, Processor Co-Conspirator 18 ''completed a third-party survey with competing poultry companies. With this information, we feel that we are in a better position to strategically evaluate wages on a location by location level.'' Attached to this email are charts using data exchanged about competing processors' base wage rates through the WMS Survey Group, as well as other documents to which ''We [Processor Co-Conspirator 18] have added the [Consultant Co-Conspirator 1] wages and ranking'' and ''maintenance start and base rates by [Consultant Co-Conspirator 1] region.'' At least three of these charts marked specific plants for which Processor Co-Conspirator 18, as compared to the averages of other processors' plants in that region, was paying below median wages for the industry.

195. The information exchange informed Processor Co-Conspirator 18 exactly where and by how much it would have to increase wages to match its competitors; the exchange deprived plant workers, who lack any comparable information, of an independent effort by Processor Co-Conspirator 18 to recruit and hire workers by competing against other processors.

196. Defendant Wayne has admitted that it used its collaboration with the Processor Conspirators, and the information they exchanged with each other, in this way. Wayne's compensation strategy was to pay wages at or near the midpoint of compensation (*i.e.,* 50%) for its workers as compared to its competitors. Wayne's discussions and exchange of compensation information with the Processor Conspirators allowed it to more precisely target what the mid-point of compensation would be, suppressing the rise in compensation that might otherwise have occurred if Wayne had less ability to target that mid-point.

197. Similarly, Defendant Cargill used discussions and exchange of compensation information with the Processor Conspirators to assist in determining the ''salary bands'' it would set for salaried worker positions. Cargill sent these band amounts to local plant managers to inform the setting of local wages. Cargill admitted that on at least one occasion the WMS Survey Group compensation data influenced Cargill's decision to lower the salary band range for plant supervisors from where it had originally set that band.

198. The Processor Conspirators' compensation information exchanges therefore distorted compensation-setting processes in the poultry processor plant worker labor market and harmed the competitive process.

VII. Violations Alleged

A. Count I: Sherman Act Section 1 (All Defendants)

199. The United States repeats and realleges paragraphs 1 through 198 as if fully set forth herein.

200. The Processor Defendants violated Section 1 of the Sherman Act, 15 U.S.C. 1, by agreeing to collaborate with and assist their competitors in making poultry processing worker compensation decisions, to exchange current and future, disaggregated, and identifiable information about their compensation of poultry processing plant workers, and to facilitate this collaboration and such exchanges. This agreement suppressed compensation for poultry processing workers for decades.

201. This agreement included more than 20 years of discussions between and among these competitors about wage and benefit policies and amounts, which went well beyond the sharing of information and included consultation and advice-giving—as one processor put it, ''a collaborative working relationship''—on decisions that were competitively sensitive and should have been made independently.

202. The agreement also included exchanging (or, for the Consultant Defendants, facilitating the exchange of) competitively sensitive information about poultry processing plant workers' wages and benefits at both local levels and the national level. Such exchanges allowed these competitors to understand wages and benefits paid or planned by specific competitors, in specific places, to specific types of workers. (Standing alone, these exchanges of information would constitute a violation of Section 1 of the Sherman Act.)

203. The Processor Defendants themselves understood that their anticompetitive agreement likely raised serious legal concerns. They went to great lengths to keep their exchanges confidential. Some expressed their concerns explicitly; others abandoned some of the larger-group exchanges once antitrust investigations and private lawsuits began to uncover their behavior. The Processor Defendants and Processor Conspirators nonetheless continued exchanging information through less observable methods, for example through Consultant Co-Conspirator 1.

204. The Processor Conspirators' market power increases their agreement's likely anticompetitive effects. In relevant local labor submarkets, they control more than 80 percent of poultry processing jobs—in some areas, likely 100 percent of poultry processing jobs—and thus have market power in local markets for poultry processing plant workers. They enjoy outsize market power over the supply of poultry processing plant jobs in these local areas, in which they are often among the largest employers. In the national market, they control over 90 percent of poultry processing jobs nationwide, and thus have buyer market power in the nationwide market for poultry processing plant workers. Their choice to collaborate on compensation decisions and to exchange information, even though they had buyer market power, disrupted the competitive mechanism for negotiating and setting wages and benefits for poultry processing plant workers and harmed the competitive process.

205. As described in more detail in paragraphs 1 through 204 above, from 2000 or earlier to the present, Defendants Cargill, Sanderson, Wayne, WMS, and G. Jonathan Meng agreed to collaborate with and assist their competitors in making compensation decisions and to exchange current and future, disaggregated, and identifiable compensation information, or to facilitate this anticompetitive agreement, an unlawful restraint of trade under Section 1 of the Sherman Act, 15 U.S.C. 1.

206. There is no justification, procompetitive or otherwise, for large, profitable, and sophisticated competitors collaborating with the effect of suppressing wages and benefits for their workers.

207. The Defendants' agreement to collaborate on compensation decisions, exchange current and future compensation information, and facilitate those collaborations and exchanges suppressed poultry processing plant worker compensation. It constitutes an unreasonable restraint of interstate trade and commerce in the nationwide and in local labor markets for hourly and salaried poultry processing plant workers. This offense is likely to continue and recur unless this court grants the requested relief.

B. Count II: Packers and Stockyard Act Section 202(a) (Defendants Sanderson and Wayne Only)

208. The United States repeats and realleges paragraphs 1 through 207 as if fully set forth herein.

209. Defendants Sanderson and Wayne violated Section 202(a) of the Packers and Stockyards Act, 1921, as amended and supplemented, 7 U.S.C. 192(a), by engaging in deceptive practices regarding their contracts with growers. These deceptions deprived growers of material information necessary to make informed decisions about their contracting opportunities and to compare offers from different poultry processors.

210. Defendants Sanderson and Wayne are ''live poultry dealers'' under 7 U.S.C. 182(10), because each is engaged in the business of obtaining live poultry under a poultry growing arrangement for the purpose of slaughtering it.

211. Defendants Sanderson's and Wayne's grower contracts concern ''live poultry'' under 7 U.S.C. 182(6), 192, because the contracts concerned the raising of live chickens.

212. Defendants Sanderson and Wayne each engaged in deceptive practices through their grower contracts, which omitted material disclosures about how each compensates growers. Those disclosures would have provided information the grower needs to effectively compete in the tournament system and allowed growers to evaluate their likely return and risks, including, among other things the variability of inputs the grower would receive, the risks regarding downside penalties for underperforming relative to other growers in the tournament system.

213. Defendants Sanderson's and Wayne's deceptive practices are ongoing and likely to continue and recur unless the court grants the requested relief.

VIII. Requested Relief

214. The United States requests that this Court:

a. rule that Defendants' conspiracy to collaborate on processing plant compensation decisions, including through the exchange of compensation information, has unreasonably restrained trade and is unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1;

b. rule that Defendants' exchange of compensation information itself, without more, has unreasonably restrained trade and is unlawful under Section 1 of the Sherman Act, 15 U.S.C. 1;

c. permanently enjoin and restrain all Defendants from collaborating on decisions related to worker wages and benefits with any other company engaged in poultry growing or processing or the sale of poultry products;

d. permanently enjoin and restrain all Defendants from sharing, or facilitating the sharing of, information about compensation for their workers with any other company engaged in poultry growing or processing or the sale of poultry products, whether that sharing is direct or indirect;

e. require all Defendants to take such internal measures as are necessary to ensure compliance with that injunction;

f. impose on all Defendants a Monitoring Trustee to ensure compliance with the antitrust laws;

g. grant equitable monetary relief;

h. permanently enjoin and restrain Defendants Sanderson and Wayne from engaging in deceptive practices regarding their contracts with growers;

i. require Defendants Sanderson and Wayne to make appropriate disclosures to growers before entering into contracts concerning live poultry, in order to provide sufficient information for the growers to understand the scope of the contract and the potential risks;

j. require Defendants Sanderson and Wayne to modify their grower compensation systems to eliminate the harm arising from each firm's failure to disclose to growers all of the potential risks associated with that firm's compensation system;

k. grant other relief as required by the nature of this case and as is just and proper to prevent the recurrence of the alleged violation and to dissipate its anticompetitive effects, including such structural relief as may be necessary to prevent the anticompetitive effects caused by the challenged conduct and described in this Complaint;

l. award the United States the costs of this action; and

m. award such other relief to the United States as the Court may deem just and proper.

Dated: July 25, 2022

Respectfully submitted,

For Plaintiff United States of America,

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United States District Court for the District of Maryland

United States of America, Plaintiff, v. *Cargill Meat Solutions Corp., et. al.,* Defendants.

Civil Action No.: 22–cv–1821 (Gallagher, J.)

[Proposed] Final Judgment

Whereas, Plaintiff, the United States of America, filed its Complaint on July 25, 2022, alleging that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 202(a) of the Packers and Stockyards Act, 7 U.S.C. 192(a);

And whereas, the United States and Defendants Cargill Meat Solutions Corp., Cargill, Inc., Sanderson Farms, Inc., and Wayne Farms, LLC (collectively, ''Settling Defendants'') have consented to the entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Settling Defendants agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the anticompetitive effects alleged in the Complaint;

And whereas, Settling Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now therefore, it is *ordered, adjudged, and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and each of the parties named herein. The Complaint states a claim upon which relief may be granted against the Settling Defendants under Section 1 of the Sherman Act, 15 U.S.C. 1, and Section 202(a) of the Packers and Stockyards Act, 7 U.S.C. 192(a).

II. Definitions

As used in this Final Judgment:

A. ''Agreement'' means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons.

B. ''Base Payment'' means the standard payment (currently subject to adjustment up or down based upon a Grower's performance on a given flock as compared to a peer group) made by the Settling Defendants to a Grower that supplies broiler chickens for processing in the Settling Defendants' facilities, such as the standard payment characterized as the ''base pay per pound'' and set forth in Schedule 1 of the current Wayne Farms Broiler Production Agreement and the ''Base Pay'' as set forth in the Payment Schedule attached to the Sanderson Farms, Inc. (Production Division) Broiler Production Agreement.

C. ''Cargill, Inc.'' means Defendant Cargill, Incorporated, a privately-held company headquartered in Wayzata, Minnesota, its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Cargill Meat Solutions'' means Defendant Cargill Meat Solutions Corporation, a Delaware company headquartered in Wichita, Kansas, that is a wholly owned subsidiary of Cargill, Inc., and its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. ''CMS Secondary Processing Facilities'' means Cargill Meat Solutions facilities that are not slaughter facilities and that further process (such as cooking, marinating, grinding, portioning, seasoning, smoking, breading, or battering) raw Poultry materials obtained or received from a slaughter facility.

F. ''Communicate'' means to discuss, disclose, transfer, disseminate, circulate, provide, request, solicit, send, receive or exchange information or opinion, formally or informally, directly or indirectly, in any manner, and regardless of the means by which it is accomplished, including orally or by written means of any kind, such as electronic communications, emails, facsimiles, telephone communications, voicemails, text messages, audio recordings, meetings, interviews, correspondence, exchange of written or recorded information, including surveys, or face-to-face meetings.

G. ''Compensation'' means all forms of payment for work, including salaried pay, hourly pay, regular or ad hoc bonuses, over-time pay, and benefits, including healthcare coverage, vacation or personal leave, sick leave, and life insurance or disability insurance policies.

H. ''Competitively Sensitive Information'' means information that is relevant to, or likely to have an impact on, at least one dimension of competition, including price, cost (including Compensation), output, quality, and innovation. Competitively Sensitive Information includes prices, strategic plans, amounts and types of Compensation, formula and algorithms used for calculating Compensation or proposed Compensation, other information related to costs or profits, markets, distribution, business relationships, customer lists, production capacity, and any confidential information the exchange of which could harm competition.

I. ''Consulting Firm'' means any organization, including Webber, Meng, Sahl & Company, Inc. and Agri Stats, Inc., that gathers, sorts, compiles, and/or sells information about Compensation for Poultry Processing Workers, or provides advice regarding Compensation for Poultry Processing Workers; ''Consulting Firm'' does not include job boards, employment agencies or other entities that facilitate employment opportunities for employees.

J. ''Disclosure Requirements'' means the entirety of Section V of ''Transparency in Poultry Grower Contracting and Tournaments,'' a proposed rule by the U.S. Department of Agriculture's Agricultural Marketing Service on June 8, 2022, 87 FR 34980, *available at https://www.federalregister.gov/documents/2022/06/08/2022-11997/transparency-in-poultry-grower-contracting-and-tournaments.*

K. ''Grower'' means any person engaged in the business of raising and caring for live Poultry for slaughter by another, whether the Poultry is owned by such a person or by another, but not an employee of the owner of such Poultry.

L. ''Human Resources Staff'' means any and all full-time, part-time, or contract employees of Settling Defendants, wherever located, whose job responsibilities relate in any way to hiring or retaining workers, employment, or evaluating, setting, budgeting for, administering, or otherwise affecting Compensation for Poultry Processing Workers, and any other employee or agent working at any of those employees' direction.

M. ''Including'' means including, but not limited to.

N. ''Incentive Payment'' means a payment made by a Settling Defendant to a Grower that supplies broiler chickens for processing in the Settling Defendants' facilities based upon a Grower's performance on a given flock as compared to a peer group. Incentive Payment does not include payments based on factors other than relative performance, such as payment for a Grower's investments in improved facilities or technology or payments to subsidize the costs of utilities.

O. ''*Jien*'' means the case *Jien* v. *Perdue Farms, Inc.,* No. 1:19–cv–2521 (D. Md.).

P. ''Management'' means all directors and executive officers of Settling Defendants, or any other of Settling Defendants' employees with management or supervisory responsibilities related to hiring, employment, or Compensation of Poultry Processing plant labor, including Poultry Processing plant managers.

Q. ''Person'' means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity.

R. ''Poultry'' means chicken or turkey.

S. ''Poultry Processing'' means the business of raising, slaughtering, cleaning, packing, packaging, and related activities associated with producing Poultry, including activities conducted by Poultry Processors at integrated feed mills, hatcheries, and processing plant facilities and the management of those activities; ''Poultry Processing'' does not include Cargill Meat Solutions' egg businesses or any of the CMS Secondary Processing Facilities, but it does include the downstream sale of products made from Poultry transferred from one of Cargill Meat Solutions' slaughter facilities to one of the CMS Secondary Processing Facilities.

T. ''Poultry Processing Worker'' means anyone paid any Compensation, directly or indirectly (such as through a temporary employment agency or third-party staffing agency), by a Poultry Processor related to Poultry Processing, including temporary workers, permanent workers, employees, workers paid hourly wages, workers paid salaried wages, and workers paid benefits.

U. ''Poultry Processor'' means any person (1) who is engaged in Poultry Processing or (2) that has full or partial ownership or control of a Poultry Processing facility, or (3) that provides Compensation to Poultry Processing Workers; ''Poultry Processor'' does not include staffing agencies or other entities that are not owned, operated, or controlled by a person engaged in Poultry Processing or that owns or controls, in full or part, Poultry Processing facilities, that make individuals available to work at Poultry Processing facilities.

V. ''Restitution Amount'' means $15 million for Cargill Meat Solutions, $38.3 million for Sanderson, and $31.5 million for Wayne.

W. ''Sanderson'' means Defendant Sanderson Farms, Inc., a publicly traded Mississippi corporation headquartered in Laurel, Mississippi, and its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents and employees. Continental Grain Company is not an affiliate, successor or assign of Sanderson Farms, Inc.

X. ''Wayne'' means Defendant Wayne Farms, LLC, a Delaware company headquartered in Oakwood, Georgia, the controlling shareholder of which is Continental Grain Company, a privately-held firm headquartered in New York, New York, and its successors and assigns, subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

III. Applicability

This Final Judgment applies to Settling Defendants and all other persons in active concert or participation with them who receive actual notice of this Final Judgment.

IV. Prohibited Conduct

A. Management and Human Resources Staff of each Settling Defendant must not, whether directly or indirectly, including through a Consulting Firm or other person:

1. participate in any meeting or gathering (including in-person, virtual, and telephonic meetings and gatherings) related to Compensation for Poultry Processing Workers, or for any purpose related to Compensation for Poultry Processing Workers, at which any other Poultry Processor not owned or operated by one or a combination of Settling Defendants is present;

2. Communicate Competitively Sensitive Information about Compensation for Poultry Processing Workers with any Poultry Processor not owned or operated by one or a combination of Settling Defendants, including about types, amounts, or

methods of setting or negotiating Compensation for Poultry Processing Workers;

3. attempt to enter into, enter into, maintain, or enforce any Agreement with any Poultry Processor not owned or operated by one or a combination of Settling Defendants about Poultry Processing Worker Compensation information, including how to set or decide Compensation or the types of Compensation for Poultry Processing Workers;

4. Communicate Competitively Sensitive Information about Compensation for Poultry Processing Workers to any Poultry Processor not owned or operated by one or a combination of Settling Defendants, including Communicating Competitively Sensitive Information about Compensation for Poultry Processing Workers to any Consulting Firm that produces reports regarding Compensation for Poultry Processing Workers that are shared with other Poultry Processors;

5. use non-public, Competitively Sensitive Information about Compensation for Poultry Processing Workers from or about any Poultry Processor not owned or operated by one or a combination of Settling Defendants; or

6. encourage or facilitate the communication of Competitively Sensitive Information about Compensation for Poultry Processing Workers to or from any Poultry Processor not owned or operated by one or a combination of Settling Defendants.

B. Settling Defendants must not knowingly use from any Poultry Processor not owned or operated by one or a combination of Settling Defendants or any of that Poultry Processor's officers, consultants, attorneys, or other representatives any Competitively Sensitive Information about Compensation for Poultry Processing Workers except as set forth in Section V or in connection with pending or threatened litigation as a party or fact witness, pursuant to court order, subpoena, or similar legal process, or for which any Settling Defendant has received specific prior approval in writing from the Division.

C. From and after the date that is 10 business days after entry of this Final Judgment, Sanderson and Wayne must not reduce the Base Payment made to any Grower supplying broiler chicken to the Settling Defendants as a result of that Grower's performance or as a result of the Grower's performance in comparison with the performance of other Growers supplying the Settling Defendants. This Section IV does not prohibit the Settling Defendants from:

1. offering Incentive Payments, so long as total Incentive Payments paid for flocks processed at a single complex do not exceed 25% of the sum of total Base Payments and total Incentive Payments paid for flocks processed at that complex on an annual basis;

2. offering payments other than Incentive Payments to Growers for any lawful reason, including offering payments based upon the Grower's investments in improved facilities or technology or payments to subsidize the costs of utilities; or

3. offering contracts with a lower Base Payment if the Grower will be rearing different types of flocks (*e.g.,* based on sex, breed, method of raising, target market weight, etc.) so long as the Base Payment offered is consistent with the base rates offered to other Growers in the complex rearing those types of flocks.

D. The Settling Defendants must not retaliate against any employee or third party, such as a Grower, for disclosing information to the monitor described in Section VI, a government antitrust enforcement agency, or a government legislature.

V. Conduct Not Prohibited

A. Nothing in Section IV prohibits a Settling Defendant from Communicating, using, or encouraging or facilitating the Communication of, its Competitively Sensitive Information with an actual or prospective Poultry Processing Worker, or with the Poultry Processing Worker's labor union or other bargaining agent, except that, if a prospective Poultry Processing Worker is employed by another Poultry Processor, Settling Defendants' Communicating, using, or encouraging or facilitating the Communication of, Competitively Sensitive Information is excluded from the prohibitions of Section IV only insofar as is necessary to negotiate the Compensation of a prospective Poultry Processing Worker. Settling Defendants are not prohibited from internally using Competitively Sensitive Information received from a prospective Poultry Processing Worker who is employed by a Poultry Processor in the ordinary course of a legitimate hiring, retention, or off-boarding process, but Settling Defendants are prohibited from Communicating that Competitively Sensitive Information to another Poultry Processor.

B. Nothing in Section IV prohibits the Settling Defendants from (1) sharing information with or receiving information from a staffing agency or entity that is not owned or controlled by any Poultry Processor, that facilitate employment, if necessary to effectuate an existing or potential staffing Agreement between the staffing agency or entity and the Settling Defendants; and (2) advertising Compensation through public job postings, billboards or help wanted advertisements.

C. Nothing in Section IV prohibits Settling Defendants from, after securing advice of counsel and in consultation with their respective antitrust compliance officer, Communicating, using, encouraging or facilitating the Communication of, or attempting to enter into, entering into, maintaining, or enforcing any Agreement to Communicate Competitively Sensitive Information relating to Compensation for Poultry Processing Workers with any Poultry Processor when such Communication or use is for the purpose of evaluating or effectuating a bona fide acquisition, disposition, or exchange of assets:

1. For all Agreements under Paragraph V(C) with any other Poultry Processor to Communicate Competitively Sensitive Information relating to Poultry Processing Workers that a Settling Defendant enters into, renews, or affirmatively extends after the date of entry of this Final Judgment, the Settling Defendant must maintain documents sufficient to show:

i. the specific transaction or proposed transaction to which the sharing of Competitively Sensitive Information relating to Compensation for Poultry Processing Workers relates;

ii. the employees, identified with reasonable specificity, who are involved in the sharing of Competitively Sensitive Information relating to Compensation for Poultry Processing Workers;

iii. with specificity the Competitively Sensitive Information relating to Compensation for Poultry Processing Workers Communicated; and

iv. the termination date or event of the sharing of Competitively Sensitive Information relating to Compensation for Poultry Processing Workers.

2. For Communications under Paragraph V(C), Settling Defendants must maintain copies of all materials required under Paragraph V(C)(1) for the duration of the Final Judgment, following entry into any Agreement to Communicate or receive Competitively Sensitive Information, and must make such documents available to the United States and the monitor appointed under Section VI upon request.

D. Nothing in Section IV prohibits Settling Defendants, after securing the advice of counsel and in consultation with the antitrust compliance officer,

from engaging in conduct in accordance with the doctrine established in *Eastern Railroad Presidents Conference* v. *Noerr Motor Freight, Inc.,* 365 U.S. 127 (1961), *United Mine Workers* v. *Pennington,* 381 U.S. 657 (1965), and their progeny.

E. Nothing in Paragraph IV(A)(1) prohibits Settling Defendants from participating in meetings and gatherings in which they receive (but do not provide) information relating to Compensation that is not based upon information received from or about one or more Poultry Processors.

VI. Monitor

A. Upon application of the United States, which Settling Defendants may not oppose, the Court will appoint a monitor selected by the United States and approved by the Court. Within 30 calendar days after entry of the Stipulation and Order in this case, the Settling Defendants may together propose to the United States a pool of three candidates to serve as the monitor, and the United States may consider the Settling Defendants' perspectives on the Settling Defendants' three proposed candidates or any other candidates identified by the United States. The United States retains the right, in its sole discretion, either to select the monitor from among the three candidates proposed by the Settling Defendants or to select a different candidate for the monitor.

B. The monitor will have the power and authority to monitor: (1) Settling Defendants' compliance with the terms of this Final Judgment entered by the Court, including compliance with Paragraph IV(C), and (2) Settling Defendants' compliance, regarding events occurring after entry of the Stipulation and Order in this case (even if such events began before that date), with the U.S. federal antitrust laws relating to Poultry Processing, Poultry Processing Workers, Growers, integrated Poultry feed, hatcheries, the transportation of Poultry and Poultry products, and the sale of Poultry and Poultry Processing products. The monitor may also have other powers as the Court deems appropriate. The monitor's power and authority will not extend to monitoring the processing of meat or material other than Poultry, even if such processing of meat or material other than Poultry takes place in a facility or location that also engages in Poultry Processing. The monitor's power and authority will not extend to monitoring Cargill, Inc., employees who have not engaged in work related to Poultry Processing, Poultry Processing Workers, Growers, integrated Poultry feed, hatcheries, the transportation of Poultry and Poultry products, or the sale of Poultry or Poultry Processing products. The monitor will have no right, responsibility or obligation for the operation of Settling Defendants' businesses. No attorney-client relationship will be formed between the Settling Defendants and the monitor.

C. The monitor will serve at the cost and expense of Settling Defendants pursuant to a written Agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion.

D. The monitor may hire, at the cost and expense of Settling Defendants, any agents and consultants, including attorneys and accountants, that are reasonably necessary in the monitor's judgment to assist with the monitor's duties. These agents or consultants will be solely accountable to the monitor and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion.

E. The compensation of the monitor and agents or consultants retained by the monitor must be on reasonable and customary terms commensurate with the individuals' experience and responsibilities. If the monitor and Settling Defendants are unable to reach agreement on the monitor's compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the monitor, the United States, in its sole discretion, may take appropriate action, including by making a recommendation to the Court. Within three business days of hiring any agents or consultants, the monitor must provide written notice of the hiring and the rate of compensation to Settling Defendants and the United States.

F. The monitor must account for all costs and expenses incurred.

G. The monitor will have the authority to take such reasonable steps as, in the United States' view, may be necessary to accomplish the monitor's duties. The monitor may seek information from Settling Defendants' personnel, including in-house counsel, compliance personnel, and internal auditors. If the monitor has confidence in the quality of the resources, the monitor may consider the products of Settling Defendants' processes, such as the results of studies, reviews, sampling and testing methodologies, audits, and analyses conducted by or on behalf of any Settling Defendant, as well as any of Settling Defendants' internal resources (*e.g.,* legal, compliance, and internal audit), which may assist the monitor in carrying out the monitor's duties). The Settling Defendants will establish a policy, annually communicated to all employees, that employees may disclose any information to the monitor, without reprisal for such disclosure.

H. Settling Defendants must use best efforts to cooperate fully with the monitor. Subject to reasonable protection for trade secrets and confidential research, development, or commercial information, or any applicable privileges or laws, Settling Defendants must (1) provide the monitor and agents or consultants retained by the monitor with full and complete access to all personnel, books, records, and facilities, and (2) use reasonable efforts to provide the monitor with access to Settling Defendants' former employees, Growers, third-party vendors, agents, and consultants. Settling Defendants may not take any action to interfere with or to impede accomplishment of the monitor's responsibilities.

I. If Settling Defendants seek to withhold from the monitor access to anything or anyone on the basis of attorney-client privilege or the attorney work-product doctrine, or because Settling Defendants reasonably believe providing the monitor with access would be inconsistent with applicable law, the Settling Defendants must work cooperatively with the monitor to resolve the issue to the satisfaction of the monitor. If Settling Defendants and the monitor do not reach a resolution of the issue to the satisfaction of the monitor within 21 calendar days, Settling Defendants must immediately provide written notice to the United States and the monitor. The written notice must include a description of what is being withheld and the Settling Defendants' legal basis for withholding access.

J. Except as specifically provided by Paragraph VI(I), Settling Defendants may not object to requests made or actions taken by the monitor in fulfillment of the monitor's responsibilities under this Final Judgment or any other Order of the Court on any ground other than malfeasance by the monitor; *provided, however,* that if Settling Defendants believe in good faith that a request or action by the monitor pursuant to the monitor's authority under Paragraph VI(B)(2) exceeds the scope of the monitor's authority or is unduly burdensome, the Settling Defendants may object to the United States. Objections by Settling Defendants under this Paragraph VI(J) regarding a request

or action exceeding the monitor's scope must be conveyed in writing to the United States and the monitor within 10 calendar days of the monitor's request or action that gives rise to Settling Defendants' objection. Objections by Settling Defendants under this Paragraph VI(J) regarding a request or action being unduly burdensome must be made, with specificity, to the monitor within seven calendar days of the request or action; if the Settling Defendants and the monitor cannot resolve the objections regarding a request or action being unduly burdensome, within 21 days of the request or action the Settling Defendants must convey their objections in writing to the United States. All objections will be resolved by the United States, in its sole discretion.

K. The monitor must investigate and report on Settling Defendants' compliance with this Final Judgment, including those provisions governing Settling Defendants' communications with Poultry Processors and third parties related to Poultry Processing Worker Compensation information, and Settling Defendants' compliance, regarding events occurring after entry of the Stipulation and Order in this case (even if such events began before that date), with the U.S. federal antitrust laws relating to Poultry Processing, Poultry Processing Workers, Growers, integrated Poultry feed, hatcheries, the transportation of Poultry and Poultry products, and the sale of Poultry and Poultry Processing products.

L. The monitor must provide periodic written reports to the United States and the Settling Defendants setting forth Settling Defendants' efforts to comply with their obligations under this Final Judgment and the U.S. federal antitrust laws relating to Poultry Processing, Poultry Processing Workers, Growers, integrated Poultry feed, hatcheries, the transportation of Poultry and Poultry products, and the sale of Poultry and Poultry Processing products. The monitor must provide written reports every six months for the first two years of the term of the monitor's appointment after which the monitor must provide written reports on an annual basis. The monitor must provide the first written report within six months of the monitor's appointment by the Court. The United States, in its sole discretion, may change the frequency of the monitor's written reports at any time, communicate or meet with the monitor at any time, and make any other requests of the monitor as the United States deems appropriate.

M. Within 30 days after appointment of the monitor by the Court, and on a yearly basis thereafter, the monitor must provide to the United States and Settling Defendants a written work plan for the monitor's proposed review. Settling Defendants may provide comments on a written work plan to the United States and the monitor within 14 calendar days after receipt of the written work plan. The United States retains the right, in its sole discretion, to request changes or additions to a work plan at any time. Any disputes between Settling Defendants and the monitor with respect to any written work plan will be decided by the United States in its sole discretion.

N. The monitor will serve for the full term of this Final Judgment, unless the United States, in its sole discretion, determines a different period is appropriate. After five years from the date this Final Judgment was entered, the United States, in its sole discretion, will determine whether continuation of the monitor's full term is appropriate, or whether to suspend the remainder of the term.

O. If the United States determines that the monitor is not acting diligently or in a reasonably cost-effective manner or if the monitor becomes unable to continue in their role for any reason, the United States may recommend that the Court appoint a substitute.

VII. Required Conduct

A. Within 10 days of entry of this Final Judgment, each Settling Defendant must appoint an antitrust compliance officer who is an internal employee or officer of each of the Settling Defendants and identify to the United States the antitrust compliance officer's name, business address, telephone number, and email address. Within 45 days of a vacancy in the antitrust compliance officer position, Settling Defendants must appoint a replacement, and must identify to the United States the antitrust compliance officer's name, business address, telephone number, and email address. Settling Defendants' initial or replacement appointment of an antitrust compliance officer is subject to the approval of the United States, in its sole discretion.

B. Each Settling Defendant's antitrust compliance officer must have, or must retain outside counsel who has, the following minimum qualifications:

1. be an active member in good standing of the bar in any U.S. jurisdiction; and

2. have at least five years' experience in legal practice, including experience with antitrust matters.

C. Each Settling Defendant's antitrust compliance officer must, directly or through the employees or counsel working at the direction of the antitrust compliance officer:

1. within 14 days of entry of the Final Judgment, furnish to the relevant Settling Defendant's Management, all Human Resources Staff, and the relevant Settling Defendants' retained Consulting Firms and utilized temporary employment agencies a copy of this Final Judgment, the Competitive Impact Statement filed by the United States with the Court, and a cover letter in a form attached as Exhibit 1;

2. within 14 days of entry of the Final Judgment, in a manner to be devised by Settling Defendants and approved by the United States, in its sole discretion, provide the relevant Settling Defendants' Management, all Human Resources Staff, and the relevant Settling Defendant's retained Consulting Firms and utilized temporary employment agencies reasonable notice of the meaning and requirements of this Final Judgment;

3. annually brief the relevant Settling Defendants' Management, Human Resources Staff, and the relevant Settling Defendant's retained Consulting Firms and utilized temporary employment agencies on the meaning and requirements of this Final Judgment and the U.S. federal antitrust laws;

4. brief any person who succeeds a person in any position identified in Paragraph VII(C)(3) within 60 days of such succession;

5. obtain from each person designated in Paragraph VII(C)(3) or VII(C)(4), within 30 days of that person's receipt of the Final Judgment, a certification that the person (i) has read and understands and agrees to abide by the terms of this Final Judgment; (ii) is not aware of any violation of the Final Judgment or of any violation of any U.S. antitrust law that has not been reported to the relevant Settling Defendant's Management; and (iii) understands that failure to comply with this Final Judgment may result in an enforcement action for civil or criminal contempt of court;

6. annually communicate to the relevant Settling Defendant's Management and Human Resources Staff, and the relevant Settling Defendant's retained Consulting Firms and utilized temporary employment agencies that they may disclose to the antitrust compliance officer, without reprisal for such disclosure, information concerning any violation or potential violation of this Final Judgment or the U.S. federal antitrust laws by Settling Defendants; and

7. maintain for five years or until expiration of the Final Judgment, whichever is longer, a copy of all

materials required to be issued under Paragraph VII(C), and furnish them to the United States within 10 days if requested to do so, except documents protected under the attorney-client privilege or the attorney work-product doctrine.

D. Each Settling Defendant must:

1. within 30 days of the filing of the Complaint, Proposed Final Judgment, or Competitive Impact Statement in this action, whichever is latest, provide notice to every Poultry Processor and to every Consulting Firm with which that Settling Defendant has a contract or Agreement in place relating to Compensation for Poultry Processing Workers, of the Complaint, Proposed Final Judgment, and Competitive Impact Statement in a form and manner to be proposed by Settling Defendants and approved by the United States, in its sole discretion. Settling Defendants must provide the United States with their proposals, including their lists of recipients, within 10 days of the filing of the Complaint;

2. for all materials required to be furnished under Paragraph VII(C) that Settling Defendants claim are protected under the attorney-client privilege or the attorney work-product doctrine, Settling Defendants must furnish to the United States a privilege log;

3. upon Management or the antitrust compliance officer learning of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, promptly take appropriate action to terminate or modify the activity so as to comply with this Final Judgment and maintain, and produce to the United States upon request, all documents related to any violation or potential violation of this Final Judgment;

4. file with the United States a statement describing any violation or potential violation within 30 days of a violation or potential violation becoming known to Management or the antitrust compliance officer. Descriptions of violations or potential violations of this Final Judgment must include, to the extent practicable, a description of any communications constituting the violation or potential violation, including the date and place of the communication, the persons involved, and the subject matter of the communication;

5. have their Chief Executive Officers or President certify to the United States annually on the anniversary date of the entry of this Final Judgment that the Settling Defendants have complied with all of the provisions of this Final Judgment, and list all Agreements subject to Paragraph V(C) from the prior year; and

6. maintain and produce to the United States upon request: (i) a list identifying all employees having received the antitrust briefings required under Paragraphs VII(C)(3) and VII(C)(4); and (ii) copies of all materials distributed as part of the antitrust briefings required under Paragraph VII(C)(3) and VII(C)(4). For all materials requested to be produced under this Paragraph VII(D)(6) that a Settling Defendant claims is protected under the attorney-client privilege or the attorney work-product doctrine, Settling Defendant must furnish to the United States a privilege log.

E. Within 75 business days after entry of this Final Judgment, the Settling Defendants must offer each Grower supplying broiler chickens for processing in the Settling Defendants' facilities a modification of such Grower's contract (1) providing for a Base Payment no lower than that Grower's Base Payment for a given type of flock (*e.g.,* based on sex, breed, method of raising, target market weight, etc.) and (2) eliminating any provision permitting a Settling Defendant to reduce the Base Payment provided to a Grower in a manner prohibited by Paragraph IV(C); *provided, however,* that a Grower's refusal to accept such modification will not relieve Settling Defendants of their obligations pursuant to Paragraph IV(C).

F. Within 80 business days after entry of this Final Judgment, the Settling Defendants must each furnish to the United States an affidavit affirming that it has offered the contractual modifications required by Paragraph IV(C) to each Grower supplying broiler chickens to it for processing.

G. The term ''potential violation'' as used in this Section VII does not include the discussion with counsel, the antitrust compliance officer, or anyone working at counsel's or the antitrust compliance officer's direction, regarding future conduct.

H. Within 75 business days after entry of this Final Judgment, Sanderson and Wayne must comply with the Disclosure Requirements, which are made part of this Final Judgment, and hereby incorporated into this Final Judgment by reference. The preceding sentence does not apply if during the term of this Final Judgment, the USDA promulgates final regulations imposing different disclosure requirements relating to payments to Growers, including a final version of the regulations discussed in the ''Transparency in Poultry Grower Contracting and Tournaments,'' a proposed rule by the Agricultural Marketing Service, June 8, 2022, 87 FR 34980, *available at https://www.federalregister.gov/documents/2022/06/08/2022-11997/transparency-in-poultry-grower-contracting-and-tournaments,* as long as the final version of such regulation or any amended version thereof remains in effect, in which case Settling Defendants must comply with the final or amended regulations. If at any point there is no longer a final or amended version in effect, Sanderson and Wayne must again comply with the Disclosure Requirements.

VIII. Required Cooperation

A. Settling Defendants must cooperate fully and truthfully with the United States in any investigation or litigation relating to the sharing of Poultry Processing Worker Compensation information among Poultry Processors, in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1. Settling Defendants must use their best efforts to ensure that all current officers, directors, employees, and agents also fully and promptly cooperate with the United States and use reasonable efforts to ensure that all former officers, directors, employees, and agents also fully and promptly cooperate with the United States. The full, truthful, and continuing cooperation of Settling Defendants must include:

1. as requested on reasonable notice by the United States, being available for interviews, depositions, and providing sworn testimony to the United States orally and in writing as the United States so chooses;

2. producing, upon request of the United States, all documents, data, information, and other materials, wherever located, not protected under the attorney-client privilege or attorney work product doctrine, in the possession, custody, or control of that Settling Defendant, and a privilege log of any materials the Settling Defendant claims are protected under the attorney-client privilege or the attorney work-product doctrine; and

3. testifying at trial and other judicial proceedings fully, truthfully, and under oath, when called upon to do so by the United States.

B. The obligations of Settling Defendants to cooperate fully and truthfully with the United States as required in this Section VIII will cease upon the conclusion of all investigations and litigation related to the sharing of Poultry Processing Worker Compensation information in violation of Section 1 of the Sherman Act, including exhaustion of all appeals or expiration of time for all appeals of

any Court ruling in this matter, or the expiration of the Final Judgment, whichever is later.

C. Settling Defendants must take all necessary steps to preserve all documents and information relevant to the United States' investigations and litigation alleging that Settling Defendants and other Poultry Processors shared Poultry Processing Worker Compensation information in violation of Section 1 of the Sherman Act until the United States provides written notice to the Settling Defendants that their obligations under this Section VIII have expired.

D. Subject to the full, truthful, and continuing cooperation of each Settling Defendant, as required under this Section VIII, Settling Defendants are fully and finally discharged and released from any civil or criminal claim by the United States arising from the sharing of Poultry Processing Worker Compensation information among Poultry Processors prior to the date of filing of the Complaint in this action; *provided, however,* that this discharge and release does not include any criminal claim arising from any subsequently-discovered evidence of an Agreement to fix prices or wages or to divide or allocate markets, including to allocate Poultry Processing Workers.

E. Paragraph VIII(D) does not apply to any acts of perjury or subornation of perjury (18 U.S.C. 1621–22), making a false statement or declaration (18 U.S.C. 1001, 1623), contempt (18 U.S.C. 401–402), or obstruction of justice (18 U.S.C. 1503, *et seq.*) by any Settling Defendant.

IX. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Settling Defendants, Settling Defendants must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Settling Defendants' office hours to inspect and copy, or at the option of the United States, to require Settling Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Settling Defendants relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Settling Defendants' officers, employees, or agents, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Settling Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Settling Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

X. Restitution

A. Within 60 days of entry of this Final Judgment, each Settling Defendant must place funds equal to 10% of its own Restitution Amount into an escrow account selected by the United States, in its sole discretion. Each Settling Defendant must have its own escrow account.

B. If the *Jien* Court grants a motion for final approval of a settlement and certification of a settlement class with respect to a Settling Defendant's settlement with the *Jien* plaintiffs, the entire balance of that Settling Defendant's escrow account, including any accrued interest and less any administrative costs, must be returned to that Settling Defendant.

C. If any Settling Defendant has not entered into a settlement agreement with the plaintiffs in *Jien* before entry of this Final Judgment, or if preliminary or final approval of a settlement is denied, or if certification of a settlement class is denied, or if a settlement is terminated or rescinded for any reason, any affected Settling Defendant, within 21 days after (1) entry of this Final Judgment in the case of a Settling Defendant who has not reached a settlement agreement with the plaintiffs in *Jien,* or (2) any order denying settlement approval or certification of the settlement class or any termination or rescinding of a settlement, must deposit into its escrow account an amount equal to its Restitution Amount. This amount must be in addition to the initial 10% payment made pursuant to Paragraph X(A) and any accrued interest already present in the Settling Defendant's escrow account. Upon full funding of the escrow account, the entire balance of the escrow account, including any accrued interest, must be released to the United States for distribution to affected Poultry Processing Workers in the form of restitution and payment for expenses related to distribution. In the event that preliminary or final approval of a settlement or class certification is denied, or the settlement agreement is rescinded or terminated, for reasons that the United States in its sole discretion believes to be curable, the United States, in its sole discretion, may agree to one or more extensions of the 21-day period in this Paragraph X(C).

D. The claims and disbursement process will be established in the sole discretion of the United States. Settling Defendants must reimburse the United States for any costs associated with claims administration or remittance of restitution, including fees payable to a third-party claims administrator hired at the United States' sole discretion, that extend beyond the sum of the initial 10% payments made by each Settling Defendant under Paragraph X(A). Contributions beyond the initial 10% payments will be made on a pro rata basis based on each Settling Defendant's Restitution Amount.

E. Upon completion of the restitution payments, the United States must return any funds remaining in the escrow account to the Settling Defendants, on a pro rata basis based on each Settling Defendant's Restitution Amount.

XI. Public Disclosure

A. No information or documents obtained pursuant to any provision in this Final Judgment, including reports the monitor provides to the United States pursuant to Paragraphs VI(K) and VI(L), may be divulged by the United States or the monitor to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. In the event that the monitor should receive a subpoena, court order or other court process seeking production of information or documents obtained pursuant to any provision in this Final Judgment, including reports the monitor provides to the United States pursuant to Paragraphs VI(K) and VI(L), the applicable disclosing party shall notify Settling Defendants immediately and prior to any disclosure, so that Settling Defendants may address such potential disclosure and, if necessary, pursue alternative legal remedies, including if deemed appropriate by Settling Defendants, intervention in the relevant proceedings.

B. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, for disclosure of information obtained pursuant to any provision of this Final Judgment, the Antitrust Division will act in accordance with that statute, and

the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Settling Defendants submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire 10 years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

C. If at the time that Settling Defendants furnish information or documents to the United States pursuant to any provision of this Final Judgment, Settling Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Settling Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States must give Settling Defendants 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XII. Retention of Jurisdiction

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Settling Defendants agree that in a civil contempt action, a motion to show cause, or a similar action brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Settling Defendants waive any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Settling Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that any Settling Defendant has violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against a Settling Defendant, whether litigated or resolved before litigation, that Settling Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Settling Defendant violated this Final Judgment before it expired, the United States may file an action against that Settling Defendant in this Court requesting that the Court order: (1) Settling Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Settling Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XIII.

XIV. Expiration of Final Judgment

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Settling Defendants that continuation of this Final Judgment is no longer necessary or in the public interest. *Provided, however,* that the obligations under Section X will continue as long as one or more of the escrow accounts created under Section X remain open.

XV. Reservation of Rights

The Final Judgment terminates only the claims expressly stated in the Complaint. The Final Judgment does not in any way affect any other charges or claims filed by the United States subsequent to the commencement of this action, including any charges or claims relating to Growers, integrated Poultry feed, hatcheries, Poultry products, the transportation of Poultry and Poultry products, and the sale of Poultry and Poultry products.

XVI. Notice

For purposes of this Final Judgment, any notice or other communication required to be filed with or provided to the United States must be sent to the address set forth below (or such other address as the United States may specify in writing to any Settling Defendant): Chief, Civil Conduct Task Force, U.S. Department of Justice, Antitrust Division, 450 Fifth Street, Washington, DC 20530, *ATRJudgmentCompliance@usdoj.gov*.

XVII. Public Interest Determination

Entry of this Final Judgment is in the public interest. The Settling Defendants have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16]

United States District Judge _____

Exhibit 1

[Version for Management and Human Resources Staff]

[Letterhead of Settling Defendant]

[Name and Address of Antitrust Compliance Officer]

Dear [XX]:

I am providing you this letter to make sure you know about a court order recently entered by a federal judge in [jurisdiction]. This order applies to [Settling Defendant's] Human Resources Staff and Management as defined in Section II (Definitions) of the attached Final Judgment, including you, so it is important that you understand the obligations it imposes on us. [CEO or President Name] has asked me to let each of you know that s/he expects you to take these obligations seriously and abide by them.

Under the order, we are largely prohibited from communicating with other poultry processors, whether directly or indirectly (such as through a consulting agency) about poultry processing plant worker compensation—pay or benefits. This means you may not discuss with any poultry processor or employee of a poultry processor any non-public information about our plant workers' wages, salaries, and benefits, and you may not ask any poultry processor or employee of a poultry processor for any non-public information about their plant workers' wages, salaries, and benefits. In addition, we are largely prohibited from sending any non-public information about our processing plant workers' wages and benefits to any third party, such as a consulting agency. There are only limited exceptions to these prohibitions, which are outlined in Section V (Conduct Not Prohibited) of the Final Judgment.

A copy of the court order is attached. Please read it carefully and familiarize yourself with its terms. The order, rather than the above description, is controlling. If you have any questions about the order or how it affects your activities, please contact me.

Thank you for your cooperation.

Sincerely,

[Settling Defendant's Antitrust Compliance Officer]

* * * * *

[Version for Consulting Firms and temporary employment agencies]

[Letterhead of Settling Defendant]

[Name and Address of Antitrust Compliance Officer]

Dear [XX]:

I am providing you this letter to make sure you know about a court order recently entered by a federal judge in [jurisdiction]. This order applies to [Settling Defendant's] Consulting Firms as defined in Section II (Definitions) of the attached Final Judgment and temporary employment agencies, including your agency, so it is important that you understand the obligations it imposes on us. [CEO or President Name] has asked me to let each of you know that s/he expects you to take these obligations seriously and abide by them.

Under the order, we are largely prohibited from communicating with other poultry processors, whether directly or indirectly (such as through a Consulting Firm or temporary employment agency, including your agency) about poultry processing plant worker compensation—pay or benefits. This means you may not disclose to us any non-public information about another poultry processor's plant workers' wages, salaries, and benefits, and you may not provide any non-public information about our poultry plant workers' wages, salaries, and benefits to another poultry processor. In addition, we are largely prohibited from sending any non-public information about our processing plant workers' wages and benefits to any third party, such as a Consulting Firm or temporary employment agency, including your agency. There are only limited exceptions to these prohibitions, which are outlined in Section V (Conduct Not Prohibited) of the Final Judgment.

A copy of the court order is attached. Please read it carefully and familiarize yourself with its terms. The order, rather than the above description, is controlling. If you have any questions about the order or how it affects your activities, please contact me.

Thank you for your cooperation.

Sincerely,

[Settling Defendant's Antitrust Compliance Officer]

United States District Court for the District of Maryland

United States of America, Plaintiff, v. *Cargill Meat Solutions Corp., et. al.,* Defendants.

Civil Action No.: 22–cv–1821 (Gallagher, J.)

[Proposed] Final Judgement

Whereas, Plaintiff, the United States of America, filed its Complaint on July 25, 2022, alleging that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. 1;

And whereas, the United States and Defendants Webber, Meng, Sahl & Company, Inc. d/b/a/WMS & Company, Inc. and G. Jonathan Meng (collectively, ''Settling Defendants'') have consented to the entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

And whereas, Settling Defendants agree to undertake certain actions and refrain from certain conduct for the purpose of remedying the anticompetitive effects alleged in the Complaint;

And whereas, Settling Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now therefore, it is *ordered, adjudged, and decreed:*

XVIII. Jurisdiction

This Court has jurisdiction over the subject matter of this action and each of the parties named herein. The Complaint states a claim upon which relief may be granted against the Settling Defendants under Section 1 of the Sherman Act, 15 U.S.C. 1.

XIX. Definitions

As used in this Final Judgment:

Y. ''WMS'' means Defendant Webber, Meng, Sahl and Company, Inc., d/b/a WMS & Company, Inc., a Pennsylvania corporation with its headquarters in Pottstown, Pennsylvania, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their partners, directors, officers, managers, agents, and employees.

Z. ''Meng'' means Defendant G. Jonathan Meng, who resides in Silverthorne, Colorado, and is President of WMS.

AA. ''Agreement'' means any contract, arrangement, or understanding, formal or informal, oral or written, between two or more persons.

BB. ''Communicate'' means to discuss, disclose, transfer, disseminate, circulate, provide, request, solicit, send, receive or exchange information or opinion, formally or informally, directly or indirectly, in any manner, and regardless of the means by which it is accomplished, including orally or by written means of any kind, such as electronic communications, emails, facsimiles, telephone communications, voicemails, text messages, audio recordings, meetings, interviews, correspondence, exchange of written or recorded information, including surveys, or face-to-face meetings.

CC. ''Compensation'' means all forms of payment for work, including salaried pay, hourly pay, regular or ad hoc bonuses, over-time pay, and benefits, including healthcare coverage, vacation or personal leave, sick leave, and life insurance or disability insurance policies.

DD. ''Confidential Competitively Sensitive Information'' means non-public information that is relevant to, or likely to have an impact on, at least one dimension of competition (including price, cost including Compensation, output, quality, and innovation). Confidential Competitively Sensitive Information includes prices, strategic plans, amounts and types of Compensation, other information related to costs or profits, markets, distribution, business relationships, customer lists, production capacity, and any confidential information the exchange of which could harm competition.

EE. ''Including'' means including, but not limited to.

FF. ''Non-public information'' means information that is not available from public sources and generally not available to the public.

GG. ''Person'' means any natural person, corporation, firm, company, sole proprietorship, partnership, joint venture, association, institute, governmental unit, or other legal entity.

HH. ''Poultry Processing'' means the business of raising, slaughtering, cleaning, packing, packaging, and otherwise producing of poultry, including activities conducted at feed mills, hatcheries, and processing plant facilities and the management of those activities.

II. ''Poultry Processor'' means any person engaged in Poultry Processing or that owns or controls, in full or part, Poultry Processing facilities, or that provides Compensation to Poultry Processing workers.

XX. Applicability

This Final Judgment applies to Settling Defendants and all other persons in active concert or participation with either of them who receive actual notice of this Final Judgment.

XXI. Prohibited Conduct

E. Settling Defendants must not provide services directly or indirectly to any person for the purpose of conducting or otherwise facilitating any exchange, including by survey, of Confidential Competitively Sensitive Information among one or more persons. Provided, however, Settling Defendants may continue to provide any such services until January 1, 2023, pursuant to any agreements that are in effect as of July 25, 2022.

F. Settling Defendants must not organize, speak at, participate in, or join in any form, whether in-person or virtually, any meeting of members of the same trade, industry, or profession that is not open to the public, so long as the subject of the meeting is related to either (i) Poultry Processing or (ii) the exchange, including by survey, of Confidential Competitively Sensitive Information among one or more persons.

G. Settling Defendants must not Communicate non-publicly, directly or indirectly (including through the use of a common consultant), with any Poultry Processor or any of its officers, consultants, attorneys, or other representatives.

H. Settling Defendants must not knowingly accept from any Poultry Processor or any of its officers, employees, agents, consultants, attorneys or other representatives any Confidential Competitively Sensitive Information about Compensation or any other aspect of Poultry Processing.

I. Settling Defendants must not: (a) participate in any non-public discussion of Compensation in Poultry Processing; (b) facilitate the formation of any agreement related to Compensation, including how to set or decide Compensation for workers or the amount of Compensation for workers, between or among Poultry Processors; (c) communicate with any person about types, amounts, or methods of setting or negotiating Compensation for Poultry Processing workers; or (d) knowingly accept any non-public Compensation information from or about any Poultry Processor.

J. Notwithstanding the prohibitions in this Section IV, Settling Defendants are permitted to have discussions and receive and give information regarding the Poultry Processing industry in connection with pending or threatened litigation as a party or fact witness, either pursuant to subpoena or similar legal process, or for which one or both Settling Defendants has or have received prior approval in writing of the United States.

XXII. Required Conduct

E. Settling Defendants must provide the United States with a full and complete copy of any survey result or other project either Settling Defendant conducts between [settlement filing date] and December 31, 2022 that directly or indirectly involves or facilitates the exchange, including by survey, of Confidential Competitively Sensitive Information among one or more persons.

F. Upon learning of any violation or potential violation of any of the terms and conditions contained in this Final Judgment, Settling Defendants must (i) promptly take appropriate action to investigate, and in the event of a violation, terminate or modify the activity so as to comply with the Final Judgment, (ii) maintain all documents related to any violation or potential violation of the Final Judgment for a period of five years or the duration of this Final Judgment, whichever is shorter, and (iii) maintain, and furnish to the United States at the United States' request, a log of (a) all such documents for which Settling Defendant claims protection under the attorney-client privilege or the attorney work product doctrine, and (b) all potential and actual violations, even if no documentary evidence regarding the violations exists.

G. Within thirty days of learning of any such violation or potential violation of any of the terms and conditions contained in this Final Judgment, Settling Defendants must file with the United States a statement describing any violation or potential violation of any of the terms and conditions contained in this Final Judgment, which must include a description of any communications constituting the violation or potential violation, including the date and place of the communication, the persons involved, and the subject matter of the communication.

H. Each of Meng and the most senior employee at WMS must certify in writing to the United States annually on each anniversary of the date of entry of this Final Judgment that Meng or WMS (as appropriate) has complied with the provisions of this Final Judgment.

XXIII. Settling Defendants' Cooperation

F. Each Settling Defendant must cooperate fully and truthfully with the United States in any investigation or litigation relating to the sharing of Compensation information among Poultry Processors, in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1, or Section 7 of the Clayton Act, 15 U.S.C. 18, as amended. WMS must use its best efforts to ensure that all current and former officers, directors, employees, and agents of WMS also fully and promptly cooperate with the United States. The full, truthful, and continuing cooperation of each Settling Defendant must include:

4. as requested on reasonable notice by the United States, being available for interviews, depositions, and providing sworn testimony to the United States orally and in writing;

5. producing, upon request of the United States, all documents, data, information, and other materials, wherever located not protected under the attorney-client privilege or attorney work product doctrine, in the possession, custody, or control of that Settling Defendant, and a log of documents protected by the attorney-client privilege or the attorney work product doctrine; and

6. testifying at trial and other judicial proceedings fully, truthfully, and under oath, when called upon to do so by the United States.

G. The obligations of each Settling Defendant to cooperate fully and truthfully with the United States as required in this Section VI shall cease upon the conclusion of the sooner of: (i) when all Defendants have settled all claims in this matter and all settlements have been entered by this Court and become final, or (ii) the conclusion of all investigations and litigation alleging that Settling and non-Settling

Defendants shared Compensation information in violation of Section 1 of the Sherman Act, including exhaustion of all appeals or expiration of time for all appeals of any Court ruling in this matter.

H. Each Settling Defendant must take all necessary steps to preserve all documents and information relevant to the United States' investigations and litigation alleging that Settling Defendants and non-Settling Defendants shared Compensation information in violation of Section 1 of the Sherman Act until the United States provides written notice to the Settling Defendant that its obligations under this Section VI have expired.

I. Subject to the full, truthful, and continuing cooperation of each Settling Defendant, as required in this Section VI, Settling Defendants are discharged from any civil or criminal claim by the United States arising from the sharing of Compensation information among Poultry Processors, when the sharing of Compensation information (1) occurred before the date of filing of the Complaint in this action, and (2) does not constitute or include an agreement to fix prices or divide markets.

J. Paragraph VI(D) does not apply to any acts of perjury or subornation of perjury (18 U.S.C. 1621–22), making a false statement or declaration (18 U.S.C. 1001, 1623), contempt (18 U.S.C. 401–402), or obstruction of justice (18 U.S.C. 1503, *et seq.*) by either Settling Defendant.

XXIV. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment or of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Settling Defendants, Settling Defendants must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Settling Defendants' office hours to inspect and copy, or at the option of the United States, to require Settling Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Settling Defendants relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Settling Defendants' officers, employees, or agents, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Settling Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Settling Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

XXV. Public Disclosure

F. No information or documents obtained pursuant to any provision this Final Judgment may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

G. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. 552, for disclosure of information obtained pursuant to any provision of this Final Judgment, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Settling Defendants submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire 10 years after submission, ''unless the submitter requests and provides justification for a longer designation period.'' *See* 28 CFR 16.7(b).

H. If at the time that Settling Defendants furnish information or documents to the United States pursuant to any provision of this Final Judgment, Settling Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Settling Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' the United States must give Settling Defendants 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XXVI. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XXVII. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Settling Defendants agree that in a civil contempt action, a motion to show cause, or a similar action brought by the United States relating to an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Settling Defendants waive any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Settling Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Settling Defendants have violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including in the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a

Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section X.

XXVIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Settling Defendants that continuation of this Final Judgment is no longer necessary or in the public interest.

XXIX. Reservation of Rights

The Final Judgment shall terminate only the claims expressly stated in the Complaint against Settling Defendants. The Final Judgment shall not in any way affect any other charges or claims filed by the United States subsequent to the commencement of this action.

XXX. Notice

For purposes of this Final Judgment, any notice or other communication required to be filed with or provided to the United States shall be sent to the address set forth below (or such other address as the United States may specify in writing to any Settling Defendant): Chief, Civil Conduct Task Force, U.S. Department of Justice, Antitrust Division, 450 Fifth Street, Washington, DC 20530.

XXXI. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16]

_____

United States District Judge

United States District Court for the District of Maryland

United States of America, Plaintiff, v. Cargill Meat Solutions Corporation, *et al.,* Defendants.
Civil Action No.: 22–cv–1821
(Gallagher, J.)

Competitive Impact Statement

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''Tunney Act''), the United States of America files this Competitive Impact Statement related to (a) the proposed Final Judgment as to Defendants Cargill Meat Solutions Corp. and Cargill, Inc. (''Cargill''), Wayne Farms, LLC (''Wayne''), and Sanderson Farms, Inc. (''Sanderson'') (collectively, ''Processor Settling Defendants''); and (b) the proposed Final Judgment as to Webber, Meng, Sahl and Company, Inc., d/b/a WMS & Company, Inc. (''WMS'') and G. Jonathan Meng (''Meng'') (collectively, ''Consultant Settling Defendants''). The Processor Settling Defendants and the Consultant Settling Defendants are collectively the ''Settling Defendants.''

I. Nature and Purpose of the Proceeding

On July 25, 2022, the United States filed a civil Complaint against the Settling Defendants. Count One of the Complaint alleges that the Settling Defendants conspired for two decades or more to assist their competitors in making compensation decisions, to exchange current and future, disaggregated, and identifiable compensation information, and to facilitate this anticompetitive agreement. Together with other poultry processors, which together controlled over 90% of poultry processing plant jobs nationwide, the Processor Settling Defendants collaborated on decisions about poultry plant worker compensation, including through the direct exchange of compensation information. This conspiracy suppressed competition in the nationwide and local labor markets for poultry processing. Their agreement distorted the competitive process, disrupted the competitive mechanism for setting wages and benefits, and harmed a generation of poultry processing plant workers by unfairly suppressing their compensation.

The Complaint alleges that, from 2000 or before to the present, the Processor Settling Defendants, Consulting Settling Defendants, and their poultry processing and consultant co-conspirators exchanged compensation information through the dissemination of survey reports in which they shared current and future, detailed, and identifiable plant-level and job-level compensation information for poultry processing plant workers. The shared information allowed poultry processors to determine the wages and benefits their competitors were paying—and planning to pay—for specific job categories at specific plants.

The Complaint further alleges that the Processor Settling Defendants and their co-conspirators met in person at annual meetings. From at least 2000 to 2002 and 2004 to 2019, the Consultant Settling Defendants facilitated, supervised, and participated in these annual in-person meetings among the Processor Settling Defendants and their co-conspirators and facilitated their exchange of confidential, competitively sensitive information about poultry plant workers.

The Processor Settling Defendants' and their co-conspirators' collaboration on compensation decisions and exchange of competitively sensitive compensation information extended beyond the shared survey reports and in-person annual meetings. As alleged in the Complaint, from 2000 to the present, the Processor Settling Defendants and their co-conspirators repeatedly contacted each other to seek and provide advice and assistance on compensation decisions, including by sharing further non-public information regarding each other's wages and benefits. This demonstrates a clear agreement between competitors to ask for help with compensation decisions and to provide such help to others upon request.

In sum, this conspiracy, from at least 2000 to the present, permitted the Processor Settling Defendants and their co-conspirators to collaborate with and assist their competitors in making decisions about worker compensation, including wages and benefits, and to exchange information about current and future compensation plans. Through this conspiracy, the Processor Settling Defendants artificially suppressed compensation for poultry processing workers.

Count Two of the Complaint further alleges that Defendants Sanderson and Wayne acted deceptively in the manner in which they compensated poultry growers, the farmers who raise poultry for slaughter, in violation of Section 202(a) of the Packers and Stockyards Act, 1921, as amended and supplemented, 7 U.S.C. 192(a).

At the time the Complaint was filed, the United States also filed a proposed Final Judgment and Stipulation and Order with respect to the Processor Settling Defendants and separately a proposed Final Judgment and Stipulation and Order with respect to the Consultant Settling Defendants, each of which is designed to remedy the anticompetitive effects resulting from the harm alleged in the Complaint. The terms in the proposed Final Judgment for the Processor Settling Defendants resolving Count Two of the Complaint (relating to the Packers and Stockyards Act) are not subject to review under the Tunney Act. However, the United States has included an explanation of these terms in the Competitive Impact Statement.

The proposed Final Judgment for the Processor Settling Defendants, explained more fully below, requires:

a. the Processor Settling Defendants to end their agreement to collaborate with and assist in making compensation decisions for poultry processing workers and their anticompetitive exchange of compensation information with other poultry processors;

b. the Processor Settling Defendants to submit to a monitor (determined by the United States in its sole discretion) for a term of 10 years, who will examine the Processor Settling Defendants' compliance with both the terms of the proposed Final Judgment and U.S. federal antitrust law generally, across their entire poultry businesses;

c. the Processor Settling Defendants to provide significant and meaningful restitution to the poultry processing workers harmed by their anticompetitive conduct, who should have received competitive compensation for their valuable, difficult, and dangerous labor;

d. Defendants Wayne and Sanderson to eliminate penalties assessed against growers based on comparative performance; and

e. Defendants Wayne and Sanderson to make appropriate disclosures to growers before entering into contracts concerning live poultry, to provide sufficient information for the growers to understand the scope of the contract and the potential risks.

The proposed Final Judgment for the Processor Settling Defendants also prohibits the Processor Settling Defendants from retaliating against any employee or third party, such as a grower, for disclosing information to the monitor, an antitrust enforcement agency, or a legislature, and includes other terms discussed below.

Under the proposed Final Judgment for the Consultant Settling Defendants, explained more fully below, Consultant Settling Defendants are restrained and enjoined from:

a. providing survey services involving confidential competitively sensitive information;

b. participating in non-public trade association meetings that involve either the exchange of confidential competitively sensitive information or involve the business of poultry processing; and

c. engaging in non-public communications with any person engaged in the business of poultry processing other than as a party or fact witness in litigation, among other terms.

The Stipulations and Orders for the Processor Settling Defendants and the Consultant Settling Defendants require all Settling Defendants to abide by and comply with the provisions of their respective proposed Final Judgments until they are entered by the Court or until the time for all appeals of any Court ruling declining entry of the respective proposed Final Judgments has expired.

The United States has stipulated with the Processor Settling Defendants and with the Consultant Settling Defendants that the proposed Final Judgments as to each of these groups of Settling Defendants may be entered after compliance with the Tunney Act. Entry of each of the proposed Final Judgments will terminate this action as to the respective Settling Defendants, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgments and to punish violations thereof.

II. Description of Events Giving Rise to the Alleged Violation

A. The Processor Settling Defendants' Anticompetitive Agreement To Collaborate on Compensation, Including Through Their Anticompetitive Exchange of Compensation Information Facilitated by the Consultant Settling Defendants

The Complaint alleges that the Processor Settling Defendants agreed to collaborate with and assist each other and their co-conspirators in making decisions about wages and benefits for their poultry processing plant workers, exchanged competitively sensitive information, and facilitated the exchange of each other's competitively sensitive information. This agreement includes more than 20 years of discussions about current and future compensation plans and exchanges of compensation information between and among the Processor Settling Defendants and their co-conspirators, who collectively held market power over local and the nationwide markets for poultry plant workers. This conspiracy, while including detailed exchanges of information about current and future wage and benefit policies and amounts, went well beyond the sharing of information and included individual processor-to-processor consultation and advice-giving on decisions that were competitively sensitive and should have been made independently.

From 2000 or earlier to the present, the Processor Settling Defendants and their co-conspirators collaborated on compensation decisions, including by discussing, giving advice, and sharing with each other their competitively sensitive compensation information—rather than each individual firm making its own decisions regarding poultry processing plant worker compensation. This collaboration related to compensation topics such as current wages and benefits, planned and contemplated future wage raises, and changes to benefits, at a nationwide level, at a regional level, and at the individual plant or individual job category level. The Processor Settling Defendants and their co-conspirators engaged in such collaborations via correspondence and at annual in-person meetings, at which they explicitly discussed poultry processing plant worker compensation, and to which they brought competitively sensitive compensation information.

As part of their collaboration, the Processor Settling Defendants and their co-conspirators exchanged confidential, current and future, disaggregated, and identifiable compensation information related to poultry processing workers with each other, both directly and through facilitation by the Consultant Settling Defendants and other data consultants, from at least 2000 to the present. Their exchange of information through the Consultant Settling Defendants included an annual survey designed and controlled by the Processor Settling Defendants and their co-conspirators. The survey compiled and disseminated information to competitors about current compensation and planned or contemplated changes in plant worker wages and salaries. The survey reported compensation and benefits data for standardized job categories at the Processor Settling Defendants' and their co-conspirators' individual processing plants.

From their information exchanges, the Processor Settling Defendants knew how, and how much, their competitors were compensating their poultry

processing plant workers at both a nationwide and a local level.

B. The Competitive Effects of the Conduct

The Complaint alleges that the Processor Settling Defendants' and their co-conspirators' agreement to collaborate on compensation decisions, including through the anticompetitive exchange of compensation information, distorted the competitive mechanism of local and nationwide markets for poultry processing plant labor. By doing so, this conspiracy harmed a generation of poultry processing plant workers by artificially suppressing their wages and benefits for decades.

Poultry processors are distinguishable from other kinds of employers from the perspective of poultry processing plant workers. Many poultry processing plant jobs are dangerous and require physical stamina and tolerance of unpleasant conditions. Poultry processing workers also develop common skills or industry-specific knowledge in poultry processing work, making such workers most valuable to other poultry processing plants. Additionally, many poultry processing plant workers face constraints that reduce the number of jobs and employers available to them, limiting the number of competitors for their labor. For example, workers who cannot speak, read, or write English or Spanish can still perform poultry processing plant line work. Similarly, workers with criminal records, probation status, or lack of high school or college education are often able to work at poultry processing plants even when other jobs are not available to them. Finally, many poultry processing plants are located in rural areas, in which workers often have fewer job alternatives—especially for full-time, year-round work—as compared to workers in other areas. Thus, other jobs are not reasonable substitutes for poultry processing plant jobs.

In local poultry processing labor markets, defined by the commuting distance between workers' homes and poultry processing plants, the Processor Settling Defendants and their co-conspirators control more than 80% of poultry processing jobs—and in some areas, likely 100%—and thus collectively have market power in those local markets. The Processor Settling Defendants and their co-conspirators also together control over 90% of poultry processing jobs nationwide, giving them market power in the nationwide labor market for poultry processing plant work.

The Processor Settling Defendants' agreement to collaborate on compensation decisions and accompanying exchange of information related to compensation, which was anticompetitive even standing alone, distorted the normal wage-setting and benefits-setting mechanisms in the processor plant worker labor market, thereby harming the competitive process. Because the collaboration and the shared compensation information facilitated by the Consultant Settling Defendants allowed the Processor Settling Defendants and their co-conspirators to understand more precisely what their competitors were paying, or were planning to pay, for processing plant worker compensation, they were able to pay less compensation than they otherwise would have in a competitive labor market. In contrast, the Processor Settling Defendants' workers lacked any comparable information, a clear asymmetry in the market.

In sum, the Processor Settling Defendants' anticompetitive agreement to collaborate on compensation decisions, exchange of compensation information, and facilitation of such (alongside the facilitation of this conduct by the Consultant Settling Defendants) suppressed compensation in the local submarkets and the nationwide market for poultry processing plant workers to the detriment of hundreds of thousands of processing plant workers, who were financially harmed by such conduct.

C. Deception and Failure To Disclose Information to Poultry Growers

Furthermore, Defendants Wayne and Sanderson acted deceptively to their growers, the farmers responsible for raising the poultry for slaughter. Each grower signs a contract with a single processor, such as Sanderson or Wayne. The processor provides the grower with chicks and feed, among other inputs, and the grower raises the chicken. Growers make substantial financial investments as part of this work, including building or upgrading their facilities but face significant risks (which often include taking on significant debt) in earning a return on such investments.

Processors, including Defendants Wayne and Sanderson, compensate their growers through an established system known as the tournament system, in which growers' payment for their output depends on a base rate, which can be adjusted up or down depending on how growers compare to other growers on various metrics—which the processor selects and controls. In practice, these ''performance'' adjustments make it difficult for growers to project and manage the risk they face when entering a contract with a processor.

Defendants Wayne and Sanderson do not adequately disclose the risk inherent in this system to the growers. For example, the grower contracts disclose neither the minimum number of flock placements nor the minimum stocking density of those flocks that the grower is guaranteed. The contracts also lack material financial disclosures regarding poultry grower performance, including the range of that performance, and other terms relevant to the financial impact of the grower's investment. Similarly, the contracts omit material information relating to the variability of inputs (on an ongoing basis) that can influence grower performance, including breed, sex, breeder flock age, and health impairments, both at input delivery and at settlement (including information to determine the fairness of the tournament). Without this information, growers are impaired in their ability to manage any differences in inputs, or evaluate whether to invest in new infrastructure, that may arise from the operation of the tournament system. This failure to disclose is deceptive and violates Section 202(a) of the Packers and Stockyards Act, 1921, as amended and supplemented, 7 U.S.C. 192(a).

III. Explanation of the Proposed Final Judgments

The relief required by the proposed Final Judgments will remedy the harm to competition alleged in the Complaint.

A. Terms of the Final Judgment Specific to the Processor Settling Defendants

1. Prohibited Conduct

Section IV of the proposed Final Judgment for the Processor Settling Defendants prevents the Processor Settling Defendants from continuing their collaboration and information-sharing with competing poultry processors about poultry processing worker compensation. Paragraphs IV.A and B prohibit Processor Settling Defendants' employees in management positions or any positions related to compensation from directly or indirectly participating in meetings or gatherings related to compensation for poultry processing workers, communicating with any poultry processor about competitively sensitive information related to poultry processing compensation, or facilitating or encouraging such communications; entering into, attempting to enter into, maintaining, or enforcing any agreement with any poultry processor about compensation for poultry processing

workers; or using any such information about another poultry processor's compensation for poultry processing workers. Accordingly, under the proposed Final Judgment, the Processor Settling Defendants may not collaborate on wages and benefits for their workers, may not share confidential wage and benefit information with each other, and may not provide confidential wage and benefit information to any consultants that produce reports regarding compensation for poultry processing workers, among other prohibited activities.

To ensure that poultry plant workers and third parties such as growers are not punished by the Processor Settling Defendants for raising antitrust or other concerns, Paragraph IV.D. of the proposed Final Judgment prohibits the Processor Settling Defendants from retaliating against any employee or third party for disclosing information to the monitor, a government antitrust agency, or a government legislature.

2. Monitor

Section VI of the proposed Final Judgment for the Processor Settling Defendants provides that the Court will appoint a monitor, selected by the United States in its sole discretion, who will have the power and authority to investigate and report on the Processor Settling Defendants' compliance with the terms of the Final Judgment and the Stipulation and Order. In addition, the monitor will have the power and authority to investigate and report on the Processor Settling Defendants' compliance with the U.S. federal antitrust laws. When investigating and reporting on the Processor Settling Defendants' compliance with the U.S. federal antitrust laws, the monitor may examine all aspects of the Processor Settling Defendants' poultry businesses, including poultry processing, poultry processing workers, growers, integrated poultry feed, hatcheries, transportation of poultry and poultry products, and the sale of poultry and poultry processing products.

The monitor will not have any responsibility or obligation for the operation of the Processor Settling Defendants' businesses. The monitor will serve at the Processor Settling Defendants' expense, on such terms and conditions as the United States approves in its sole discretion. The monitor will have the authority to take reasonable steps as, in the United States' view, may be necessary to accomplish the monitor's duties and the Processor Settling Defendants must assist the monitor. The monitor will provide periodic reports to the United States and will serve for a term of up to 10 years.

3. Restitution

The Processor Settling Defendants have inflicted financial harm on the hundreds of thousands of poultry plant workers who have labored for them during the term of the conspiracy alleged in the Complaint. These workers perform jobs that are physically demanding, involve high risk of injury, and require tolerance of unpleasant working conditions, in exchange for wages and benefits from the Processor Settling Defendants and their co-conspirators. Because of the conspiracy, those wages and benefits were likely less than they would have been in a free and competitive labor market. For this reason, Section X of the proposed Final Judgment includes a requirement that the Processor Settling Defendants pay restitution to workers harmed by the Processor Settling Defendants' conduct.

The Processor Settling Defendants may satisfy the restitution requirement in the proposed Final Judgment in one of two ways. In an ongoing private antitrust suit brought by a class of nationwide poultry processing workers in this Court, *Jien* v. *Perdue Farms, Inc.,* No. 1:19–cv–2521 (D. Md.), which involves allegations and claims similar to those in the United States' Complaint, each of the Processor Settling Defendants negotiated a settlement with the plaintiff class. The amounts of the settlements for the respective Processor Settling Defendants are: for Cargill, $15 million; for Wayne, $31.5 million; and for Sanderson, $38.3 million (collectively, the ''*Jien* settlements''). If the *Jien* Court grants final approval to the Processor Settling Defendants' *Jien* settlements, the disbursement process approved by the *Jien* Court of the *Jien* settlements satisfies the Processor Settling Defendants' restitution obligation under Section X of the proposed Final Judgment.

Section X of the proposed Final Judgment also sets forth an alternative method by which the Processor Settling Defendants may satisfy their restitution obligations. Under Paragraph X.A. of the proposed Final Judgment, each Processor Settling Defendant must create an escrow account and contribute to its account 10% of the amount of its *Jien* settlement. Under Paragraphs X.C. and X.D. of the proposed Final Judgment, should the *Jien* Court not grant final approval of a Processor Settling Defendant's *Jien* settlement, that Processor Settling Defendant must transfer to its escrow account the entire amount of its *Jien* settlement, so that Processor Settling Defendant's account would contain the full *Jien* settlement amount plus the 10% initially required. The United States would then disburse this fund, minus the cost of administration, to the poultry processing plant workers.

4. Grower Terms

As explained above, the terms in the proposed Final Judgment for the Processor Settling Defendants relating to the Packers and Stockyards Act are not subject to review under the Tunney Act, but the United States has included an explanation of these provisions.

To eliminate the harm arising from the grower compensation systems of Defendants Wayne and Sanderson, which failed to disclose to growers all of the potential risks associated with the grower compensation systems, Paragraph IV.C. of the proposed Final Judgment requires Defendants Wayne and Sanderson to modify their grower compensation systems. The companies may not reduce the base payment made to any grower supplying broiler chicken as a result of that grower's performance, including in comparison with the performance of other growers supplying broiler chickens to the Processor Settling Defendants.

Paragraph VII.E. of the proposed Final Judgment for the Processor Settling Defendants requires Defendants Wayne and Sanderson to offer each grower providing broiler chickens to one of their plants a modification to such grower's contract to reflect the required modification to grower compensation systems to eliminate the harm arising from each firm's failure to disclose all potential risks to growers. Relatedly, Paragraph VII.H. requires Defendants Wayne and Sanderson to comply with the disclosure requirements in Section V of ''Transparency in Poultry Grower Contracting and Tournaments,'' a proposed rule by the U.S. Department of Agriculture's (''USDA'') Agricultural Marketing Service on June 8, 2022, 87 FR 34980, *available at https://www.federalregister.gov/documents/2022/06/08/2022-11997/transparency-in-poultrygrower-contracting-and-tournaments.* Accordingly, as required under the USDA's proposed rule, Defendants Wayne and Sanderson must disclose, among other things, the minimum number of flock placements on the poultry grower's farm annually and the minimum stocking density for each flock to be placed on the poultry grower's farm; financial disclosures regarding past performance of growers; and information regarding the grower's placement in the tournament system (including stocking density, breed, sex, age, and health). If during the term of

the proposed Final Judgment, the USDA promulgates final regulations imposing different disclosure requirements relating to payments to growers, Defendants Wayne and Sanderson must comply with those regulations instead.

5. Required Conduct, Compliance, and Inspection

The proposed Final Judgment sets forth various provisions to ensure the Processor Settling Defendants' compliance with the proposed Final Judgment.

Paragraph VII.A. of the proposed Final Judgment requires each Processor Settling Defendant to appoint an Antitrust Compliance Officer within 10 days of the Final Judgment's entry. Under Paragraph VII.C. of the proposed Final Judgment, the Antitrust Compliance Officer must furnish copies of this Competitive Impact Statement, the Final Judgment, and a notice approved by the United States explaining the obligations of the Final Judgment to each Processor Settling Defendant's management and all employees responsible for evaluating or setting compensation for poultry processing workers, among others. The Antitrust Compliance Officer must also obtain from each recipient a certification that he or she has read and agreed to abide by the terms of the Final Judgment, and must maintain a record of all certifications received. Recipients must also certify that they are not aware of any violation of the Final Judgment or any violation of federal antitrust law. Additionally, each Antitrust Compliance Officer must annually brief each person required to receive a copy of the Complaint, Final Judgment and this Competitive Impact Statement on the meaning and requirements of the Final Judgment and the antitrust laws. Each Antitrust Compliance Officer must also annually communicate to all employees that any employee may disclose, without reprisal, information concerning any potential violation of the Final Judgment or the antitrust laws.

Paragraph VII.D. of the proposed Final Judgment imposes similar notice provisions on the Processor Settling Defendants to ensure that any poultry processor or consulting firm they contract with related to poultry processing compensation also has notice of the Complaint, Final Judgment, and Competitive Impact Statement.

B. Terms of the Final Judgment Specific to the Consultant Settling Defendants

Paragraph IV.A. of the proposed Final Judgment for the Consultant Settling Defendants prohibits the Consultant Settling Defendants from facilitating the exchange of confidential competitively sensitive information, whether by survey or otherwise, among one or more persons. The United States, in its sole discretion, may allow WMS to wind down any contracts for such services, provided such contracts are completed or performance ceases before January 1, 2023. The Consultant Settling Defendants must produce to the United States any reports they create between the date of the filing of the Complaint and that January 1, 2023 wind-down deadline.

Paragraph IV.B. of the proposed Final Judgment prohibits Consultant Settling Defendants from participating in any non-public meeting of members of the same trade, industry or profession including poultry processing, that relates to the exchange of confidential competitively sensitive information. The United States, in its sole discretion, may allow Consultant Settling Defendants to attend such meetings on a meeting-by-meeting basis.

Paragraphs IV.C., IV.D., IV.E., and IV.F. of Section IV of the proposed Final Judgment prohibit Consultant Settling Defendants from communicating with persons in or associated with the poultry processing industry except as a party or fact witness in litigation.

C. Terms Common to Both of the Final Judgments

For a period of 10 years following the date of entry of the respective Final Judgments, the Settling Defendants separately must certify annually to the United States that they have complied with the provisions of the respective Final Judgments. Additionally, upon learning of any violation or potential violation of the terms and conditions of the respective Final Judgments, the Settling Defendants, within 30 days, must file with the United States a statement describing the violation or potential violation, and must promptly terminate or modify the activity.

The proposed Final Judgments require each Settling Defendant to provide full, truthful, and continuing cooperation to the United States in any investigation or litigation relating to the sharing of compensation information among poultry processors in violation of Section 1 of the Sherman Act, as amended, 15 U.S.C. 1. This cooperation provision requires each Settling Defendant to use its best efforts to effectuate interviews, depositions, and sworn testimony with their current and former employees, officers, directors, and agents and to produce documents, data, and information upon request. The Settling Defendants' obligation to cooperate lasts for the full term of the proposed Final Judgment or until the conclusion of all investigations and litigations, including appeals, related to sharing poultry processing worker compensation information. Subject to this full, truthful, and continuing cooperation, the Settling Defendants are discharged from any civil or criminal claim by the United States arising from the sharing of compensation information among poultry processors, provided that the information-sharing occurred before the date of the filing of the Complaint and does not include an agreement to fix prices or wages or to divide or allocate markets.

To ensure compliance with the respective Final Judgments, the proposed Final Judgments require each Settling Defendant to grant the United States access, upon reasonable notice, to the Settling Defendant's records and documents relating to matters contained in the Final Judgment. Upon request, the Settling Defendants must also make their employees available for interviews or depositions, answer interrogatories, and prepare written reports relating to matters contained in the Final Judgment.

The proposed Final Judgments also contain provisions designed to make enforcement of the Final Judgment as effective as possible. The proposed Final Judgments provide that the United States retains and reserves all rights to enforce the Final Judgments, including the right to seek an order of contempt from the Court. Under the terms of these provisions, the Settling Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgments, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that the Settling Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance with the Final Judgments with the standard of proof that applies to the underlying offense that the Final Judgments address.

The proposed Final Judgments contain provisions that clarify the interpretation of the proposed Final Judgments. The proposed Final Judgments are intended to remedy the loss of competition the United States alleges occurred because of the Settling Defendants' conduct. The Settling Defendants agree that they will abide by the respective proposed Final Judgments and that they may be held in contempt of the Court for failing to comply with any provision of the

respective proposed Final Judgments that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

The proposed Final Judgments provide that if the Court finds in an enforcement proceeding that a Settling Defendant has violated the Final Judgment, the United States may apply to the Court for an extension of the relevant Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgments, in any successful effort by the United States to enforce the relevant Final Judgment against a Settling Defendant, whether litigated or resolved before litigation, the Settling Defendant must reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with that effort to enforce this Final Judgment, including the investigation of the potential violation.

The proposed Final Judgments state that the United States may file an action against a Settling Defendant for violating the relevant Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, each proposed Final Judgment provides that it will expire 10 years from the date of its entry, except that after five years from the date of its entry, each Final Judgment may be terminated upon notice by the United States to the Court and the relevant Settling Defendants that continuation of the relevant Final Judgment is no longer necessary or in the public interest.

IV. Remedies Available to Potential Private Plaintiffs

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgments neither impairs nor assists the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgments have no prima facie effect in any subsequent private lawsuit that may be brought against Settling Defendants.

Section 308 of the Packers and Stockyards Act, 7 U.S.C. 209, provides that any person subject to the Act who violates any provisions of the Act (or of any order of the Secretary of Agriculture relating to the Act) related to the purchase or handling of poultry or any poultry growing arrangement (among other violations) may be liable to persons injured as a result of those violations for the full amount of damages sustained as a consequence, and such injured persons may bring suit in federal court or may complain to the Secretary of Agriculture.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Settling Defendants have stipulated that the respective proposed Final Judgments may be entered by the Court after compliance with the provisions of the Tunney Act, provided that the United States has not withdrawn its consent. The Tunney Act conditions entry upon the Court's determination that each proposed Final Judgment is in the public interest.

The Tunney Act provides a period of at least 60 days preceding the effective date of a proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment on either or both of the proposed Final Judgments should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to either or both of the proposed Final Judgments at any time before the Court's entry of that Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, the comments and the United States' responses will be published in the **Federal Register** unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to: Lee F. Berger, Chief, Civil Conduct Task Force, Antitrust Division, United States Department of Justice, 450 Fifth St. NW, Suite 8600, Washington, DC 20530.

The proposed Final Judgments provide that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgments.

VI. Alternatives to the Proposed Final Judgments

As an alternative to the proposed Final Judgments, the United States considered a full trial on the merits against the Settling Defendants. The United States could have commenced contested litigation and brought the case to trial, seeking relief including an injunction against the collaboration on compensation decisions, sharing of compensation information, and facilitation of this conduct, as well as the imposition of a monitor. The United States is satisfied, however, that the relief required by the proposed Final Judgments will remedy the anticompetitive effects alleged in the Complaint against the Settling Defendants, preserving competition in the poultry processing plant labor markets and in the poultry processing industry at large, given the relief secured, including the poultry-business-wide monitor. Thus, the proposed Final Judgments achieve all or substantially all of the relief the United States would have obtained through litigation against the Settling Defendants but avoids the time, expense, and uncertainty of a full trial on the merits.

VII. Standard of Review Under the Tunney Act for the Proposed Final Judgments

Under the Clayton Act and Tunney Act, proposed Final Judgments, or ''consent decrees,'' in antitrust cases brought by the United States are subject to a 60-day comment period, after which the Court must determine whether entry of a proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive

considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a proposed Final Judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the Tunney Act, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's Complaint, whether a proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by a proposed Final Judgment, a court may not ''make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should also bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is the one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Microsoft,* 56 F.3d at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' (internal citations omitted)); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.''' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the Tunney Act, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

VIII. Determinative Documents

The United States considered the ''Transparency in Poultry Grower Contracting and Tournaments,'' a proposed rule by the U.S. Department of Agriculture's Agricultural Marketing Service on June 8, 2022, 87 FR 34980, *available at https://www.federalregister.gov/documents/2022/06/08/2022-11997/transparency-in-poultrygrower-contracting-and-tournaments,* in formulating the proposed Final Judgment for the Processor Settling Defendants.

Dated: September 12, 2022

Respectfully submitted,

For Plaintiff United States of America
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Jack G. Lerner

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Part III

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 732, 734, 736, et al.
Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls; Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 734, 736, 740, 744, 746, and 762

[Docket No. 220908–0187]

RIN 0694–AI93

Implementation of Additional Sanctions Against Russia and Belarus Under the Export Administration Regulations (EAR) and Refinements to Existing Controls

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: In response to the Russian Federation's (Russia's) ongoing aggression against Ukraine, the Department of Commerce is expanding the existing sanctions against Russia and Belarus by imposing new export controls, including expanding the scope of the Russian industry sector sanctions to add lower-level items potentially useful for Russia's chemical and biological weapons production capabilities and items needed for advanced production and development capabilities to enable advanced manufacturing across a number of industries. This rule also adds Belarus to the scope of industry sector sanctions that currently apply solely to Russia. With respect to end users, this rule expands the 'military end user' and 'military-intelligence end user' controls and applies the Russian/Belarusian-Military End User Foreign Direct Product (FDP) rule to ten existing entries for six existing entities that have continued to supply Russian entities on the Entity List or are under sanction since Russia's further invasion of Ukraine. Labeling these six entities as Russian 'military end users' and applying the Russia/Belarus-Military End User FDP rule to them will degrade Russia's war efforts in Ukraine, as these entities produce items needed by the Russian and Belarussian military and industrial sectors. Correspondingly, this rule clarifies requirements related to Burma, Cambodia, the People's Republic of China, and Venezuela). Finally, this rule refines existing controls on Russia and Belarus by adding additional dollar value exclusion thresholds for 'luxury goods;' and makes twelve corrections and clarifications to existing controls on Russia and Belarus. The Department of Commerce is taking these actions to clarify and enhance the effectiveness of U.S. controls and to better align its controls on both Russia and Belarus with those implemented by U.S. allies.

DATES: This rule is effective on September 15, 2022.

FOR FURTHER INFORMATION CONTACT: For general questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–0092, Fax: (202) 482–482–3355, Email: *rpd2@bis.doc.gov.* For emails, include ''Russia and Belarus September 2022 sanctions'' in the subject line.

For general questions on the Entity List and MEU List, contact the Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In response to Russia's February 2022 further invasion of Ukraine, BIS imposed extensive sanctions on Russia under the Export Administration Regulations (15 CFR parts 730–774) (EAR) as part of the final rule *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)* (the Russia Sanctions Rule), effective on February 24, 2022, and published on March 3, 2022 (87 FR 12226). Effective March 2, 2022, BIS also imposed similar sanctions on Belarus under the EAR in a final rule, *Implementation of Sanctions Against Belarus* (''Belarus Sanctions Rule''), published on March 8, 2022 (87 FR 13048). Among other licensing requirements and review policies, the Belarus Sanctions Rule implemented measures to limit the ability of Belarusian 'military end users' under the EAR to support Belarus's or Russia's military activities. Since the publication of the Russia Sanctions Rule and Belarus Sanctions Rule, BIS has published several other final rules imposing stringent export controls on Russia and Belarus. These actions reflect the U.S. Government's position that Russia's invasion of Ukraine, and Belarus's complicity in the invasion, flagrantly violated international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security.

The export control measures in this final rule build upon the policy objectives set forth in the earlier rules referenced above. The purpose of this final rule is to protect U.S. national security and foreign policy interests by further restricting Russia's access to items that it needs to support its military capabilities. The expansion of these export controls under the EAR, implemented in parallel with similarly stringent measures by partner and ally countries, will further limit access to items that enable Russian's military capabilities and sources of revenue that could support Russia's military capabilities, thus enhancing the effectiveness of the multilateral sanctions. Additionally, certain of the new or expanded controls specified in this rule target Belarus as part of the U.S. response to the country's complicity in Russia's aggression.

II. Overview of New Controls

BIS in this rule imposes new export controls against Russia and Belarus. First, BIS is expanding the scope of the EAR's Russian industry sector sanctions to add items that may be useful for Russia's chemical and biological weapons (CBW) production and development capabilities and items needed for advanced production and development capabilities to enable advanced manufacturing across a number of industries. Second, BIS also is expanding the scope of the EAR's industry sector sanctions that currently apply only to Russia to apply to Belarus on the basis of concerns of diversion of the items subject to the industry sector sanctions from Belarus to Russia.

Third, this rule broadens the 'military end user' and ''military-intelligence end user'' controls under the EAR to more effectively target military and/or military-intelligence support for Russia and Belarus and improve the overall effectiveness of these controls by expanding: the ''is informed'' provisions for entities acting contrary to U.S. national security and foreign policy interests under § 744.11; the 'military end user' controls under § 744.21 to reach Belarusian, Burmese, Cambodian, Chinese, Russian, and Venezuelan 'military end users' located anywhere in the world; and the 'military-intelligence end user' controls under § 744.22 to reach Belarusian, Burmese, Cambodian, Chinese, Russian, and Venezuelan 'military-intelligence end users' or 'military-intelligence end users' of countries in Country Group E:1 or E:2, wherever located.

Fourth, consistent with the expansion of the 'military end user' controls under the EAR, this rule also revises the Entity List to designate six entities under ten entries as Russian 'military end users.'

Fifth, this rule refines existing controls on Russia and Belarus to more closely align with the export controls implemented on both countries by our

allies by adding additional dollar value exclusion thresholds for certain 'luxury goods.'

Finally, this rule makes twelve corrections and clarifications to the existing controls on Russia and Belarus to clarify the controls and more effectively achieve the policy objectives identified in previous rules. These correction and clarifications:

(i) update and expand the list of consumer communications devices eligible for License Exception CCD to reflect technology developments since License Exception CCD was first published in 2009;

(ii) make a correction to add Russia and Belarus to the news media authorization under License Exception TMP;

(iii) make a correction to § 744.11 to remove an unnecessary sentence;

(iv) add License Exception CCD eligibility for Russian industry sector sanctions under § 746.5 and the ''Luxury goods' sanctions under § 746.10 in order to not impose duplicative licensing requirements and ensure the continued availability of License Exception CCD eligibility under § 746.8;

(v) clarify that the more favorable treatment for certain entities set forth in § 746.8(a), including the exclusion for Export Control Classification Numbers (ECCNs) 5A992 or 5D992, license exception availability and license review policies, includes branches or sales offices of companies headquartered in the U.S. and Country Group A:5 and A:6 countries, even if such branches or sales offices are not separately incorporated as subsidiaries or joint ventures;

(vi) add a Note 1 to paragraph (a)(1) to § 746.8 of the EAR to clarify the scope of the deemed export exclusion under the Russia and Belarus sanctions;

(vii) add an exclusion from the license requirements under § 746.8(a)(1) and (2) for transfers within Russia or Belarus for reexports (*i.e.,* return) to the United States or a Country Group A:5 or A:6 country in supplement no. 1 to part 740 of any item;

(viii) update the licensing policy for 'luxury goods' in § 746.10 to adopt a case-by-case license application review policy for items for humanitarian needs, consistent with the other Russia and Belarus licensing policies in other sections of part 746;

(ix) clarify that the EAR's recordkeeping requirements in part 762 extend to transfers (in-country) of items subject to the EAR;

(x) clarify in § 736.2 that transfers (in-country) are activities subject to the restrictions of General Prohibitions 5 and 6;

(xi) Clarify in § 732.2 (Steps regarding the ten general prohibitions) that step 14 for embargoed countries and special destinations also encompasses the restrictions set forth in §§ 746.6, 746.8, and 746.10, and

(xii) remove Russia and Belarus from Country Group A in supplement no. 1 to part 740 of the EAR.

III. Amendments to the Export Administration Regulations (EAR)

A. Imposition of New Export Controls on Russia and Belarus

This rule expands the scope of the Russian Industry Sector Sanctions by: (1) adding a new supplement no. 6 to part 746 and additional license requirements under § 746.5(a)(1)(iii); (2) adding Belarus to the Russian Industry Sector Sanctions; and (3) adding additional items to supplement no. 4 to part 746 that will require a license under § 746.5(a)(1)(i), as described further below.

1. Expansion of Russian Industry Sector Sanctions To Add CBW Russia Items and Items Needed for Advanced Production and Development Capabilities Across a Number of Industries

In part 746 of the EAR, this rule expands the scope of the Russian industry sector sanctions under § 746.5 by adding new paragraph (a)(1)(iii), and a related new supplement no. 6. As set forth in this new paragraph (a)(1)(iii), there is a new license requirement for the export, reexport, and transfer (in-country) to or within Russia of items subject to the EAR that are listed in new supplement no. 6 (Items that Require a License for Export, Reexport, and Transfer (In-Country) to or within Russia or Belarus (the addition of Belarus is described in the next section of the preamble) pursuant to § 746.5(a)(1)(iii)). This rules also moves the text of existing paragraph (a)(1)(iii) to new paragraph (a)(1)(iv) and adds transfers (in-country) to the first sentence of that paragraph.

The items that this rule adds to supplement no. 6 to part 746 are a subset of items designated as EAR99 that may be useful for Russia's CBW production and development capabilities and therefore may be used in support of its military aggression. These items consist of discrete chemicals, biologics, fentanyl and its precursors, and related equipment.

Unlike other EAR99 items controlled for export to Russia and Belarus that are identified in supplement no. 4 to part 746 by Schedule B Number and HTS code, these items are not identified by Schedule B Number or HTS code. Rather, they appear in this new supplement no. 6 to part 746. As noted in the introductory text of supplement no. 6, the supplement no. 6 items are identified by Chemical Abstract Numbers (CAS) where applicable to assist exporters, reexporters, and transferors in identifying items subject to this license requirement.

In addition, paragraph (g) of supplement no. 6 to part 746 (Quantum computing and advanced manufacturing) identifies equipment and other items that BIS has determined are likely not manufactured in Russia or are otherwise important to Russia for its development of advanced production and development capabilities to enable advanced manufacturing capabilities across a number of industries, including Russia's defense-industrial base.

This rule makes changes to § 746.5(a)(1) to impose license requirements on the items in supplement no. 6 to part 746 as described further below.

These new controls expand BIS's Russia and Belarus-specific license requirements to impose controls on chemicals in concentrations of 95% weight or greater, as identified under new paragraphs (a)(1) to (41); chemicals in concentrations of 90% weight or greater, as identified under paragraphs (b)(1) to (38); Fentanyl and its derivatives Alfentanil, Sufentanil, Remifentanil, Carfentanil, and salts thereof, as identified in paragraph (c); chemical precursors to central nervous system acting chemicals, as identified under paragraphs (d)(1) and (2); biologics identified under paragraphs (e)(1) to (5); equipment, as identified under paragraphs (f)(1) to (23); and quantum computing and advanced manufacturing items, as identified under paragraphs (g)(1) to (g)(2). The new supplement no. 6 also includes several notes, including technical notes to assist exporters, reexporters, and transferors in better understanding the controls.

In § 734.9 (Foreign-Direct Product (FDP) Rules), as a conforming change to the addition of supplement no. 6 to part 746, this rule revises paragraph (f)(1) (Product scope of Russia/Belarus FDP rule) to add the phrase ''is identified in supplement no. 6 to part 746 of the EAR'' to paragraphs (f)(1)(i) (''Direct product'' of ''technology'' or ''software'') and (f)(1)(ii) (''Direct product'' of a complete plant or 'major component' of a plant). This change is made to bring the items identified in supplement no. 6 to part 746 into the scope of the

Russia/Belarus FDP rule. As the Russia/Belarus-Military End User FDP rule already extends to all items subject to the EAR, no such changes are needed. For ''direct products'' that are identified in supplement no. 6 to part 746, in addition to the license requirements under § 746.5(a)(1)(iii), these items will also be subject to a license requirement under § 746.8(a)(2) or (3), as applicable.

Lastly, in § 734.9 for ease of reading and to better conform with the paragraph structure used in other FDP rules in § 734.9, such as the National Security FDP rule in paragraph (b), this rule revises paragraphs (f)(1)(i) and (ii) to break the text into paragraphs (f)(1)(i)(A) and (B) and (f)(1)(ii)(A) and (B), respectively. These changes are limited to changing the paragraph structure and makes no substantive changes to the criteria formerly in paragraphs (f)(1)(i) and (ii).

BIS estimates that the changes to § 746.5(a)(1)(iii) and to the related new supplement no. 6 to part 746 will result in the submission of an additional 175 license applications to BIS annually.

2. Expansion of Russian Industry Sector Sanctions To Add Additional Items to Supplement No. 4 to Part 746, Including Among Such Additional Items Any Modified or Designed ''Components,'' ''Parts,'' ''Accessories,'' and ''Attachments'' Therefor

In supplement no. 4 to part 746—HTS Codes and Schedule B Numbers that Require a License for Export, Reexport, and Transfer (In-Country) to or within Russia or Belarus pursuant to § 746.5(a)(1)(ii), this rule expands the scope of the Russian Industry Sector Sanctions (as renamed to also apply to Belarus, described below) by adding 57 additional entries that will require a license for export or reexport to or transfers within Russia or Belarus under § 746.5. The restrictions on these additional industrial items are intended to further undermine the Russian industrial base and its ability to continue to support the Russian invasion of Ukraine. The items this rule adds includes a variety of industrial machinery, equipment, and other items such as: ''Rider-Type, Counterbalanced, Self-Propelled Fork-Lift Trucks,'' ''Sawing Or Cutting-Off Machines, Metal Removing, Used Or Rebuilt,'' ''Electric Storage Heating Radiators,'' and ''Rail Locomotives Powered From An External Source Of Electricity.'' The addition of these items will help better align these controls under the EAR with the controls of U.S. allies on these items.

Also in supplement no. 4 to part 746, this rule expands the scope of the items that are subject to the Russian and Belarusian Industry Sector Sanctions by revising paragraph (a) in the introductory text of the supplement to specify that the items described in the supplement include any modified or designed ''components,'' ''parts,'' ''accessories,'' and ''attachments'' therefor, regardless of the Schedule B, Schedule B Description, HTS Code, or HTS Description of the ''components,'' ''parts,'' ''accessories,'' and ''attachments''. In many cases these ''components,'' ''parts,'' ''accessories,'' and ''attachments'' are not specifically identified by Schedule B, Schedule B Description, HTS Code, or HTS Description. BIS is making this revision by adding a sentence to paragraph (a); the new sentence also specifies that the expansion does not include any ''part'' or minor ''component'' that is a fastener (*e.g.,* screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, or solder. By expanding the scope of the items set forth in the supplement in this manner, this change improves the effectiveness of the Russian (and Belarusian) Industry Sector Sanctions.

BIS estimates these changes to supplement no. 4 to part 746 will result in an additional 90 license applications submitted to BIS annually.

3. Expansion of Controls on Belarus by Adding Belarus to the Russian Industry Sector Sanctions Under § 746.5 and Renaming the Provision Accordingly

In § 746.5 (Russian industry sector sanctions), this rule expands the scope of the section to add Belarus, imposing the same controls as those applicable to Russia, and renames the section to refer to the Russian and Belarusian industry sector sanctions. Specifically, this rule adds Belarus to paragraphs (a)(1)(i) and (ii), (a)(2), and (b) to implement these controls on Belarus. While this rule does not add Belarus after the reference to Russian deepwater or Arctic offshore locations in paragraph (a)(1)(i), as this reference is specific to Russia, this rule otherwise imposes the same requirements on Belarus as on Russia. BIS recognizes that Belarus has only a limited oil and gas exploration industry and has added controls for Belarus under paragraphs (a)(1)(i) to prevent diversion of the specified items through Belarus to Russia.

This rule redesignates current paragraph (a)(1)(iii) in § 746.5 as paragraph (a)(1)(iv) and adds a new paragraph (a)(1)(iii) to impose a license requirement on the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 6 to part 746 to or within Russia or Belarus. BIS adds this new paragraph to clarify the scope of the licensing requirements specific to Russia and Belarus.

As a conforming change, this rule also revises paragraph (b)(2) in § 746.5 to add a reference to new paragraph (a)(1)(iii) that states that the same license review policy that applies to paragraph (a)(1)(ii) also applies to new paragraph (a)(1)(iii).

BIS estimates that these changes to § 746.5 will result in an additional 3 license applications submitted to BIS annually.

B. Expansion of 'Military End User' and 'Military-Intelligence End User' Controls Under the EAR To More Effectively Target Russia and Belarus and Improve the Overall Effectiveness of These Controls

1. Expansion of ''Is Informed'' Provisions Under § 744.11

In § 744.11 of the EAR, this rule revises the introductory text to the section and paragraph (c) (Additional prohibition on persons informed by BIS), to add a new paragraph (c)(3). New paragraph (c)(3) expands the scope of the ''is informed'' provisions under § 744.11 in two ways. First, it specifies that the Deputy Assistant Secretary for Export Administration (DAS/EA) may provide specific notice that the export, reexport, or transfer (in-country) of specified items to an identified party requires a license because there is reasonable cause to believe, based on specific and articulable facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States or that an entity is acting on behalf of such entity. The new text in paragraph (c)(3) specifies that the notice may be provided orally and, if so, the oral notice will be followed within two working days by a written notice. The ''is informed'' process under paragraphs (c)(1) and (2) is limited to cases where there is risk of diversion to another party that has already been identified on the Entity List in supplement no. 4 to part 744. The new paragraph (c)(3) process will allow the DAS/EA to provide specific notice of parties that are not currently on the Entity List, but that are engaging in activities that are contrary to U.S. national security or foreign policy interests.

Second, this rule adds language in new paragraph (c)(3) to specify that the notice provided by the DAS/EA will include the license requirement, limits on the use of license exceptions, and license review policy for any entity

identified through such notice. BIS is adding this language because § 744.11, unlike other part 744 sections that include an ''is informed'' provision (*e.g.,* §§ 744.2, 744.3, and 744.4), does not impose a license requirement that exporters, reexporters, and transferors must independently determine is applicable to their activities because this section's license requirements are implemented through Entity List listings. Once a specific notice is provided, BIS may subsequently seek to add the entity in question to the Entity List, including the applicable license requirements, available license exceptions, and license review policy, to inform all exporters, reexporters, and transferors of these requirements. Seeking to add these entities that are the subject of ''is informed'' letters to the Entity List through the interagency process will have two benefits: (1) it will help to protect U.S. national security and foreign policy interests by imposing the related requirements on all exporters, reexporters, and transferors of items subject to the EAR, and (2) it will create an equal playing field between the exporter, reexporter, or transferor that received the specific notice from BIS and all other exporters, reexporters, and transferors of items subject to the EAR.

BIS estimates these changes to § 744.11 will result in the submission of an additional five license applications to BIS annually.

2. Expansion of 'Military End User' Controls to Belarusian, Burmese, Cambodian, Chinese, Russian, and Venezuelan 'Military End Users' Located Anywhere in the World

In § 744.21 (Restrictions on Certain ''Military End Use' or 'Military End User'' in Belarus, Burma, Cambodia, the People's Republic of China, the Russian Federation, or Venezuela), this rule expands the scope of the 'military end user' controls. Specifically, this rule revises § 744.21 to allow BIS to identify Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end users' in countries other than a country identified in § 744.21. This expansion is in recognition that neither military end users nor international development and production activities are limited to the home countries of designated 'military end users.' By expanding the scope of § 744.21 to allow for the designation of these 'military end users' worldwide, this rule addresses such strategic concerns with respect to Russia and the other countries identified in § 744.21.

BIS understands the compliance concerns exporters, reexporters, and transferors have had in applying § 744.21, and specifically, in identifying entities that constitute 'military end users.' One of the primary reasons BIS created the ''Military End-User' (MEU) List (supplement no. 7 to part 744 of the EAR) was to assist exporters, reexporters, and transferors in identifying 'military end users,' and based on public input that BIS has received, the MEU List has been positively received by the exporting community, even though the list is not exhaustive. BIS also understands that, if the amendments in this rule expanded the scope of § 744.21 to impose license requirements upon MEUs worldwide without specifically identifying such MEUs, that would pose even broader compliance concerns for exporters, reexporters, and transferors, because MEUs could potentially be present in countries other than the six destinations specified in § 744.21. Therefore, this rule addresses the concern with respect to Belarusian and Russian 'military end users' located outside of Belarus and Russia by specifying that the expansion of controls on such 'military end users' on a worldwide basis is limited to only those 'military end users' identified on the Entity List under supplement no. 4 to part 744 with a footnote 3 designation. Correspondingly, this rule further specifies with respect to Burmese, Cambodian, Chinese, and Venezuelan 'military end users' located outside of Burma, Cambodia, China, or Venezuela that the requirement is limited to only those 'military end users' identified on the 'Military End-User' (MEU) List.

By exhaustively listing 'military end users' located outside of one of the six countries specified in § 744.21, BIS will facilitate compliance by relieving exporters, reexporters, and transferors from having to independently assess the potential applicability of § 744.21 on a worldwide basis, which would be a significant compliance burden. Therefore, for 'military end users' outside of the identified countries in § 744.21, BIS, in consultation with the other ERC member agencies, will specifically designate such 'military end users,' under supplements no. 4 or 7, as applicable. However, BIS continues to recommend that exporters, reexporters, and transferors continue to do their own diligence to determine the *bona fides* of entities located in Belarus, Burma, Cambodia, China, Russia, and Venezuela.

In order to implement the changes described above, this rule makes several changes to § 744.21, including some conforming changes, by revising the section heading, paragraphs (a), (b) introductory text, (b)(1)(ii), and (e)(1) and (3) as described further below.

In the section heading of § 744.21, this rule revises the heading to remove the references to specific countries. This rule makes this change to the heading for three reasons: (1) to reflect the expanded scope of the section, (2) to avoid making the heading cumbersome, and (3) to prepare for the possibility of adding additional countries to § 744.21 in the future.

In § 744.21(a) (General prohibition), this rule revises paragraph (a)(1) to remove the text that had stated that the 'military end users' must be located in Burma, Cambodia, China, or Venezuela and replace it with text indicating that paragraph (a)'s restrictions will instead apply to such 'military end users,' wherever located. This rule adds a sentence to paragraph (a)(1) to specify that Burmese, Cambodian, Chinese, or Venezuelan 'military end users' located outside of Burma, Cambodia, China, or Venezuela will be limited to entities specifically identified on the MEU List. In paragraph (a)(2), this rule makes corresponding edits with respect to Belarus and Russia. However, Belarusian and Russian 'military end users' located outside of Russia and Belarus, respectively, will be limited to entities specifically identified on the Entity List under supplement no. 4 to part 744 with a footnote 3 designation.

This rule adds a new Note to paragraphs (a)(1) and (2) to provide further guidance on the restrictions applicable to 'military end users' located in Burma, Cambodia, China, or Venezuela. The new note clarifies that Belarusian or Russian 'military end users' are listed on the Entity List with a footnote 3 designation. The note to paragraphs (a)(1) and (2) also clarifies that if an entity is not a Belarusian or Russian 'military end user,' but has been identified by the ERC as a 'military end user,' it will be identified under the MEU List under supplement no. 7 to part 744. The note clarifies that with respect to Burma, Cambodia, China, and Venezuela, exporters, reexporters, and transferors, even in the absence of any such notification, are not excused from compliance with the license requirements of paragraph (a) of section § 744.21 to determine if an entity is a 'military end user' even when that entity is neither specifically designated on the Entity List nor included on the MEU List. Lastly, the note clarifies that with respect to Belarus or Russia, exporters, reexporters, and transferors, even in the absence of any such notification, are not excused from compliance with the license requirements of paragraph (a) of section

§ 744.21 to determine if an entity is a 'military end user' even when that entity is neither specifically designated on the Entity List nor included on the MEU List.

In § 744.21(b) (Additional prohibition on those informed by BIS), this rule revises the introductory text of the paragraph to add the phrase 'or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end user,' wherever located' to clarify that the ''is informed'' provisions also extend to Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end users' wherever they are located in the world.

In § 744.21(b)(1) ('Military End-User' (MEU) List), this rule makes revisions to add the phrase 'for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end user,' wherever located' and to remove text that had limited 'military end users' to 'military end users' located in the six identified countries only. This rule also revises paragraph (b)(1) to specify that these entities may be placed on the Entity List in supplement no. 4 to part 744 if they are Belarusian or Russian 'military end users,' and that Burmese, Cambodian, Chinese, or Venezuelan 'military end users' may be added to the Military End-User (MEU) List in supplement no. 7 to part 744.

In § 744.21(b)(1)(ii) (License Requirements for parties to the transaction), this rule removes text that had specified that the 'military end users' needed to be located under one of the countries identified in § 744.21 and adds text to specify that Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end users,' wherever located, are subject to the license requirements under paragraph (b)(1)(ii).

In § 744.21(d) (License application procedure), this rule revises the parenthetical reference to the § 744.21 section heading to conform with the revisions to the section heading described above.

In § 744.21(e) (License review standards), this rule removes the references in paragraph (e)(1) to the specified countries and revises the paragraph to cross reference with the license requirements for items described in paragraph (a)(1) with respect to Burma, Cambodia, China, or Venezuela (and associated 'military end users') and in paragraph (a)(2) with respect to Belarus or Russia (and associated 'military end users'). In paragraph (e)(3), this rule revises the paragraph to add the phrase 'or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end user,' wherever located,' to clarify that these license applications will be reviewed under the license review policy specified in paragraph (e)(1).

BIS estimates these changes to § 744.21 will result in an additional 10 license applications submitted to BIS annually.

3. Expansion of 'Military-Intelligence End User' Controls to Belarusian, Burmese, Cambodian, Chinese, Russian, and Venezuelan 'Military-Intelligence End Users' or 'Military-Intelligence End Users' of Country Group E:1 or E:2, Wherever Located

This rule expands the scope of § 744.22 to mirror the changes made to § 744.21, as described above, by revising paragraphs (a), (b), and (f)(2) introductory text, and adding a new paragraph (f)(2)(xi) to extend the restrictions to 'military-intelligence end users' wherever located. Likewise, this rule adds a sentence to paragraph (a) to specify that Burmese, Cambodian, Chinese, or Venezuelan 'military-intelligence end users' that are located outside of Burma, Cambodia, China, or Venezuela or are entities working on behalf of Burma, China, Cambodia or Venezuela; or are 'military-intelligence end users' that are nationals of a country listed in Country Groups E:1 or E:2 but are outside of a country listed in Country Groups E:1 or E:2, or are entities working on behalf of a country listed in Country Groups E:1 or E:2 are limited to the entities specifically identified under paragraph (f)(2) of § 744.22. As discussed above, BIS understands the compliance concerns with expanding these end user controls worldwide and seeks to mitigate them by specifically identifying 'military-intelligence end users' under paragraph (f)(2) that are located outside of countries identified in § 744.22. BIS hopes to facilitate compliance by exporters, reexporters, or transferors with this provision as expanded by this rule.

In § 744.22(b) (Additional prohibition on those informed by BIS), this rule revises the paragraph to remove text that had specified that 'military-intelligence end users' were limited to those located in the countries specified under § 744.22 and adds text to broaden the scope of the restrictions to Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military- intelligence end users' or 'military-intelligence end users' of a country listed in Country Group E:1 or E:2, wherever located.

In § 744.22(f) (Definitions), this rule adds two sentences to clarify the scope of 'military-intelligence end users.' The first sentence clarifies that with respect to entities located in Belarus, Burma, Cambodia, China, Russia, or Venezuela, or a country listed in Country Groups E:1 or E:2, 'military-intelligence end users' include, but are not limited to, the 'military-intelligence end users' identified in paragraph (f)(2). The second sentence specifies that with respect to entities located in all other countries paragraph (f)(2) is an exhaustive listing of 'military-intelligence end users.' Lastly, under paragraph (f)(2), this rule adds and reserves a new paragraph (f)(2)(xi) (Other countries) as a placeholder for future additions.

BIS estimates these changes to § 744.22 will result in an additional two license applications submitted to BIS annually.

C. Revisions to the Entity List To Designate Certain Existing Entities as Russian 'Military End Users'

1. Overview of Entity List

The Entity List (supplement no. 4 to part 744 of the EAR) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States. The EAR impose additional license requirements on and limit the availability of most license exceptions for exports, reexports, and transfers (in-country) to listed entities.

The license review policy for each listed entity is identified in the ''License Review Policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document that added the entity to the Entity List. Any license application for an export, reexport, or transfer (in-country) involving an entity on the Entity List that is subject to an additional EAR license requirement will also be reviewed in accordance with the license review policies in the sections of the EAR applicable to those license requirements. For example, for Russian entities on the Entity List, if the export, reexport, or transfer (in-country) is subject to a license requirement in §§ 746.6, 746.8, or 746.10, the license application will be reviewed in accordance with the license review policies in those sections in addition to the specified license review policy under the Entity List entry.

BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part

746 (Embargoes and Other Special Controls) of the EAR. Paragraphs (b)(1) through (5) of § 744.11 include an illustrative list of activities contrary to the national security or foreign policy interests of the United States.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and makes all decisions to remove or modify an entry by unanimous vote.

2. Entity List Decisions: Revisions to the Entity List

This rule revises six entities under ten entries on the Entity List, under the destinations of China, Lithuania, Russia, the United Kingdom, Uzbekistan, and Vietnam: Connec Electronic Ltd. (added under China and the United Kingdom); King Pai Technology Co., Ltd. (added under China, Russia, and Vietnam); Sinno Electronics Co., Ltd. (added under China and Lithuania); Winninc Electronic (added under China); World Jetta (H.K.) Logistics Limited (added under China); and Promcomplektlogistic Private Company (added under Uzbekistan). All six entities under ten entries were first added to the Entity List effective June 28, 2022 (87 FR 38925, June 30, 2022) (the June 30 rule).

The ERC determined that it was warranted to designate these entities as Russian 'military end users' pursuant to § 744.21. Labeling these six entities as Russian 'military end users' and having the Russia/Belarus-Military End User FDP rule apply to them will degrade Russia's war efforts in Ukraine, as these entities produce items needed by the Russian and Belarusian military and industrial sectors. This rule accordingly revises the License Requirement column to remove the parenthetical phrase that referenced § 744.11 and to include a new parenthetical phrase that references the foreign direct product (FDP) rule for Russian and Belarusian 'military end users,' because these entities have been determined to be Russian 'military end-users.' As stated in the June 30 rule, these entities had supplied items to Russian entities of concern before February 24, 2022, the effective date of the Russia Sanctions Rule, and have continued to contract to supply Russian entities on the Entity List or that have been sanctioned since Russia's further invasion of Ukraine. The new parenthetical references the Russian/Belarusian Military End User FDP rule and the Military End Use and End User controls under §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR. The ERC also determined that it was appropriate to give these entities a footnote 3 designation to reflect their Russian 'military end user' status. This rule also revises the License Review policy column for each of these entities to add a cross-reference to §§ 746.8(b) and 744.21(e).

BIS estimates that these changes to the Entity List will not result in the submission of any additional license applications to BIS.

D. Refinements to Existing Controls To More Closely Align With the Controls of Allies Identified in Supplement No. 3 to Part 746 of the EAR on Russia and Belarus

1. Addition of Dollar Value Exclusion Thresholds for 'Luxury Goods' To More Closely Align With the Thresholds Used by Our Allies

In supplement no. 5 to part 746—('Luxury Goods' That Require a License For Export, Reexport, and Transfer (In-Country) to or Within Russia or Belarus Pursuant to § 746.10(a)(1) and (2)), this rule revises the supplement to specify additional dollar value exclusion thresholds in certain entries to better align with the luxury goods controls implemented by our allies, which have served as a model for other countries in determining appropriate value exclusions to incorporate into their respective national controls. These revisions should also ease the compliance burdens of exporters, reexporters, and transferors trying to comply with the 'luxury goods' controls of various countries. They also are intended to create as much as possible an equal playing field for U.S. companies.

When the 'luxury goods' controls for Russia and Belarus were initially added to the EAR in earlier this year (87 FR 14758, March 16, 2022), the only 'luxury goods' specified in supplement no. 5 to part 746 that included a dollar value exclusion were clothing and shoes entries that were assigned a dollar value exclusion of $1,000 Per Unit Wholesale Price in the U.S. BIS determined that additional time was needed to evaluate whether to add dollar value exclusion thresholds to other additional 'luxury goods' entries in supplement no. 5 to part 746.

This rule aligns BIS's 'luxury goods' controls with our allies' corresponding controls by revising the '10-Digit Commodity Description and Per Unit Wholesale Price in the U.S. if Applicable' column (in those entries in which such information is applicable) to add additional dollar value exclusion thresholds. BIS has determined certain 'luxury goods' entries continue to not warrant a dollar value exclusion; those entries remain unchanged by this rule. As warranted, BIS may make future updates and/or additions to the thresholds.

In reviewing our allies' value threshold exclusions, BIS determined that the EAR's $1,000 Per Unit Wholesale Price in the U.S. dollar value exclusion for clothing and shoes was more permissive than those adopted by our allies. Therefore, to align more closely with allies' value exclusion thresholds, with which BIS agrees, this rule reduces the dollar value threshold for clothing and shoes from $1,000 to $300 Per Unit Wholesale Price. For many other 'luxury goods' entries, this rule adds a $300 Per Unit Wholesale Price in the U.S. dollar value exclusion. However, BIS has added a higher dollar value exclusion threshold to other items, as warranted (*e.g.,* automobiles, which will have a $50,000 Per Unit Wholesale Price U.S. dollar value exclusion threshold).

BIS estimates these changes to the 'luxury goods' controls will result in a reduction of 10 license applications submitted to BIS annually.

E. Corrections and Clarifications to Existing Controls

BIS estimates the changes described in Section E of this final rule will not result in the submission of any additional license applications to BIS, apart from the changes for License Exception Consumer Communications Devices (CCD), which BIS anticipates will result in the annual submission of two fewer license applications to BIS.

1. Updates the List of Eligible Consumer Communications Devices To Reflect Technology Developments Since 2009 and the Current Realities of How Consumers Communicate

In § 740.19 (Consumer Communications Devices (CCD)), this rule revises paragraph (b) (Eligible commodities and software), to update the text to more accurately describe the types of commodities and software included under License Exception CCD. BIS makes this change to accommodate the consumer communications commodities and software that have come into common use since September 8, 2009, the date that License Exception CCD was originally added to the EAR (74 FR 45989). For example, this rule revises paragraph (b)(1) for consumer computers to add tablets and peripherals, including microphones,

speakers, and headphones, that are designated EAR99 or classified under Export Control Classification Numbers (ECCN) 5A992.c or 4A994.b. BIS also reminds exporters, reexporters, and transferors that certain headphones are controlled under ''600 series'' ECCNs and are not eligible for License Exception CCD. In addition, for purposes of paragraph (b)(1), as well as the rest of paragraph (b), the commodities and software eligible for License Exception CCD are strictly limited to the descriptions and classifications that are specified under paragraph (b), which is an exhaustive listing of the commodities and software eligible for License Exception CCD.

This rule removes paragraph (b)(3) which described input/output control units (other than industrial controllers designed for chemical processing) designated EAR99. This rule removes these items because after additional review of paragraph (b) by BIS, these items were determined to not be the type of commodities that would typically be used by consumers for communications purposes and, therefore, should be removed from License Exception CCD. Because of the removal of paragraph (b)(3), this rule also redesignates (b)(4) through (17) as paragraphs (b)(3) through (17), respectively.

The rule revises existing paragraphs (b)(1), (5) through (7), and (9) (which, prior to redesignation, were paragraphs (b)(6) through (8) and (9)) to make similar updates reflecting current consumer communications device use.

Lastly, under paragraph (b), this rule revises redesignated paragraphs (b)(12) through (14), (16), and (17) to update the commodity and software descriptions, including adding a parenthetical phrase to paragraph (b)(13) to clarify that digital cameras include webcams. This rule also revises paragraph (b)(16) by removing the phrase in ''this paragraph'' and adding in its place the phrase in ''paragraphs (b)(1) through (16)'' to clarify that paragraph (b)(16) includes batteries, chargers, carrying cases and accessories for the equipment described in paragraphs (b)(1) through (16).

2. Correction To Add Russia, and Belarus to the News Media Authorization Under License Exception TMP

In § 740.9(a)(9) (*News media),* this rule revises License Exception TMP to make a conforming change to add Russia and Belarus to the news media authorization paragraph. Russia and Belarus are eligible for the news media authorization under § 740.9(a)(9), as specified under § 746.8(c)(1), but were inadvertently not added to the text of License Exception TMP at the time that BIS issued the Russia Sanctions Rule and Belarus Sanctions Rule. This rule corrects that oversight by adding Russia and Belarus to the countries identified under paragraph (a)(9) of License Exception TMP. And as a conforming change, this rule adds the term ''transferred (in-country)'' to paragraph (a)(9) for consistency with the section heading. For additional clarity, this rule adds a reference to the Crimea region of Ukraine to the existing reference for covered regions of Ukraine in paragraph (a)(9).

3. Correction to § 744.11 To Remove an Unneeded Sentence

In § 744.11, this rule revises paragraph (b) (Criteria for revising the Entity List), to remove a sentence that specifies that § 744.11 may not be used to place on the Entity List any party if exports or reexports to that party of items that are subject to the EAR are prohibited or require a license from another U.S. Government agency. The preceding sentence in paragraph (b) correctly indicates that BIS will not place entities on the Entity List that also require a license under § 744.12, § 744.13, § 744.14, or § 744.18. The sentence that this rule removes was intended to explain the applicability of the preceding sentence. This rule also revises that preceding sentence to add a reference to § 744.8, which was inadvertently not included in this sentence.

Consistent with BIS's statutory authority, the removal of the sentence from paragraph (b) of § 744.11 eliminates ambiguity about whether BIS may list entities on the Entity List that are also listed under the SDN List or would otherwise require a license from any other U.S. government agencies for any exports, reexports, or transfers (in-country) of items subject to the EAR.

4. Adds License Exception CCD Eligibility in Connection With Russian and Belarusian Industry Sector Sanctions and the ''Luxury Goods' Controls

This rule revises paragraph (c) (License Exceptions) of § 746.5 (which is being revised by this rule to include both Russian and Belarusian industry sector sanctions) to add License Exception CCD eligibility. This change is necessary because certain items that are caught under the Russian (and now Belarusian) industry sector sanctions are also controlled under § 746.8 (Sanctions Against Russia and Belarus), resulting in the removal of eligibility for License Exception CCD because the transaction at issue cannot overcome the license requirement set forth in § 746.5(a)(1)(ii). In order to meet the U.S. Government's policy objectives of ensuring the free flow of information, License Exception CCD must be able to overcome all applicable EAR license requirements, including those in all of the EAR provisions that contain new Russia or Belarus-related license requirements. This rule addresses that anomaly by adding License Exception CCD eligibility to § 746.5(c). This change also makes License Exception CCD available for EAR99 items that would otherwise be items identified as being eligible for License Exception CCD, based on the list set forth in § 740.19(b). This change is made for consistency with the intent of § 746.8 and to ensure that the EAR does not treat less sensitive EAR99-designated items more restrictively than items on the Commerce Control List set forth in supplement no. 1 to part 744.

This rule also revises paragraph (c) (License Exceptions) of § 746.10 to add License Exception CCD eligibility. This change to § 746.10(c) is needed for the same reason that the change is necessary to § 746.5(c)—to eliminate conflicting guidance on the availability of License Exception CCD. In § 746.10(c), this rule addresses the conflict by adding License Exception CCD eligibility to § 746.10(c) as a new paragraph (c)(3). As a conforming change, this rule also revises the introductory text of paragraph (c) to remove the text ''and (2)'' and add in its place the text ''through (3)'' to account for the new paragraph (c)(3).

5. Clarification That the Exclusion for Items Controlled Under ECCN 5A992 or 5D992, License Exception Availability, and License Review Policies Apply to Branches and Sales Offices of Companies Headquartered in the U.S. and Country Group A:5 and A:6 Countries

In § 746.8 (Sanctions against Russia and Belarus), this rule revises the introductory text of paragraph (a) to clarify that the exclusion for ECCNs 5A992 or 5D992 includes the terms 'branches' and 'sales offices' after the term 'subsidiaries,' wherever it appears. This change clarifies that branches or sales offices that meet the other criteria in paragraph (a)'s introductory text are eligible for the exclusion. This rule makes the same clarification in paragraph (b) (Licensing policy) by adding the terms branch or sales offices to clarify that branches or sales offices that meet the criteria for the subsidiaries specified in paragraph (b) are available for the case-by-case license review policy. This rule also makes the same

type of changes in paragraph (c) (License Exceptions) to add the terms branches or sales office to paragraphs (c)(3) (for License Exception TSU for software updates) and (6) (for License Exception ENC) to clarify that branches or sales offices as well as subsidiaries of companies headquartered in the U.S. and Country Groups A:5 or A:6 countries are eligible for those license exceptions.

6. Adds a Note 1 to Paragraph (a)(1) To Clarify the Scope of the Deemed Export Exclusion Under the Russia and Belarus Sanctions

In § 746.8 of the EAR, this rule adds a new note 1 to paragraph (a)(1) under paragraph (a) (License requirements) to clarify the scope of the deemed export exclusion from the license requirement that would otherwise apply to items classified under any ECCN on the CCL. The note clarifies that the deemed export and reexport exclusion is only applicable to the additional license requirements imposed under paragraph (a)(1), and not any license requirements that were in place prior to the Russia Sanctions Rule and Belarus Sanctions Rule. If the deemed export or deemed reexport is subject to another license requirement under the EAR, such as a CCL-based license requirement, the exclusion would not apply—meaning that an EAR authorization is required to overcome the applicable EAR license requirement. This rule also, as a clarifying change, revises the first sentence in paragraph (a)(1) to remove the reference to § 746.5 and add in its place the phrase ''other sections of part 746''. This change is necessary because there are multiple sections of part 746 that impose license requirements on Russia and Belarus.

7. Adds an Exclusion From the License Requirements Under § 746.8(a)(1) and (2) for Transfers Within Russia or Belarus for Reexports (Return) to the United States or a Country Group A:5 or A:6 Country of Any Item

In § 746.8(a) (License requirements) of the EAR, this rule revises the introductory text of paragraph (a) to add an exclusion from the license requirements under § 746.8(a)(1) and (2) for certain transfers within Russia and Belarus. This exclusion allows for the movement of an item subject to the EAR within Russia or Belarus for the purposes of returning it to the United States or to a Country Group A:5 or A:6 country in supplement no. 1 to part 740 (Country Groups). In order to be within the scope of the exclusion, the owner must retain title to and control of the item while it remains in Russia or Belarus. This rule also clarifies the scope of the exclusion by including a sentence to specify that if a license is required for a reexport to a Country Group A:5 or A:6 country, a separate EAR authorization is required to authorize the reexport. This sentence is included to clarify that even though the transfers (in-country) within the scope of the exclusion text are outside the scope of the license requirements under § 746.8(a)(1) and (2) that an authorization may still be required for the reexport to these Country Group A:5 or A:6 countries.

8. Update to the Licensing Policy for 'Luxury Goods' To Adopt a Case-by-Case License Review Policy for Items for Humanitarian Needs To Ensure Consistency With Other Russia and Belarus Licensing Policies

In § 746.10 ('Luxury Goods' Sanctions Against Russia and Belarus and Russian and Belarusian Oligarchs and Malign Actors) of the EAR, this rule adds an exception to the policy of denial license application review policy for 'luxury goods' to specify that applications involving items to meet humanitarian needs will be reviewed on a case-by-case basis. This revision is intended to apply to applications involving certain 'luxury goods' items that may be used in medical devices or in other situations involving 'luxury goods' applications in which a case-by-case analysis is warranted. For example, contact lens solution and rewetting drops are captured as cosmetics by a schedule B code identified in supplement no. 5 to part 746 of the EAR as a 'luxury good' despite also being classified as a ''medicine'' under the EAR. These solutions are necessary to maintain eye health for patients who require contact lenses, including those who are medically unable to wear corrective glasses. This case-by-case license review policy will provide BIS and the other reviewing agencies flexibility to assess whether a license application for such items should be approved to meet humanitarian needs while also taking into account U.S. national security and foreign policy concerns.

9. Clarification That the EAR Recordkeeping Requirements Apply to Transfers (In-Country) of Items Subject to the EAR

Because the sanctions against Russia and Belarus extend to transfers (in-country), BIS has received some questions from the public about the EAR's recordkeeping requirements for transfers (in-country). In part 762 (Recordkeeping) of the EAR, this rule revises §§ 762.1(a)(2) and 762.6(a)(2) to clarify that the specified recordkeeping requirements apply to transfers (in-country) of items subject to the EAR. In certain parts of the EAR, only the term reexport may be used, but the intent of such provisions is to also cover transfers (in-country), in line with BIS's longstanding interpretation and previous amendments to the EAR to clarify this point.

10. Clarifications to the General Prohibitions for Transfers (In-Country)

Because the sanctions against Russia and Belarus extend to transfers (in-country), BIS has also received some questions from the public about the EAR's general prohibitions and how they apply for transfers (in-country). In part 736 (General Prohibitions), this rule revises § 736.2 (General prohibitions and determination of applicability) to address these questions.

In particular, these questions have focused on why some of the general prohibitions, such as General Prohibitions 5 and 6 under § 736.2(b)(5) and (6), do not reference transfers (in-country), but the other parts of the EAR that implement the license requirements, such as parts 744 and 746, specify that some of those license requirements, in particular those for Russia and Belarus, apply to exports, reexports, and transfers (in-country). First, BIS emphasizes here that as stated in § 736.2(a)(1), the general prohibitions describe obligations under the EAR generally and are not intended to be an exhaustive description of the EAR's license requirements or other restrictions. Therefore, in cases such as General Prohibitions 5 or 6, where parts 744 and 746 are more specific in identifying that the license requirements for Russia and Belarus include transfers (in-country), those more specific license requirements in parts 744 and 746 govern. Second, BIS has long relied on the general prohibitions as a general framework for helping to explain the scope of the EAR and have long used them as part of the BIS outreach seminar program. Therefore, the general prohibitions should track as accurately as possible at a general level with the other parts of the EAR that implement the license requirements. In reviewing these questions, BIS also identified some other clarifying changes that this rule is making to help the public better understand the scope of the EAR license requirements and to make the general prohibitions more effective in assisting public understanding of the EAR at a general level.

This rule makes these clarifications to the general prohibitions by revising paragraphs (a) (Information or facts that

determine the applicability of the general prohibitions) and (b) (General prohibitions). Specifically, in the paragraph (a) introductory text, this rule adds a parenthetical phrase after the term ''generally'' that provides a cross reference to direct the public to see other parts of the EAR where the license requirements and other EAR restrictions are specified in greater detail. As described above, this is a key point in understanding how the general prohibitions relate to other parts of the EAR, so this additional text will help public understanding.

In paragraph (a)(1) (Classification of items), this rule adds a reference to items described in supplements nos. 2, 4, or 6 to part 746 to inform the public that in addition to any license requirements that may apply because of the item's CCL classification, an item that is described under one of those three supplements will be subject to license requirements described under §§ 746.5 and 746.10 of the EAR. This rule also adds a cross reference to the Commerce Control List Order of Review in supplement no. 4 to part 744 to assist public understanding of the classification process. This rule also adds a cross reference to the Commerce Control List in supplement no. 1 to part 774, the Commerce Country Chart in supplement no. 1 to part 738, and § 738.4 to provide additional guidance on determining CCL-based license requirements. This rule also adds a new Note to paragraph (a)(1) that specifies that items described under supplements no. 2, 4, or 6 of part 746 are subject to license requirements for Russia and Belarus under §§ 746.5 and 746.10 and to clarify that most of the items described in these three supplements are items that would typically be designated as EAR99 on the CCL.

Under paragraph (a)(2) (Destination), this rule adds the term transfer (in-country) to clarify that some of the destination-based license requirements under the EAR extend to transfers (in-country), such as those for Russia and Belarus. This rule adds text to clarify that the license requirements for parts 738 and 774 apply to exports and reexports and to advise the public to review part 746 for additional license requirements based on embargoes and other special controls for exports, reexports, or certain transfers (in-country), *e.g.,* those that apply to Russia and Belarus under § 746.5.

Under paragraph (a)(3) (End user), this rule revises the paragraph heading to include the phrase 'or end use.' This rule also adds the term transfers (in-country) for consistency with part 744, which includes certain license requirements for transfers (in-country). This rule also adds text to clarify that in addition to end user-based license requirements, certain EAR requirements (*e.g.,* 734.9(e) and 744.11(a)) extend to all parties to the transaction as described in § 748.5(c) through (f). Lastly, this rule also clarifies many of the end-use controls in part 744 specify destinations or Country Groups as part of the criteria for defining the scope of the end use controls.

Under paragraph (a)(5) (Conduct); this rule adds the phrases a 'military-intelligence end use' or a 'military-intelligence end user' to clarify that prohibited conduct is not limited to proliferation projects and extends to such conduct involving 'military-intelligence end uses' or ''military-intelligence end users' for consistency with the license requirements in § 744.6.

Under paragraph (b) introductory text, this rule adds the term transfers (in-country) to clarify that some of the general prohibitions apply to transfers (in-country).

Under paragraph (b)(5) (General Prohibition Five—Export or reexport to prohibited end-uses or end-users (End-Use End-User)), this rule revises the paragraph heading and the text of paragraph (b)(5) to add in ''transfers (in-country)'' for consistency with the license requirements in part 744, which in many cases extend to transfers (in-country). This rule also adds a sentence to clarify that each section in part 744 specifies whether the license requirements extend to exports, reexports, and transfers (in-country).

Under paragraph (b)(6) (General Prohibition Six—Export or reexport to embargoed destinations (Embargo)), this rule revises the paragraph (b) heading and paragraph (b)(6)(i) to add in ''transfers (in-country)'' for consistency with the license requirements in part 746, which for certain countries and regions identified in part 746, in particular Russia, Belarus, and the Crimea region of Ukraine and covered regions of Ukraine, extend to transfers (in-country). This rule also revises paragraph (b)(6)(i) to add the phrase ''or region (*e.g.,* the Crimea region of Ukraine and covered regions of Ukraine)'' to clarify that the license requirements in part 746 also extend to identified regions. As a clarification, this rule also removes the phrase ''authorized under part 746'' and adds in its place the more specific phrase ''license exception or portion thereof that is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country or region in part 746 of the EAR.'' This rule makes this change for consistency with how license exceptions are referred to in § 740.2(a)(6) and to improve public understanding of when a license exception may be used to overcome the part 746 license requirements and General Prohibition 6. This rule also adds a sentence to clarify that each section in part 746 specifies whether the license requirements extend to exports, reexports, and transfers (in-country). This rule also revises paragraph (b)(6)(ii) to make the term ''License Exceptions'' lower case for consistency with other EAR references to license exceptions.

Under paragraph (b)(10) (General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur), this rule adds the terms ''reexported, or transferred (in-country)'' after the term ''exported'' and adds the terms reexported, or transferred (in-country) after the term ''to be exported'' to clarify that General Prohibition 10 extends to reexports and transfers (in-country). This rule also adds a reference to the Export Control Reform Act of 2018 and removes the reference to the Export Administration Act because it is no longer needed and for consistency with § 764.2(e). This rule also revises paragraph (b)(10) to make the term ''License Exceptions'' lower case for consistency with other EAR references to license exceptions.

11. Clarification of Step 14 of the Steps Regarding the Ten General Prohibitions for Embargoed Countries and Special Destinations

In § 732.3(i) (Step 14: Embargoed countries and special destinations), this rule revises the reference to Russia, which previously only referred to the Russian Industry Sector Sanctions, to now refer to §§ 746.5 for Russian and Belarusian industry sector sanctions, 746.8 for Sanctions against Russia and Belarus, and 746.10 for 'Luxury Goods' Sanctions Against Russia and Belarus and Russian and Belarusian Oligarchs and Malign Actors. This rule also adds the term ''transfer (in-country)'' to paragraph (i) introductory text and to paragraph (i)(1) for consistency with the license requirements in part 746, which extend to transfers (in-country) for certain countries, such as Russia and Belarus. This rule also revises paragraph (i)(1) to remove the phrase ''publicly available technology'' and adds in its place the phrase published information, along with adding a cross reference to § 734.7 for consistency with § 734.3(b)(3). This rule also revises paragraph (i)(2) to make the term ''License Exception'' lower case for

consistency with other EAR references to the term.

12. Commerce Country Groups Changes

In supplement to no. 1 to part 740 (Commerce Country Groups), this final rule revises the Commerce Country Groups in supplement no. 1 to part 740 to remove the entries for Belarus and Russia in the Country Group A table. This rule removes the entries for Belarus and Russia in order to avoid confusion, because these two countries have no ''x'' in the box for any of the Country Group A columns. The references to Russia in footnotes 1 and 2 for Country Groups A:1 and A:2 are not revised and the references to Russia and Belarus in footnote 3 are not revised because the references in those footnotes still serve a purpose.

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on September 15, 2022, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR), provided the export, reexport, or transfer (in-country) is completed no later than on November 14, 2022.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. Sections 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. To the extent it applies to certain activities that are the subject of this rule, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (codified, as amended, at 22 U.S.C. Sections 7201–7211) also serves as authority for this rule.

Rulemaking Requirements

1. This final rule is not a ''significant regulatory action'' because it ''pertain[s]'' to a ''military or foreign affairs function of the United States'' under sec. 3(d)(2) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves the following OMB-approved collections of information subject to the PRA:

- 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694–0096 ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute; and
- 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission.

BIS estimates that these new controls on Russia and Belarus under the EAR will result in an increase of 285 license applications submitted annually to BIS. However, the additional burden falls within the existing estimates currently associated with these control numbers. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5. U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Parts 732 and 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 736

Exports.

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 732, 734, 736, 740, 744, 746, and 762 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 732—STEPS FOR USING THE EAR

■ 1. The authority citation for part 732 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Section 732.3 is amended by revising paragraph (i) to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

* * * * *

(i) *Step 14: Embargoed countries and special destinations.* If your destination for any item is Cuba, Iran, Iraq, North Korea, or Syria, you must consider the requirements of parts 742 and 746 of the EAR. Unless otherwise indicated, General Prohibition Six (Embargo) applies to all items subject to the EAR, *i.e.,* both items on the CCL and within EAR99. See § 746.1(b) for destinations subject to limited sanctions under United Nations Security Council arms embargoes. See §§ 746.5 for Russian and Belarusian industry sector sanctions, 746.6 for Crimea region of Ukraine and covered regions of Ukraine, 746.8 for Sanctions against Russia and Belarus,

and 746.10 for 'luxury goods' sanctions against Russia and Belarus and Russian and Belarusian oligarchs and malign actors. You may not make an export, reexport, or transfer (in-country) contrary to the provisions of part 746 of the EAR without a license unless:

(1) You are exporting, reexporting, or transferring only published information or software as specified in § 734.7 or other items outside the scope of the EAR, or

(2) You qualify for a License Exception referenced in part 746 of the EAR concerning embargoed destinations. You may not use a license exception described in part 740 of the EAR to overcome General Prohibition Six (Embargo) (§ 736.2(b)(6) of the EAR) unless it is specifically authorized in part 746 of the EAR. Note that part 754 of the EAR concerning short supply controls is self-contained and is the only location in the EAR for both the prohibitions and exceptions applicable to short supply controls.

* * * * *

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

■ 3. The authority citation for part 734 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 4. Section 734.9 is amended by revising paragraphs (f)(1) to read as follows:

§ 734.9 Foreign-Direct Product (FDP) Rules.

* * * * *

(f) * * *

(1) *Product scope of Russia/Belarus FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (f)(1)(i) or (ii) of this section.

(i) ''*Direct product*'' *of* ''*technology*'' *or* ''*software*.'' A foreign-produced item meets the product scope of this paragraph (f)(1)(i) if the foreign-produced item meets both of the following conditions:

(A) The foreign-produced item is the ''direct product'' of U.S.-origin ''technology'' or ''software'' subject to the EAR that is specified in any ECCN in product groups D or E of the CCL; and

(B) The foreign-produced item is identified in supplement no. 6 to part 746 of the EAR or is not designated EAR99; or

(ii) ''*Direct product*'' *of a complete plant or 'major component' of a plant.* A foreign-produced item meets the product scope of this paragraph (f)(1)(ii) if it meets both of the following conditions:

(A) The foreign-produced item is produced by any plant or 'major component' of a plant that is located outside the United States, when the plant or 'major component' of a plant, whether made in the United States or a foreign country, itself is a ''direct product'' of U.S.-origin ''technology'' or ''software'' subject to the EAR that is specified in any ECCN in product groups D or E of the CCL; and

(B) The foreign-produced item is identified in supplement no. 6 to part 746 of the EAR or is not designated EAR99.

* * * * *

PART 736—GENERAL PROHIBITIONS

■ 5. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021); Notice of May 9, 2022, 87 FR 28749 (May 10, 2022).

■ 6. Section 736.2 is amended by revising paragraphs (a) introductory text and (a)(1) through (3) and (5) and (b) introductory text and (b)(5), (6), and (10) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

(a) *Information or facts that determine the applicability of the general prohibitions.* The following five types of facts determine your obligations under the ten general prohibitions and the EAR generally (also see other parts of the EAR where the license requirements and other EAR restrictions are specified in greater detail):

(1) *Classification of the item.* The classification of the item on the Commerce Control List (see part 774 of the EAR) or description of the item in supplements no. 2, 4, or 6 to part 746 of the EAR. For guidance on classifying items, see the Commerce Control List Order of Review in supplement no. 4 to part 774 and for determining licensing requirements using the Commerce Control List in supplement no. 1 to part 774 and the Commerce Country Chart in supplement no. 1 to part 738, see § 738.4;

Note 1 to paragraph (a)(1): The description of items in supplements no. 2, 4, or 6 of part 746 are used for determining license requirements for Russia and Belarus under §§ 746.5 and 746.10. Items described in supplements no. 2, 4, or 6 in most cases are designated as EAR99 (subject to the EAR but not specifically listed on the Commerce Control List).

(2) *Destination.* The country of ultimate destination for an export, reexport, or transfer (in-country) (see parts 738 and 774 of the EAR concerning the Country Chart and the Commerce Control List for export and reexport license requirements and part 746 for additional license requirements based on embargoes and other special controls for exports, reexports, or certain transfers (in-country));

(3) *End user or end use.* The ultimate end user (see General Prohibition Four (paragraph (b)(4) of this section) and supplement no. 1 to part 764 of the EAR for references to persons with whom your transaction may not be permitted; see General Prohibition Five (Paragraph (b)(5) of this section) and part 744 for references to end users for whom you may need an export, reexport, or transfer (in-country) license). Certain EAR requirements (*e.g.,* §§ 734.9(e), 744.11(a)), and 744.15(b)) extend to all parties to the transaction as described in § 748.5(c) through (f). Many of the end-use controls in part 744 specify destinations or Country Groups as part of the criteria for defining the scope of the end use controls.

* * * * *

(5) *Conduct.* Conduct such as contracting, financing, and freight forwarding in support of a proliferation project or a 'military-intelligence end use' or a 'military-intelligence end user,' as described in part 744 of the EAR.

(b) *General prohibitions.* The following ten general prohibitions describe certain exports, reexports, transfers (in-country), and other conduct, subject to the scope of the EAR, in which you may not engage unless you either have a license from the Bureau of Industry and Security (BIS) or qualify under part 740 of the EAR for a License Exception from each applicable general prohibition in this paragraph. The License Exceptions at part 740 of the EAR apply only to General Prohibitions One (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), and Three (Foreign-Produced ''Direct Product'' Reexports); however, selected License Exceptions are specifically

referenced and authorized in part 746 of the EAR concerning embargo destinations and in § 744.2(c) of the EAR regarding nuclear end-uses and in § 744.11 and in supplement no. 4 to part 744—Entity List.

* * * * *

(5) *General Prohibition Five—Export, reexport, or transfer (in-country) to prohibited end-uses or end-users (End-Use End-User).* You may not, without a license, knowingly export, reexport, or transfer (in-country) any item subject to the EAR to an end user or end use that is prohibited by part 744 of the EAR. Each section in part 744 specifies whether the license requirements extend to exports, reexports, and transfers (in-country).

(6) *General Prohibition Six—Export, reexport, and transfer (in-country) to embargoed destinations (Embargo).* (i) You may not, without a license or license exception or portion thereof that is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country or region in part 746 of the EAR, export, reexport, or transfer (in-country) any item subject to the EAR to a country or region (*e.g.,* the Crimea region of Ukraine and covered regions of Ukraine) that is embargoed by the United States or otherwise made subject to controls under part 734 as both are described at part 746 of the EAR. Each section in part 746 specifies whether the license requirements extend to exports, reexports, and transfers (in-country).

(ii) License exceptions to General Prohibition Six are described in part 746 of the EAR, on

Embargoes and Other Special Controls. Unless a license exception or other authorization is authorized in part 746 of the EAR, the license exceptions described in part 740 of the EAR are not available to overcome this general prohibition.

* * * * *

(10) *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, reexported, or transferred (in-country) or to be exported, reexported, or transferred (in-country) with knowledge that a violation of the Export Administration Regulations, the Export Control Reform Act of 2018, 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.

PART 740—LICENSE EXCEPTIONS

■ 7. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 8. Section 740.9 is amended by revising paragraph (a)(9)(i) introductory text to read as follows:

§ 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).

* * * * *

(a) * * *

(9) * * *.

(i) Commodities necessary for news-gathering purposes (and software necessary to use such commodities) may be temporarily exported, reexported, or transferred (in-county) for accredited news media personnel (*i.e.,* persons with credentials from a news-gathering or reporting firm) to or within Belarus, Cuba, North Korea, Russia, and Syria (see supplement no. 1 to part 740), or the Crimea region of Ukraine and covered regions of Ukraine (as specified in § 746.6) if the commodities:

* * * * *

■ 9. Section 740.19 is amended by revising paragraph (b) to read as follows:

§ 740.19 Consumer Communications Devices (CCD).

* * * * *

(b) *Eligible commodities and software.* Commodities and software in paragraphs (b)(1) through (16) of this section are eligible for export, reexport, or transfer (in-country) under this section to and within Cuba, Russia, and Belarus.

(1) Consumer computers, tablets, and peripherals including microphones, speakers, and headphones designated EAR99 or classified under Export Control Classification Numbers (ECCN) 5A992.c or 4A994.b;

(2) Consumer disk drives and solid-state storage equipment classified under ECCN 5A992 or designated EAR99;

(3) Graphics accelerators and graphics coprocessors designated EAR99;

(4) Monitors classified under ECCN 5A992.c or designated EAR99;

(5) Printers, including multifunctional printers, classified under ECCN 5A992.c or designated EAR99;

(6) Modems, network interface cards, routers, switches, and WiFi access points, designated EAR99 or classified under ECCNs 5A992.c or 5A991; drivers, communications, and connectivity software for such hardware designated EAR99 or classified under ECCN 5D992.c;

(7) Network access controllers and communications channel controllers classified under ECCN 5A991.b.4, 5A992.c, or designated EAR99;

(8) Keyboards, mice and similar devices designated EAR99;

(9) Mobile phones, including cellular and satellite telephones, personal digital assistants, and subscriber information module (SIM) cards, accessories for such devices and similar devices classified under ECCNs 5A992.c or 5A991 or designated EAR99; drivers and connectivity software for such hardware designated EAR99 or classified under ECCN 5D992.c;

(10) Memory devices classified under ECCN 5A992.c or designated EAR99;

(11) Consumer ''information security'' equipment, ''software'' (except ''encryption source code''), such as firewalls, virtual private network clients, antivirus, user authentication, password managers, identification verification and peripherals classified under ECCNs 5A992.c or 5D992.c or designated EAR99;

(12) Digital cameras (including webcams) and memory cards classified under ECCN 5A992 or designated EAR99;

(13) Television and radio receivers, set top boxes, video decoders and antennas, classified under ECCNs 5A991, 5A992, or designated EAR99;

(14) Recording devices classified under ECCN 5A992 or designated EAR99;

(15) Batteries, chargers, carrying cases and accessories for the equipment described in paragraphs (b)(1) through (15) of this section that are designated EAR99;

(16) Consumer ''software'' (except ''encryption source code'') classified under ECCNs 4D994, 5D991 or 5D992.c or designated EAR99 to be used for equipment described in paragraphs (b)(1) through (16) of this section.

Note 1 to paragraph (b): In this paragraph, the term ''consumer'' refers to items that are:

1. Generally available to the public by being sold, without restriction, from stock at retail selling points by means of any of the following:

a. Over-the-counter transactions;

b. Mail order transactions;

c. Electronic transactions; or

d. Telephone call transactions; and

2. Designed for installation by the user without further substantial support by the supplier.

* * * * *

Supplement No. 1 to Part 740 [Amended]

■ 10. Supplement no. 1 to part 740 is amended by removing the entries for ''Belarus'' and ''Russia'' in the Country Group A table.

PART 744—END USE AND END USER CONTROLS

■ 11. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

■ 12. Section 744.11 is amended by revising the introductory text and paragraphs (b) introductory text and (c)(2) and adding paragraph (c)(3) to read as follows:

§ 744.11 License Requirements that Apply to Entities Acting Contrary to the National Security or Foreign Policy Interests of the United States.

BIS may impose export, reexport, and transfer (in-country) license requirements, limitations on availability of license exceptions, and set license application review policy based on the criteria in this section. Such requirements, limitations and policy are in addition to those set forth elsewhere in the EAR. License requirements, limitations on use of license exceptions, and license application review policy will be imposed under this section by adding an entity to the Entity List (supplement no. 4 to this part) with a reference to this section and by stating on the Entity List the license requirements and license application review policy that apply to that entity, or by informing an exporter, reexporter, or transferor pursuant to paragraph (c) of this section that a specific entity is subject to a license requirement, limitations on use of license exceptions and license application review policy as specified in a specific notice provided to an exporter, reexporter, or transferor. BIS may remove an entity from the Entity List if it is no longer engaged in the activities described in paragraph (b) of this section and is unlikely to engage in such activities in the future. BIS may modify the license exception limitations and license application review policy that applies to a particular entity to implement the policies of this section. BIS will implement the provisions of this section in accordance with the decisions of the End-User Review Committee or, if appropriate in a particular case, in accordance with the decisions of the body to which the End-User Review Committee decision is escalated. The End-User Review Committee will follow the procedures set forth in Supplement No. 5 to this part.

* * * * *

(b) *Criteria for revising the Entity List.* Entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such entities may be added to the Entity List pursuant to this section. This section may not be used to place on the Entity List any party to which exports or reexports require a license pursuant to § 744.8, § 744.12, § 744.13, § 744.14 or § 744.18. This section may not be used to place any U.S. person, as defined in § 772.1 of the EAR, on the Entity List. Paragraphs (b)(1) through (5) of this section provide an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

* * * * *

(c) * * *

(2) The export, reexport, or transfer (in-country) of specified items to a certain party because there is an unacceptable risk that the party is acting as an agent, front, or shell company for an entity listed in supplement no. 4 to this part, or is otherwise assisting that listed entity in circumventing the license requirement set forth in that entity's entry in supplement no. 4 to this part; or

(3) The export, reexport, or transfer (in-country) of specified items to a certain party because there is reasonable cause to believe, based on specific and articulable facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such entity. Specific notice will be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by written notice within two working days signed by the Deputy Assistant Secretary for Export Administration or the Deputy Assistant Secretary's designee. The specific notice will include the license requirement, limitations on use of license exceptions, and license application review policy with which that exporter, reexporter, or transferor must comply pursuant to this paragraph (c)(3). The ERC may add such entities to the Entity List in supplement no. 4 to this part.

■ 13. Section 744.21 is amended by revising the section heading and paragraphs (a), (b) introductory text, (b)(1) introductory text, (b)(1)(ii), (d), and (e)(1) and (3) to read as follows:

§ 744.21 Restrictions on certain 'military end uses' or 'military end users'.

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to part 774), you may not export, reexport, or transfer (in-country):

(1) Any item subject to the EAR listed in supplement no. 2 to this part without a license if, at the time of the export, reexport, or transfer (in-country), you have ''knowledge,'' as defined in § 772.1 of the EAR, that the item is intended, entirely or in part, for a 'military end use,' as defined in paragraph (f) of this section, in Burma, Cambodia, the People's Republic of China (China), or Venezuela, or a Burmese, Cambodian, Chinese, or Venezuelan 'military end user,' as defined in paragraph (g) of this section, wherever located. 'Military end users' located outside of Burma, Cambodia, China, or Venezuela are limited to entities identified on the 'Military End-User' (MEU) List under supplement no. 7 to this part.

(2) Any item subject to the EAR without a license if, at the time of the export, reexport, or transfer (in-country), you have ''knowledge,'' as defined in § 772.1 of the EAR that the item is intended, entirely or in part, for a 'military end use,' as defined in paragraph (f) of this section, in Belarus or Russia, or a Belarusian or Russian 'military end user,' as defined in paragraph (g) of this section, wherever located. Belarusian or Russian 'military end users' located outside of Belarus or Russia are limited to entities identified on the Entity List under supplement no. 4 to this part 744 with a footnote 3 designation.

Note 1 to paragraphs (a)(1) and (2): An entity anywhere in the world,

including in Burma, Cambodia, China, or Venezuela, may be listed on the Entity List as a Belarusian or Russian 'military end user' with a footnote 3 designation. If the entity is not a Belarusian or Russian 'military end user,' but has otherwise been identified by the End User Review Committee (ERC) as a 'military end user,' that entity may be identified under the 'Military End-User' (MEU) List under supplement no. 7 to this part. As noted in paragraph (a)(1) of this section, exporters, reexporters, and transferors, even in the absence of any such notification, are not excused from compliance with the license requirements of this paragraph (a) for all entities in Burma, Cambodia, China, or Venezuela to determine whether the entity is a 'military end user' for purposes of paragraph (g) of this section because supplement no. 7 is not an exhaustive listing of 'military end users' in those countries. As noted in paragraph (a)(2) of this section, exporters, reexporters, and transferors, even in the absence of any such notification, are not excused from compliance with the license requirements of this paragraph (a) for all entities in Belarus or Russia to determine whether the entity is a 'military end user' for purposes of paragraph (g) of this section because supplement no. 4 under this part is not an exhaustive listing of 'military end users' in those countries.

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notification published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a 'military end use' in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela, or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end user,' wherever located. Specific notice will be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by written notice within two working days signed by the Deputy Assistant Secretary for Export Administration or the Deputy Assistant Secretary's designee. The absence of BIS notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(1) 'Military End-User' (MEU) List. BIS may inform and provide notice to the public that certain entities are subject to the additional prohibition described under this paragraph (b) following a determination by the End-User Review Committee (ERC) that a specific entity is a 'military end user' pursuant to this section and therefore any exports, reexports, or transfers (in-country) to that entity represent an unacceptable risk of use in or diversion to a 'military end use' in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela, or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end user,' wherever located. Such Burmese, Cambodian, Chinese, or Venezuelan 'military end users' may be added to supplement no. 7 to this part—'Military End-User' (MEU) List. Such Belarusian or Russian 'military end users' may also be added to supplement no. 4 to this part—Entity List and will be listed with a footnote 3 designation. License requirements for listed MEU are described in paragraph (b)(1)(ii) of this section. The listing of entities under supplements no. 7 or 4 to this part is not an exhaustive listing of 'military end users' for purposes of this section, except for 'military end users' of a country identified in this section (Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela) not located in that same country. As specified in paragraphs (a)(1) and (2) of this section, 'military end users' of a country identified in this section not located in that same country are exhaustively listed on either the Entity List with a footnote 3 designation or on the Military End-User (MEU) List under supplement no. 7 this part. Exporters, reexporters, and transferors are responsible for determining whether transactions with entities not listed on supplement no. 7 or 4 to this part are subject to a license requirement under paragraph (a) of this section. The process in this paragraph (b)(1) for placing entities on the MEU List and Entity List is only one method BIS may use to inform exporters, reexporters, and transferors of license requirements under this section.

* * * * *

(ii) *License requirement for parties to the transaction.* Consistent with paragraph (a) of this section, a license is required for the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 2 to this part when an entity that is listed on the MEU List as a Burmese, Cambodian, Chinese, or Venezuelan 'military end user' is a party to the transaction as described in § 748.5(c) through (f) of the EAR. Consistent with paragraph (a) of this section, a license is required for the export, reexport, or transfer (in-country) of any item subject to the EAR when a Belarusian or Russian 'military end user' that is listed on the Entity List pursuant to this section is a party to the transaction as described in § 748.5(c) through (f) of the EAR.

* * * * *

(d) *License application procedure.* When submitting a license application pursuant to this section, you must state in the ''additional information'' block of the application that ''this application is submitted because of the license requirement in this section (Restrictions on certain 'military end uses' or 'military end users').'' In addition, either in the additional information block of the application or in an attachment to the application, you must include all known information concerning the 'military end use' and 'military end user(s)' of the item(s). If you submit an attachment with your license application, you must reference the attachment in the ''additional information'' block of the application.

(e) * * *.

(1) Applications to export, reexport, or transfer (in-country) items described in paragraph (a)(1) of this section will be reviewed with a presumption of denial. Applications to export, reexport, or transfer (in-country) items described in paragraph (a)(2) of this section will be reviewed with a policy of denial except for food and medicine designated as EAR99, which will be reviewed under a case-by-case review policy, unless otherwise stated in the license review policy column on the Entity List (supplement no. 4 to this part).

* * * * *

(3) Applications for items requiring a license for any reason that are destined for a 'military end use' in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military end user,' wherever located, also will be subject to the review policy stated in paragraph (e)(1) of this section.

* * * * *

■ 14. Section 744.22 is amended by revising paragraphs (a), (b), and (f)(2) introductory text and adding paragraph (f)(2)(xi) to read as follows:

§ 744.22 Restrictions on exports, reexports, and transfers (in-country) to certain military-intelligence end uses or end users.

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List

(CCL) (supplement no. 1 to part 774 of the EAR), you may not export, reexport, or transfer (in-country) any item subject to the EAR without a license from BIS if, at the time of the export, reexport, or transfer (in-country), you have ''knowledge'' that the item is intended, entirely or in part, for a 'military-intelligence end use' in Belarus, Burma, Cambodia, the People's Republic of China (China), Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR), or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military-intelligence end user' or a 'military-intelligence end user' of a country listed in Country Group E:1 or E:2, wherever located. 'Military intelligence end-users' located outside of Belarus, Burma, Cambodia, the People's Republic of China (China), Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2, are limited to entities identified under paragraph (f)(2) of this section.

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notification published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item subject to the EAR because there is an unacceptable risk of use in, or diversion to, a 'military-intelligence end use' in Belarus, Burma, Cambodia, China, Russia, or Venezuela; or a country listed in Country Group E:1 or E:2 (see supplement no. 1 to part 740 of the EAR), or for a Belarusian, Burmese, Cambodian, Chinese, Russian, or Venezuelan 'military-intelligence end user' or a 'military-intelligence end user' of a country listed in Country Group E:1 or E:2, wherever located.

* * * * *

(f) * * *

(2) 'Military-intelligence end user' means any intelligence or reconnaissance organization of the armed services (army, navy, marine, air force, or coast guard); or national guard. For license requirements applicable to other government intelligence or reconnaissance organizations of these countries, see § 744.21. 'Military-intelligence end users' subject to the license requirements set forth in this section located in Belarus, Burma, Cambodia, China, Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR) include, but are not limited to, the 'military-intelligence end users' identified in this paragraph (f)(2). For 'military-intelligence end users' located in all other countries this paragraph (f)(2) is an exhaustive listing.

* * * * *

(xi) *Other countries.* Paragraph (f)(2)(ix) of this section identifies 'military-intelligence end users' located in all countries other than those identified in paragraphs (f)(2)(i) through (x) of this section.

■ 15. Supplement No. 4 to part 744 is amended:

■ a. Under CHINA by revising the entries for ''Connec Electronic Ltd.,'' ''King Pai Technology Co., Ltd.,'' ''Sinno Electronics Co., Ltd.,'' ''Winninc Electronic,'' and ''World Jetta (H.K.) Logistics Limited'';

■ b. Under LITHUANIA by revising the entry for ''Sinno Electronics'';

■ c. Under RUSSIA by revising the entry for ''KingPai Technology Int'l Co., Limited'';

■ d. Under UNITED KINGDOM by revising the entry for ''Connec Electronic'';

■ e. Under UZBEKISTAN by revising the entry for ''Promcomplektlogistic Private Company''; and

■ f. Under VIETNAM by revising the entry for ''KingPai Technology Int'l Co., Limited''.

The revisions read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	*	*	*	*
CHINA, PEOPLE'S REPUBLIC OF.	*	*	*	*
	Connec Electronic Ltd., a.k.a., the following two aliases: —Suzhou Konecot Electronics; *and* —Suzhou Ke Nai Ke Te Dianzi Youxian Gongsi. Room 1110, No 168, Fenjiang Road, Mudu Town, Wuzhong District, Suzhou City, China; *and* 5015 East Shennan Rd, Shenzhen, China; *and* 10/F., Flat U Valiant Industrial Centre, 2 to 12 Au Pui Wan Street, Hong Kong. (See alternate addresses under United Kingdom).	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
	*	*	*	*
	King Pai Technology Co., Ltd., a.k.a., the following four aliases: —King-Pai Technology (HK) Co., Limited; —KingPai Technology Int'l Co., Limited; —KingPai Technology Group Co., Limited; *and* —Jinpai Technology (Hong Kong) Co., Ltd.	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].

Country	Entity	License requirement	License review policy	Federal Register citation
	No 13 4/F., Flourish Industrial Building, No. 33 Sheung Yee Road, Kowloon Bay, Kowloon, Hong Kong; *and* 1488E, Block A, Shenfang Building, Huaqiang North Road, Futian District, Shenzhen, China; *and* Room 804, Block A, Shenfang Building, Huaqiang North Road, Futian District, Shenzhen, China; *and* Room 1508, Block A, Shenfang Building, Huaqiang North Road, Futian District, Shenzhen, China; *and* Room 1509, Block A, Shenfang Building, Huaqiang North Road, Futian District, Shenzhen, China; *and* Room 1805, Poly Tianyue Center, 332 Gaoxin Guanshan Avenue, East Lake, Wuhan, China; *and* 908 International Finance Building, No 633, Keji 2nd Street, Songbei District, Harbin, Heilongjiang, China. (See alternate addresses under Russia and Vietnam).			
	* *	* *	*	*
	Sinno Electronics Co., Ltd., a.k.a., the following one alias: —Xinnuo Electronic Technology. Rm 2408 Dynamic World Building, Zhonghang Rd, Futian District, Shenzhen, China; *and* Rm 10905 Xingda Garden Building, Kaiyuan Rod, Xingsha Development Area, Changsha, China; *and* Rm B22, 1F, Block B East Sun Industrial Centre, 16 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong. (See alternate address under Lithuania).	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
	* *	* *	*	*
	Winninc Electronic, Gaokede Building, Huaqiang North, Shenzhen, China; *and* 1203 High Technology Building, Guangbutun Wuchang District, Wuhan, China; *and* #4 Dong Aocheng 1618, Nanshan District, Shenzhen, China; *and* 2818 Glittery City Shennan Middle Road, Shenzhen, China; *and* Unit 01 & 03, 1/F Lai Sun Yuen Long, No. 27 Wang Yip Street East, Yuen Long, N.T., Hong Kong; *and* Unit 04, 8/F Bright Way Tower No. 33 Mong Kok Rd Konglong, Hong Kong.	For all items subject to the EAR (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
	* *	* *	*	*
	World Jetta (H.K.) Logistics Limited, a.k.a., the following one alias: —Hong Kong Shijieda Logistics. 1017 Building B Jiahe Huangqiang Block, Futian District, Shenzhen, China.	For all items subject to the EAR (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
	* *	* *	*	*

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	* * *	*	* *	*
LITHUANIA	Sinno Electronics, Kirtimu G 41, Vilnius, Lithuania. (See alternate address under China).	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
*	* * *	*	* *	*
RUSSIA	* *	* *	*	*
	KingPai Technology Int'l Co., Limited, 3 Gostnichnaya St, Moscow, Russia. (See alternate addresses under China and Vietnam).	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
	* *	* *	*	*
*	* * *	*	* *	*
UNITED KINGDOM.	* *	* *	*	*
	Connec Electronic, 36 Gerrard Street, London, England, United Kingdom; *and* 38 John Ashby Close, London, England, United Kingdom. (See alternate addresses under China).	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
	* *	* *	*	*
UZBEKISTAN ...	Promcomplektlogistic Private Company, a.k.a., the following one alias: —Private Enterprise Promcomplektlogistic. 16 A Navoi St, Shaykhantakhur Region, Tashkent, Uzbekistan.	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
VIETNAM	* *	* *	*	*
	KingPai Technology Int'l Co., Limited, 143–6th Street, 1 Town, Linh Xuan Ward, Thu Duc District, Ho Chi Minh City, Vietnam. (See alternate addresses under China and Russia).	For all items subject to the EAR. (See §§ 734.9(g),[3] 746.8(a)(3), and 744.21(b) of the EAR.)	Policy of Denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	87 FR 38925, 6/30/22. 87 FR [INSERT FR PAGE NUMBER AND 9/16/22].
*	* * *	*	* *	*

[3] For this entity, ''items subject to the EAR'' includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR. See §§ 746.8 and 744.21 of the EAR for related license requirements, license review policy, and restrictions on license exceptions.

PART 746—EMBARGOES AND OTHER SPECIAL CONTROLS

■ 16. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007–7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

■ 17. Section 746.5 is amended by:
■ a. Revising the section heading;
■ b. Revising paragraphs (a)(1)(i) through (iii);
■ c. Adding paragraph (a)(1)(iv);
■ d. Revising the first sentence in paragraph (a)(2); and
■ e. Revising paragraphs (b) and (c).

The revisions and addition read as follows:

§ 746.5 Russian and Belarusian industry sector sanctions.

(a) * * *

(1) * * *

(i) A license is required to export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 2 to this part and items specified in ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 when you ''know'' that the item will be used directly or indirectly in exploration for, or production of, oil or gas in Russian deepwater (greater than 500 feet) or Arctic offshore locations or shale formations in Russia or Belarus, or are unable to determine whether the item will be used in such projects. Such items include, but are not limited to, drilling rigs, parts for horizontal drilling, drilling and completion equipment, subsea processing equipment, Arctic-capable marine equipment, wireline and down hole motors and equipment, drill pipe and casing, software for hydraulic fracturing, high pressure pumps, seismic acquisition equipment, remotely operated vehicles, compressors, expanders, valves, and risers.

(ii) A license is required to export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 4 to this part to or within Russia or Belarus.

(iii) A license is required to export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 6 to this part to or within Russia or Belarus.

(iv) You should be aware that other provisions of the EAR, including parts 742 and 744 and § 746.8, also apply to exports, reexports, and transfers (in-country) to Russia or Belarus. License applications submitted to BIS under this section may include the phrase ''§ 746.5(a)(1)(i)'', ''§ 746.5(a)(1)(ii)'', or ''§ 746.5(a)(1)(iii)'' in Block 9 (Special Purpose) as described in supplement no. 1 to part 748 of the EAR.

(2) * * * BIS may inform persons, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export, reexport, or transfer (in-country) or for the export, reexport, or transfer (in-country) of specified items to a certain end-user or end-use, because there is an unacceptable risk of use in, or diversion to, the activities specified in paragraph (a)(1) of this section in Russia or Belarus. * * *

(b) *Licensing policy.* (1) Applications for the export, reexport, or transfer (in-country) of any item pursuant to paragraph (a)(1)(i) of this section that requires a license for Russia or Belarus will be reviewed under a policy of denial when for use directly or indirectly for exploration or production from deepwater (greater than 500 feet), Arctic offshore, or shale projects in Russia or Belarus that have the potential to produce oil or gas, except that applications for export, reexport, or transfer (in-country) of items that may be necessary for health and safety reasons will be reviewed under a case-by case license review policy.

(2) Applications for the export, reexport, or transfer (in-country) of any item pursuant to paragraph (a)(1)(ii) or (iii) of this section that requires a license for Russia or Belarus will be reviewed under a policy of denial, except that applications for export, reexport, or transfer (in-country) of items that may be necessary for health and safety reasons or for items that meet humanitarian needs will be reviewed under a case-by case license review policy.

(c) *License exceptions.* No license exceptions may overcome the license requirements set forth in this section, except the following license exceptions identified in paragraphs (c)(1) and (2) of this section.

(1) License Exception GOV (§ 740.11(b)).

(2) License Exception CCD (§ 740.19 of the EAR).

■ 18. Section 746.8 is amended by:
■ a. Revising paragraphs (a) introductory text and (a)(1);
■ b. Redesignating note 1 to paragraph (a) as note 2 to paragraph (a); and
■ c. Revising paragraphs (b) and (c)(3) and (6).

The revisions read as follows:

§ 746.8 Sanctions against Russia and Belarus.

(a) *License requirements.* For purposes of paragraphs (a)(1) and (2) of this section, commodities and software classified under ECCNs 5A992 or 5D992 that have been 'classified in accordance with § 740.17' do not require a license to or within Russia or Belarus for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures, branches, or sales offices of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6. In addition, for purposes of paragraphs (a)(1) and (2), transfers within Russia or Belarus for reexports (*i.e.,* return) to the United States or a country in Country Group A:5 or A:6 of any item, provided the owner retains title to and control of the item at all times, do not require a license. If a license is required for a reexport to a Country Group A:5 or A:6 country from Russia or Belarus, a separate EAR authorization is required to authorize the reexport.

(1) *Items classified in any ECCN on the CCL.* In addition to license requirements specified on the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR and in other provisions of the EAR, including part 744 and other sections of part 746, a license is required, excluding deemed exports and deemed reexports, to export, reexport, or transfer (in-country) to or within Russia or Belarus any item subject to the EAR and specified in any Export Control Classification Number (ECCN) on the CCL.

Note 1 to paragraph (a)(1): The exclusion for deemed exports and deemed reexports is limited to the license requirements specified in this paragraph (a)(1). Any deemed export or deemed reexport to a Russian or Belarusian national must be made in accordance with all other applicable EAR license requirements, such as CCL-based license requirements. For

example, the release of NS1 controlled technology to a Russian or Belarusian national in the United States or in a third country would require a CCL-based deemed export or deemed reexport license (as applicable). Consequently, authorization (in the form of a deemed export or deemed reexport license, or license exception eligibility) would be required under the EAR notwithstanding the exclusion in this paragraph (a)(1).

* * * * *

(b) *Licensing policy.* With limited exceptions, applications for the export, reexport, or transfer (in-country) of any item that requires a license for export or reexport to or transfer pursuant to the requirements of this section will be reviewed with a policy of denial. The following types of license applications for licenses required under paragraphs (a)(1) and (2) of this section will be reviewed on a case-by-case basis to determine whether the transaction in question would benefit the Russian or Belarusian government or defense sector: applications related to safety of flight; applications related to maritime safety; applications for civil nuclear safety; applications to meet humanitarian needs; applications that support government space cooperation; applications for items destined to wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, joint ventures of companies headquartered in Country Groups A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6; applications for companies headquartered in Country Groups A:5 and A:6 to support civil telecommunications infrastructure; and government-to-government activities. License applications required under paragraph (a)(3) of this section will be reviewed under a policy of denial in all cases.

(c) * * *

(3) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. and companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

* * * * *

(6) License Exception ENC for civil end-users that are wholly-owned U.S. subsidiaries, branches, or sales offices, foreign subsidiaries, branches, or sales offices of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries, branches, or sales offices of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR) (§ 740.17 of the EAR).

* * * * *

■ 19. Section 746.10 is amended by revising paragraph (b) and paragraph (c) introductory text and adding paragraph (c)(3) to read as follows:

§ 746.10 'Luxury Goods' Sanctions Against Russia and Belarus and Russian and Belarusian Oligarchs and Malign Actors.

* * * * *

(b) *Licensing policy.* Applications for the export, reexport, or transfer (in-country) of any item that requires a license for export or reexport to or transfer (in-country) pursuant to the requirements of this section will be reviewed with a policy of denial, except applications involving items to meet humanitarian needs will be reviewed on a case-by-case basis. The case-by-case license application review policy for items to meet humanitarian needs is included to address certain 'luxury goods' items that may be used in medical devices or situations in which a case-by-case analysis is needed to determine whether a license application should be approved to meet humanitarian needs while also taking into account the applicable broader U.S. national security and foreign policy concerns.

(c) *License exceptions.* No license exceptions may overcome the license requirements in paragraph (a)(1) of this section except the license exceptions identified in paragraphs (c)(1) through (3) of this section. No license exceptions may overcome the license requirements in paragraph (a)(2) of this section.

* * * * *

(3) License Exception CCD (§ 740.19 of the EAR).

■ 20. Supplement No. 4 to part 746 is amended by:

■ a. Revising the heading;

■ b. Adding a new second sentence to paragraph (a); and

■ c. Adding in numerical order the following entries to the table: ''8418610100,'' ''8427204000,'' ''8427208020,'' ''8427208040,'' ''8442300110,'' ''8442300150,'' ''8443110000,'' ''8461500010,'' ''8461500020,'' ''8461500050,'' ''8461500090,'' ''8502130020,'' ''8502130040,'' ''8506600000,'' ''8516210000,'' ''8540712000,'' ''8540714000,'' ''8541100040,'' ''8541100050,'' ''8541100060,'' ''8541100070,'' ''8541100080,'' ''8541510000,'' ''8541590040,'' ''8541590080,'' ''8541600025,'' ''8541600060,'' ''8541600080,'' ''8541900000,'' ''8542310000,'' ''8542320015,'' ''8542320023,'' ''8542320040,'' ''8542320050,'' ''8542320060,'' ''8542320070,'' ''8542330000,'' ''8542390000,'' ''8542900000,'' ''8601100000,'' ''9006300000,'' ''9006400000,'' ''9006530205,'' ''9006530290,'' ''9006591900,'' ''9006592000,'' ''9006599500,'' ''9006610000,'' ''9006690110,'' ''9006690150,'' ''9006910002,'' ''9006990000,'' ''9026105000,'' ''9026107000,'' ''9026200000,'' ''9026800000,'' and ''9026900000.''

The revision and additions read as follows:

Supplement No. 4 to Part 746—HTS Codes and Schedule B Numbers That Require a License for Export, Reexport, and Transfer (In-Country) to or Within Russia or Belarus Pursuant to § 746.5(a)(1)(ii)

(a) * * * The items described in supplement no. 4 to part 746 include any modified or designed ''components,'' ''parts,'' ''accessories,'' and ''attachments'' therefor regardless of the Schedule B, Schedule B Description, HTS Code, or HTS Description of the ''components,'' ''parts,'' ''accessories,'' and ''attachments,'' apart from any ''part'' or minor ''component'' that is a fastener (*e.g.,* screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer,

spacer, insulator, grommet, bushing, spring, wire, or solder. * * *

* * * * *

Schedule B	Schedule B description	HTS code	HTS description
* *	* *	*	* *
8418610100	Heat Pumps Other Than Air Conditioning Machines Of Heading 8415.	841861	Compression Type Heat Pump Units Whose Condensers Are Heat Exchangers (Excluding Reversible Heat Pumps Capable Of Changing Temperature And Humidity) [1].
* *	* *	*	* *
8427204000	Rider-Type, ... Counterbalanced, ... Self-Propelled Fork-Lift Trucks	842720	Self-Propelled Lifting Or Handling Trucks Powered By Other Than An Electric Motor [1].
8427208020	Self-Propelled Aerial Work Platforms	842720	Self-Propelled Lifting Or Handling Trucks Powered By Other Than An Electric Motor [1].
8427208040	Self-Propelled Fork-Lift And Other Works Trucks Fitted With Lifting Equip, Nesoi.	842720	Self-Propelled Lifting Or Handling Trucks Powered By Other Than An Electric Motor [1].
* *	* *	*	* *
8442300110	Phototypesetting And Composing Machines ..	844230	Machinery, Apparatus And Equipment, Nesoi, For Preparing Or Making Printing Blocks, Plates, Cylinders Or Other Printing Components [1].
8442300150	Machinery, Apparatus And Equipment For Preparing Or Making Printing Plates, Cylinders Or Other Printing Components, Nesoi.	844230	Machinery, Apparatus And Equipment, Nesoi, For Preparing Or Making Printing Blocks, Plates, Cylinders Or Other Printing Components [1].
* *	* *	*	* *
8443110000	Reel-Fed Offset Printing Machinery	844311	Offset Printing Machinery, Reel-Fed [1].
* *	* *	*	* *
8461500010	Sawing Or Cutting-Off Machines, Metal Removing, Used Or Rebuilt.	846150	Sawing Or Cutting-Off Machines For Removing Metal [1].
8461500020	Sawing Or Cutting-Off Machines, Metal Removing, Valued Under $3025 Each, New.	846150	Sawing Or Cutting-Off Machines For Removing Metal [1].
8461500050	Sawing Or Cutting-Off Machines, Metal Removing, Numerically Controlled, Valued $2,500 And Over, New.	846150	Sawing Or Cutting-Off Machines For Removing Metal [1].
8461500090	Sawing Or Cutting-Off Machines, Metal Removing, Except Numerically Controlled, Valued 3,025 Over, New.	846150	Sawing Or Cutting-Off Machines For Removing Metal [1].
* *	* *	*	* *
8502130020	Generating Sets, Electric, Diesel, Or Semidiesel, Of An Output Exceeding 375 Kva But Not Exceeding 1,000 KVA.	850213	Generating Sets With Compression-Ignition Internal Combustion Piston (Diesel Or Semi-Diesel) Engines, Of An Output Exceeding 375 KVA [1].
8502130040	Generating Sets, Electric, Diesel, Of An Output Exceeding 1,000 KVA.	850213	Generating Sets With Compression-Ignition Internal Combustion Piston (Diesel Or Semi-Diesel) Engines, Of An Output Exceeding 375 KVA [1].
* *	* *	*	* *
8506600000	Primary Batteries, Air-Zinc	850660	Primary Cells And Primary Batteries, Air-Zinc [1].
* *	* *	*	* *
8516210000	Electric Storage Heating Radiators	851621	Electric Storage Heating Radiators [1].
* *	* *	*	* *
8540712000	Magnetrons Modified For Use In Microwave Ovens.	854071	Magnetron Microwave Tubes [1].
8540714000	Magnetron Microwave Tubes, Nesoi	854071	Magnetron Microwave Tubes [1].
* *	* *	*	* *
8541100040	Unmounted Chips Dice Wafers For Diodes Other Than Photosensitive Or Lightemitting Diodes.	854110	Diodes, Other Than Photosensitive Or Light-Emitting Diodes [1].

Schedule B	Schedule B description	HTS code	HTS description
8541100050	Zener Diodes	854110	Diodes, Other Than Photosensitive Or Light-Emitting Diodes [1].
8541100060	Microwave Diodes	854110	Diodes, Other Than Photosensitive Or Light-Emitting Diodes [1].
8541100070	Diodes Other Than Photosensitve Or Led With A Maximum Current Of 05 A Or Less.	854110	Diodes, Other Than Photosensitive Or Light-Emitting Diodes [1].
8541100080	Diodes Other Than Photosensitve Or Led With A Current Greater Than 05 A.	854110	Diodes, Other Than Photosensitive Or Light-Emitting Diodes [1].
8541510000	Semiconductor Based Transducers	854151	Semiconductor Based Transducers [1].
8541590040	Unmounted Chips Dice Wafers For Semiconductor Devices Nesoi.	854159	Semiconductor Devices, Nesoi [1].
8541590080	Semiconductor Devices Nesoi	854159	Semiconductor Devices, Nesoi [1].
8541600025	Mounted Piezoelectric Crystals Quartz Designed For Operating Frequencies Not Exceeding 20 Mhz.	854160	Mounted Piezoelectric Crystals [1].
8541600060	Mounted Piezoelectric Crystals Quartz Designed For Operating Frequencies Exceeding 20 Mhz.	854160	Mounted Piezoelectric Crystals [1].
8541600080	Mounted Piezoelectric Crystals Except Quartz	854160	Mounted Piezoelectric Crystals [1].
8541900000	Diode Transistor Similar Semiconductor Device Parts.	854190	Parts For Diodes, Transistors And Similar Semiconductor Devices; Parts For Photosensitive Semiconductor Devices And Mounted Piezoelectric Crystals [1].
8542310000	Electronic Integrated Circuits Processors Controllers Whnot Combined Wmemories Converters Logic Circuits Amplifiers Clock Etc.	854231	Processors And Controllers, Electronic Integrated Circuits [1].
8542320015	Electric Integrated Circuits Memory Dynamic Readwrite Random Access Not Over 1 Gigabit.	854232	Memories, Electronic Integrated Circuits [1].
8542320023	Electronic Integrated Circuits Memory Dynamic Readwrite Random Access Dram Over 1 Gigabit.	854232	Memories, Electronic Integrated Circuits [1].
8542320040	Electric Integrated Circuits Memory Static Readwrite Random Access Sram.	854232	Memories, Electronic Integrated Circuits [1].
8542320050	Electronic Integrated Circuits Electrically Erasable Programmable Readonly Memory Eeprom.	854232	Memories, Electronic Integrated Circuits [1].
8542320060	Electric Integrated Circuitserasable Except Electrically Programmable Readonly Memory Eprom.	854232	Memories, Electronic Integrated Circuits [1].
8542320070	Electronic Integrated Circuits Memory Nesoi	854232	Memories, Electronic Integrated Circuits [1].
8542330000	Electronic Integrated Circuits Amplifiers	854233	Amplifiers, Electronic Integrated Circuits [1].
8542390000	Electronic Integrated Circuits Nesoi	854239	Electronic Integrated Circuits, Nesoi [1].
8542900000	Electronic Integrated Circuits And Microassembly Parts.	854290	Parts For Electronic Integrated Circuits And Microassemblies [1].
* *	* *	*	* *
8601100000	Rail Locomotives Powered From An External Source Of Electricity.	860110	Rail Locomotives Powered From An External Source Of Electricity [1].
* *	* *	*	* *
9006300000	Cameras Designed For Underwater Use For Aerial Survey Or Medicalsurgical Examination Of Internal Organs Cameras For Forensic Or Criminological Use.	900630	Cameras Designed For Underwater Use, For Aerial Survey, Or Medical/Surgical Examination Of Internal Organs; Cameras For Forensic Or Criminological Use [1].
9006400000	Instant Print Cameras	900640	Instant Print Cameras [1].
9006530205	Other Cameras With Throughthelens Viewfinder Single Lens Reflex Slr For Roll Film Of A Width Of 35mm.	900653	Cameras (Still) Nesoi, For Roll Film Of A Width Of 35 Mm (1.4 Inch) [1].
9006530290	Photo Cameras For Roll Film Of A Width Of 35 Mm 14 Inch.	900653	Cameras (Still) Nesoi, For Roll Film Of A Width Of 35 Mm (1.4 Inch) [1]
9006591900	Photo Cameras For Roll Film Of A Width Less Than 35 Mm 14 Inch.	900659	Photographic Cameras (Other Than Cinematographic), Nesoi [1].
9006592000	Cameras Of A Kind Used For Preparing Printing Plates Or Cylinders.	900659	Photographic Cameras (Other Than Cinematographic), Nesoi [1].
9006599500	Photographic Other Than Cinematographic Cameras Nesoi.	900659	Photographic Cameras (Other Than Cinematographic), Nesoi [1].
9006610000	Photographic Discharge Lamp Electronic Flashlight Apparatus.	900661	Photographic Discharge Lamp (Electronic) Flashlight Apparatus [1].
9006690110	Flashbulbs Flashcubes And The Like	900669	Photographic Flashlight Apparatus, Nesoi [1].
9006690150	Photographic Flashlight Apparatus And Flashbulbs Nesoi.	900669	Photographic Flashlight Apparatus, Nesoi [1].

Schedule B	Schedule B description	HTS code	HTS description
9006910002	Parts And Accessories For Photographic Other Than Cinematographic Cameras.	900691	Parts And Accessories For Photographic (Other Than Cinematographic) Cameras [1].
9006990000	Parts And Accessories Of Photographic Flashlight Apparatus And Flashbulbs Other Than Discharge Lamps Of Heading 8539.	900699	Parts And Accessories For Photographic Flashlight Apparatus And Flashbulbs, Nesoi [1].
* *	* *	*	* *
9026105000	Flow Meters For Measuring Or Checking The Flow Or Level Of Liquids.	902610	Instruments And Apparatus For Measuring Or Checking The Flow Or Level Of Liquids, Nesoi [1].
9026107000	Instruments And Apparatus For Measuring Or Checking The Flow Or Level Of Liquids Nesoi.	902610	Instruments And Apparatus For Measuring Or Checking The Flow Or Level Of Liquids, Nesoi [1].
9026200000	Instruments And Apparatus For Measuring Or Checking Pressure.	902620	Instruments And Apparatus For Measuring Or Checking Pressure Of Liquids Or Gases, Nesoi [1].
9026800000	Instruments And Apparatus For Measuring Or Checking Other Variables Of Liquids Or Gases Nesoi.	902680	Instruments And Apparatus For Measuring Or Checking Other Variables Of Liquids Or Gases, Nesoi [1].
9026900000	Parts And Accessories For Instruments And Apparatus For Measuring Or Checking The Flow Level Pressure Or Other Variables Of Liquids Or Gases.	902690	Parts And Accessories For Instruments And Apparatus For Measuring Or Checking The Flow, Level, Pressure Or Other Variables Of Liquids Or Gases, Nesoi [1].
* *	* *	*	* *

[1] Entries with a footnote 1 designation were added to supplement no. 4 to part 746 of the EAR on September 15, 2022.

■ 21. Supplement No. 5 to part 746 is revised to read as follows:

Supplement No. 5 to Part 746—'Luxury Goods' That Require a License for Export, Reexport, and Transfer (In-Country) to or Within Russia or Belarus Pursuant to § 746.10(a)(1) and (2)

The source for the Schedule B numbers and descriptions in this list is the Bureau of the Census's Schedule B concordance of exports 2022. Census's Schedule B List 2022 can be found at *www.census.gov/foreign-trade/aes/documentlibrary/#concordance.* The Introduction Chapter of the Schedule B provides important information about classifying products and interpretations of the Schedule B, *e.g.,* NESOI means Not Elsewhere Specified or Included. In addition, important information about products within a particular chapter may be found at the beginning of chapters. This supplement includes three columns consisting of the Schedule B, 2-Digit Chapter Heading, and 10-Digit Commodity Description and Per Unit Wholesale Price in the U.S. if applicable to assist exporters, reexporters, and transferors in identifying the products in this supplement. For purposes of § 746.10(a)(1) and (2), a 'luxury good' means any item that is identified in this supplement. Schedule B number 8412294000 is listed in both this supplement and supplement no. 4 to this part, so exporters, reexporters, and transferors must comply with the license requirements under both §§ 746.5(a)(1)(ii) and 746.10 as applicable.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
2203000000	Beverages, spirits and vinegar	BEER MADE FROM MALT.
2204100000	Beverages, spirits and vinegar	SPARKLING WINE OF FRESH GRAPES.
2204212000	Beverages, spirits and vinegar	EFFERVESCENT WINE OF FRSH GRAPE IN CNTR 2L OR LESS.
2204214000	Beverages, spirits and vinegar	GRAPE WINE NESOI NOV 14% ALCOHOL CNTRS 2L OR LESS.
2204217000	Beverages, spirits and vinegar	GRAPE WINE NESOI OVER 14% ALCOHOL CNTRS 2L OR LESS.
2204220020	Beverages, spirits and vinegar	GRAPE WINE NESOI NOV 14% ALCOHOL CNTRS > 2 < 10L.
2204220040	Beverages, spirits and vinegar	GRAPE WINE NESOI OVER 14% ALCOHOL CNTRS > 2 < 10 L.
2204290120	Beverages, spirits and vinegar	GRAPE WINE NESOI NOV 14% ALCOHOL CNTRS OV 10 L.
2204290140	Beverages, spirits and vinegar	GRAPE WINE NESOI OVER 14% ALCOHOL CNTRS OV 10 L.
2204300000	Beverages, spirits and vinegar	GRAPE MUST FERMNTATN PREV/ARRSTD BY ALCOH, EX 2009.
2205100000	Beverages, spirits and vinegar	VERMOUTH/GRPE WINE FLAVRD WTH PLANTS ETC CTR LE 2L.
2205900000	Beverages, spirits and vinegar	VERMOUTH/GRAPE WINE FLAVORED WTH PLANTS ETC OV 2LS.
2206001500	Beverages, spirits and vinegar	CIDER, WHETHER STILL OR SPARKLING.
2206007000	Beverages, spirits and vinegar	FERMENTED BEVERAGES, NESOI.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
2207103000	Beverages, spirits and vinegar	ETHYL ALCOHOL UNDENATURED 80%/HIGHER, FOR BEVERAGE.
2208200000	Beverages, spirits and vinegar	GRAPE BRANDY.
2208306020	Beverages, spirits and vinegar	WHISKIES, BOURBON, CONTAINERS NOT OVER 4 LITERS EA.
2208306040	Beverages, spirits and vinegar	WHISKIES, BOURBON, CONTAINERS OVER 4 LITERS EACH.
2208309025	Beverages, spirits and vinegar	RYE WHISKIES EX BOURBON, IN CONTAINERS NT OVER 4L.
2208309030	Beverages, spirits and vinegar	WHISKIES EX BOURBON, IN CONTAINERS NT OV 4L, NESOI.
2208309040	Beverages, spirits and vinegar	WHISKIES EX BOURBON, CONTAINERS OVER 4 LITERS.
2208400030	Beverages, spirits and vinegar	RUM AND TAFIA, CONTAINERS NOT OVER 4 LITERS EACH.
2208400050	Beverages, spirits and vinegar	RUM AND TAFIA, CONTAINERS OVER 4 LITERS.
2208500000	Beverages, spirits and vinegar	GIN AND GENEVA.
2208600000	Beverages, spirits and vinegar	VODKA.
2208700000	Beverages, spirits and vinegar	LIQUEURS AND CORDIALS.
2208904600	Beverages, spirits and vinegar	KIRSCHWASSER AND RATAFIA.
2208905100	Beverages, spirits and vinegar	TEQUILA.
2208909002	Beverages, spirits and vinegar	OTHER SPIRITUOUS BEVERAGES, NESOI.
2401102020	Tobacco and manufactured tobacco substitutes	CONN. SHADE TOBACCO, NOT STEM/STRIP OV 35% WRAPPER.
2401102040	Tobacco and manufactured tobacco substitutes	TOBACCO NOT STEM/STRIP OVER 35% WRAPPER TOB, NESOI.
2401105130	Tobacco and manufactured tobacco substitutes	FLUE-CURED CIG LEAF TOB NT STEM/STRIP LT 35% WRPPR.
2401105160	Tobacco and manufactured tobacco substitutes	BURLEY CIG LEAF TOBACCO NT STEM/STRIP LT 35% WRPPR.
2401105180	Tobacco and manufactured tobacco substitutes	MARYLAND CIG LEAF TOB NOT STEM/STRIP LT 35% WRPPR.
2401105195	Tobacco and manufactured tobacco substitutes	OTHER CIG LEAF TOB NOT STEM/STRIP LT 35% WRAPPER.
2401105340	Tobacco and manufactured tobacco substitutes	CIGAR BINDER TOBACCO, NOT STEM/STRIP LT 35% WRAPPR.
2401108010	Tobacco and manufactured tobacco substitutes	DARK-FIRED KY/TENN TOB NOT STEM/STRIP LT 35% WRPPR.
2401108020	Tobacco and manufactured tobacco substitutes	VA FIRE/SUN-CURED TOB, NOT STEM/STRIP LT 35% WRPPR.
2401109530	Tobacco and manufactured tobacco substitutes	BLACKFAT TOBACCO, NT STEM/STRIP LT 35% WRAPPER TOB.
2401109570	Tobacco and manufactured tobacco substitutes	TOBACCO NESOI NOT STEM/STRIP, LESS THAN 35% WRPPR.
2401202020	Tobacco and manufactured tobacco substitutes	CONN SHADE TOB STEM/STRIP NT THRESHED OV 35% WRPPR.
2401202040	Tobacco and manufactured tobacco substitutes	TOBACCO NESOI STEM/STRIP NOT THRESHED OV 35% WRPPR.
2401202810	Tobacco and manufactured tobacco substitutes	FLUE-CURED TOB STEM/STRIP NT THRESHED LT 35% WRPPR.
2401202820	Tobacco and manufactured tobacco substitutes	BURLEY TOB STEM/STRIP NOT THRESHED LT 35% WRAPPER.
2401202830	Tobacco and manufactured tobacco substitutes	MARYLAND TOB STEM/STRIP NOT THRESHED LT 35% WRPPR.
2401202970	Tobacco and manufactured tobacco substitutes	CIGAR BIND TOB INC CIGAR LF NT THRESH LT 35% WRAPR.
2401205040	Tobacco and manufactured tobacco substitutes	DARK-FIRED KY/TENN TOB STEM/STRIP NT THRSH LT 35% WR.
2401205050	Tobacco and manufactured tobacco substitutes	VA FIRE/SUN-CURED TOB STEM/STRIP NT THRSH < 35% WRPR.
2401205560	Tobacco and manufactured tobacco substitutes	BLACKFAT TOB STEM/STRIP NOT THRESHED LT 35% WRAPPR.
2401205592	Tobacco and manufactured tobacco substitutes	TOB NESOI STEM/STRIP, NOT THRESHED LT 35% WRPR TOB.
2401206020	Tobacco and manufactured tobacco substitutes	CONN SHADE TOB FROM CIGAR LEAF THRESHED STEM/STRIP.
2401206040	Tobacco and manufactured tobacco substitutes	TOBACCO NESOI FROM CIGAR LEAF, THRESHED STEM/STRIP.
2401208005	Tobacco and manufactured tobacco substitutes	CIGARETTE LEAF TOBACCO FLUE-CURED THRSH STEM/STRIP.
2401208011	Tobacco and manufactured tobacco substitutes	TOBACCO FLUE-CURED THRESHED STEMMED/STRIPPED NESOI.

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2401208015	Tobacco and manufactured tobacco substitutes	CIGARETTE LEAF TOBACCO, BURLEY, THRESH, STEM/STRIP.
2401208021	Tobacco and manufactured tobacco substitutes	TOBACCO, BURLEY, THRESHED, STEMMED/STRIPPED, NESOI.
2401208030	Tobacco and manufactured tobacco substitutes	MARYLAND TOBACCO, THRESHED, STEMMED/STRIPPED.
2401208040	Tobacco and manufactured tobacco substitutes	DARK-FIRED KENTUCKY/TENN TOBACCO THRESH STEM/STRIP.
2401208050	Tobacco and manufactured tobacco substitutes	VA FIRE-CURED, SUN-CURED TOB THRESHED, STEM/STRIP.
2401208090	Tobacco and manufactured tobacco substitutes	TOBACCO, THRESHED, PARTLY/WHOLLY STEM/STRIP, NESOI.
2401305000	Tobacco and manufactured tobacco substitutes	TOBACCO STEMS.
2401309000	Tobacco and manufactured tobacco substitutes	TOBACCO REFUSE, NESOI.
2402103030	Tobacco and manufactured tobacco substitutes	SMALL CIGARS/CHEROOTS/CIGARILLOS W/TOB LT $.15 EA.
2402107000	Tobacco and manufactured tobacco substitutes	CIGAR/CHEROOT/CIGARILLO CONTAINING TOBACCO NESOI.
2402200000	Tobacco and manufactured tobacco substitutes	CIGARETTES CONTAINING TOBACCO.
2402900000	Tobacco and manufactured tobacco substitutes	CIGAR/CHEROOT/CIGARILLO/CIGS OF TOB SUBSTITS NESOI.
2403110000	Tobacco and manufactured tobacco substitutes	WATER PIPE TOBACCO.
2403190020	Tobacco and manufactured tobacco substitutes	PIPE TOBACCO, IN RETAIL-SIZED PACKAGES.
2403190040	Tobacco and manufactured tobacco substitutes	SMOKING TOBAC, EX/PIPE TOBAC, RETAIL-SIZED PKG, NES.
2403190060	Tobacco and manufactured tobacco substitutes	SMOKING TOBACCO, NESOI.
2403910000	Tobacco and manufactured tobacco substitutes	HOMOGENIZED OR RECONSTITUTED TOBACCO.
2403990030	Tobacco and manufactured tobacco substitutes	CHEWING TOBACCO.
2403990040	Tobacco and manufactured tobacco substitutes	SNUFF AND SNUFF FLOUR.
2403990050	Tobacco and manufactured tobacco substitutes	MFG TOBACCO, SUBSTITUES, FLUE-CURED.
2403990065	Tobacco and manufactured tobacco substitutes	PARTIALLY MANUFACTURED, BLENDED OR MIXED TOBACCO.
2403990075	Tobacco and manufactured tobacco substitutes	MFG TOBACCO & SUBSTITUTES, NESOI, INCL EXTRACTS & ESSENCES.
2404110000	Tobacco and manufactured tobacco substitutes	CONTAINING TOBACCO OR RECON TOBACDO, INTENDED FOR INHALATION W/O COMBUSTION.
2404120000	Tobacco and manufactured tobacco substitutes	CONTAINING NICOTINE, INTENDED FOR INHALATION W/O COMBUSTION.
2404190000	Tobacco and manufactured tobacco substitutes	PRODUCTS INTENDED FOR INHALATION, NESOI.
2404910000	Tobacco and manufactured tobacco substitutes	NICOTINE PRODUCTS FOR ORAL INTAKE INTO THE HUMAN BODY.
2404920000	Tobacco and manufactured tobacco substitutes	NICOTINE PRODUCTS INTENDED FOR TRANSDERMAL INTAKE INTO THE HUMAN BODY.
2404990000	Tobacco and manufactured tobacco substitutes	NICOTINE PRODUCTS INTENDED FOR INTAKE INTO THE HUMAN BODY, NESOI.
3302900010	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	PERFUME OIL BLENDS, PROD USE FINISHED PERFUME BASE.
3303000000	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	PERFUMES AND TOILET WATERS.
3304100000	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	LIP MAKE-UP PREPARATIONS.
3304200000	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	EYE MAKE-UP PREPARATIONS.
3304910050	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	MAKE-UP POWDER, WHETHER/NT COMPRESSED, NESOI.
3304995000	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	BEAUTY & SKIN CARE PREPARATION, NESOI.
3307900000	Essential oils and resinoids; perfumery, cosmetic or toilet preparations.	PERFUMERY, COSMETIC OR TOILET PREPARATIONS, NESOI.
3916902000	Plastics and articles thereof	RACQUET STRINGS, OF PLASTIC.
3926202500	Plastics and articles thereof	GLOVES SPEC DESIGNED FOR USE IN SPORTS, PLASTIC.
3926400000	Plastics and articles thereof	STATUETTES & OTHER ORNAMENTAL ARTICLES, OF PLASTIC.
3926903000	Plastics and articles thereof	PARTS FOR YACHTS OR PLEASURE BOATS, ETC.
4202110000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	TRUNKS, SUITCASES, ETC, SURFACE COMPS/PATENT LEATHER.
4202120000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	TRUNKS, SUITCASES, ETC, SURFACE PLASTIC/TEXT MATERLS.

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4202190000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	TRUNKS, SUITCASES, VANITY CASES ETC, NESOI.
4202210000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	HANDBAGS, SURFACE OF COMPOSITION/PATENT LEATHER.
4202220000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	HANDBAGS, SURFACE OF PLASTIC SHEET/TEXT MATERIALS.
4202290000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	HANDBAGS, NESOI.
4202310000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	ARTICLES FOR POCKET OR HANDBAG, COMP/PATENT LEATHER.
4202320000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	ARTICLES FOR POCKET/HANDBAG, PLASTIC/TEXT MATERIAL.
4202390000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	ARTICLES FOR POCKET OR HANDBAG, NESOI.
4202910010	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	GOLF BAGS, OUTER SURFACE LEATHER.
4202910040	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	OTHER BAGS, OUTER SURFACE COMPS/PATENT LEATH, NESOI.
4202990000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	CASES, BAGS & CONT, OTHER OF MATR/COVERINGS, NESOI.
4203400000	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut).	OTH CLOTHING ACCESSORIES, LEATHER/COMPOS LEATHER.
4301100000	Furskins and artificial fur; manufactures thereof	MINK FURSKINS, RAW, WHOLE.
4301300000	Furskins and artificial fur; manufactures thereof	ASTRAKHAN, INDIAN, ETC LAMB FURSKINS, RAW, WHOLE.
4301600000	Furskins and artificial fur; manufactures thereof	FOX FURSKINS, RAW, WHOLE.
4301800210	Furskins and artificial fur; manufactures thereof	NUTRIA FURSKINS, RAW, WHOLE.
4301800297	Furskins and artificial fur; manufactures thereof	FURSKINS NESOI, RAW, WHOLE.
4301900000	Furskins and artificial fur; manufactures thereof	HEADS/PCS, CUTTINGS ETC FURSKINS FOR FURRIERS' USE.
4302110000	Furskins and artificial fur; manufactures thereof	MINK FURSKINS, WHOLE, TANNED/DRESSED NOT ASSEMBLED.
4302191300	Furskins and artificial fur; manufactures thereof	PERSIAN ETC LAMB FURSKIN WHOLE TANNED NOT ASSEMBLE.
4302195000	Furskins and artificial fur; manufactures thereof	FURSKINS NESOI, WHOLE TANNED/DRESSED NOT ASSEMBLED.
4302200000	Furskins and artificial fur; manufactures thereof	FURSKIN PIECES/CUTTINGS TANNED/DRESSED NT ASSEMBLD.
4302300000	Furskins and artificial fur; manufactures thereof	FURSKINS, WHOLE AND PIECES, TANNED, ASSEMBLED.
4303100030	Furskins and artificial fur; manufactures thereof	MINK FURSKIN ARTICLES, APPAREL, CLOTHING ACCESSORY.
4303100060	Furskins and artificial fur; manufactures thereof	FURSKIN ARTICLE APPAREL CLOTHING ACCESSORIES NESOI.
4303900000	Furskins and artificial fur; manufactures thereof	ARTICLES OF FURSKINS, NESOI.
4304000000	Furskins and artificial fur; manufactures thereof	ARTIFICIAL FUR AND ARTICLES THEREOF.
4420110000	Wood and articles of wood; wood charcoal	STATUETTES AND OTHER ORNAMENTS OF TROPICAL WOOD.
4420190000	Wood and articles of wood; wood charcoal	STATUETTES AND OTHER ORNAMENTS, OF WOOD, NESOI.
4907000000	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans.	UNUSED POSTAGE; BANKNOTES; CHECK FORMS; STOCK, ETC.
5001000000	Silk	SILKWORM COCOONS SUITABLE FOR REELING, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5002000000	Silk	RAW SILK (NOT THROWN), AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5003001000	Silk	SILK WASTE, NOT CARDED OR COMBED, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

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5003009000	Silk	SILK WASTE, OTHER, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5004000000	Silk	SILK YARN NOT PUT UP FOR RETAIL SALE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5005000000	Silk	YARN SPUN FROM SILK WASTE NOT PUT UP RETAIL SALE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5006000000	Silk	SILK YARN&YARN/SILK WASTE, RETAIL SALE, SILKWORM GUT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5007100000	Silk	WOVEN FABRICS OF NOIL SILK, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5007200000	Silk	OTHER FABRICS GE 85% SILK/SILK WASTE, NOT NOIL SILK, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5007900000	Silk	WOVEN FABRICS OF SILK OR SILK WASTE—OTHER NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5603941000	Wadding, felt and nonwovens; special yarns, twine, cordage, ropes and cables and articles thereof.	NONWOV GT 150G/M2, NT MMF FLOOR COVERING UNDERLAYS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5701100000	Carpets and other textile floor coverings	CARPETS&OTH TEX FLOOR COVR, WOOL/FINE ANML HR, KNOTD, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5701900000	Carpets and other textile floor coverings	CARPETS&OTH TEX FLOOR COVR, OTH TEX MATERIALS, KNOTD, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702100000	Carpets and other textile floor coverings	KELEM, SCHUMACKS, KARAMANIE, &SIMILAR HAND-WOVEN RUGS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702200000	Carpets and other textile floor coverings	FLOOR COVERINGS OF COCONUT FIBERS (COIR), WOVEN, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702310000	Carpets and other textile floor coverings	CARPETS, ETC OF WOOL/FINE ANIMAL HR, PILE, NT MADE-UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702320000	Carpets and other textile floor coverings	CARPETS, ETC OF MMF TEXTL MATERIAL, PILE, NOT MADE-UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702390000	Carpets and other textile floor coverings	CARPETS, ETC OF OTHER TEXTL MATERL, PILE, NOT MADE-UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702410000	Carpets and other textile floor coverings	CARPETS, ETC OF WOOL/FINE ANIMAL HAIR, PILE, MADE-UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702420000	Carpets and other textile floor coverings	CARPETS, ETC OF MMF TEXTILE MATERIALSS, PILE, MADE-U, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702490000	Carpets and other textile floor coverings	CARPETS, ETC OTHR TEX MATRL, PILE, MADE-UP, NOT TUFTED, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702503000	Carpets and other textile floor coverings	CARPETS, ETC WOOL/FINE ANML HR, WOVN, NOT PILE/MDE-UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702505200	Carpets and other textile floor coverings	TEX CARPETS, WOV NT PILE, MM TEX MAT, NT MADE UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702509000	Carpets and other textile floor coverings	CARPETS, ETC OTHR TEX MAT, WOV, NOT PILE/MADE-UP/TUFT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702910000	Carpets and other textile floor coverings	CARPETS, ETC WOOL/FINE ANML HR, WOVN, MADE-UP, NT PILE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702920000	Carpets and other textile floor coverings	TEXTILE CARPETS, WOV NO PILE, MMF, MADE UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5702990000	Carpets and other textile floor coverings	CARPETS, ETC OTHR TEX MAT, WOV, MADE-UP, NOTPILE/TUFT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5703100000	Carpets and other textile floor coverings	TEXTILE CARPETS, TUFTED, OF WOOL, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

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5703210000	Carpets and other textile floor coverings	TURF OF NYLON OR OTHER POLYAMIDES, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5703290000	Carpets and other textile floor coverings	CARPETS, ETC, NYLON/OTHR POLYAMIDES, TUFTD, W/N MDE-UP, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5703310000	Carpets and other textile floor coverings	TURF OF OTHER MAN-MADE TEXTILE MATERIALS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5703390000	Carpets and other textile floor coverings	CARPETS, ETC, TUFTED, W/N MDE-UP, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5703900000	Carpets and other textile floor coverings	TEXTILE CARPETS, TUFTED, TEXTILE MATERIALS NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5704100000	Carpets and other textile floor coverings	TEXTILE CARPETS, FELT, NO TUFT, TILES SUR NOV .3M2, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5704200000	Carpets and other textile floor coverings	TEXTILE CARPETS, FELT, NOT TUFTED, SA 0.3M2 & 1M2, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5704900100	Carpets and other textile floor coverings	TEXTILE CARPETS, FELT, NOT TUFTED, SA OTHER, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5705000000	Carpets and other textile floor coverings	OTHR CARPETS&OTHR TEX FLOOR COV, WHETHR/NOT MADE-UP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
5805000000	Special woven fabrics; tufted textile fabrics; lace, tapestries; trimmings; embroidery.	HAND-WOV TAPESTR WALL HANG USE ONLY GT $251/SQ MTR.
5806393010	Special woven fabrics; tufted textile fabrics; lace, tapestries; trimmings; embroidery.	NAR WOV FAB 85% OR MORE BY WGT SILK, NESOI.
5905000000	Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use.	TEXTILE WALL COVERINGS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6110301070	Articles of apparel and clothing accessories, knitted or crocheted.	M/B SWEATERS OF MMF CONT 25% MORE LEATHER, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6110301080	Articles of apparel and clothing accessories, knitted or crocheted.	W/G VESTS EX SWEATER OF MMF CONT 25% LEATHER, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6110301570	Articles of apparel and clothing accessories, knitted or crocheted.	M/B SWEATERS & SIMILAR ART MMF GE 23% W/FAH KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6110301580	Articles of apparel and clothing accessories, knitted or crocheted.	W/G SWEATRS, PULLOVRS, SIM ARTS MMF GE 23% W/FAH KNT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6110302070	Articles of apparel and clothing accessories, knitted or crocheted.	M/B SWEATERS & SIM ART MMF GE 30% SLK, SLK WST KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6110302080	Articles of apparel and clothing accessories, knitted or crocheted.	W/G SWEATRS, PULLOVERS, SIM ARTS MMF GE 30% SLK KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112110015	Articles of apparel and clothing accessories, knitted or crocheted.	M/B JACKETS FOR TRACK SUITS ETC COTTON, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112110035	Articles of apparel and clothing accessories, knitted or crocheted.	W/G JACKETS FOR TRACK SUITS ETC OF COTTON, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112110050	Articles of apparel and clothing accessories, knitted or crocheted.	M/B TROUSERS FOR TRACK SUITS OF COTTON, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112110060	Articles of apparel and clothing accessories, knitted or crocheted.	W/G TROUSERS FOR TRACK SUITS OF COTTON, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112120015	Articles of apparel and clothing accessories, knitted or crocheted.	M/B JACKETS FOR TRACK SUITS ETC SYN FIBERS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112120035	Articles of apparel and clothing accessories, knitted or crocheted.	W/G JACKETS FOR TRACK SUITS ETC SYN FIBERS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112120050	Articles of apparel and clothing accessories, knitted or crocheted.	M/B TROUSERS FOR TRACK SUITS OF SYN FIBERS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

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6112120060	Articles of apparel and clothing accessories, knitted or crocheted.	W/G TROUSERS FOR TRACK SUITS OF SYN FIBERS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112191000	Articles of apparel and clothing accessories, knitted or crocheted.	TRACK WARM-UP AND JOGGING SUITS ARTIFICIAL FIB, KT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112192000	Articles of apparel and clothing accessories, knitted or crocheted.	TRACK WARM-UP & JOGGING SUITS OT TEXTILE FIBER, KT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112201000	Articles of apparel and clothing accessories, knitted or crocheted.	SKI SUITS OF MANMADE FIBERS, KNITTED OR CROCHETED, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112202000	Articles of apparel and clothing accessories, knitted or crocheted.	SKI SUITS OF OTHER TEXTILE MATERIALS, KNITTED OR C, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112310000	Articles of apparel and clothing accessories, knitted or crocheted.	MEN'S OR BOYS' SWIMWEAR OF SYNTHETIC FIBERS, KNITT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112390000	Articles of apparel and clothing accessories, knitted or crocheted.	M/B SWIMWEAR OF OTHER TEXTILE MATERIALS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112410000	Articles of apparel and clothing accessories, knitted or crocheted.	WOMEN'S OR GIRLS' SWIMWEAR SYNTHETIC FIBERS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6112490000	Articles of apparel and clothing accessories, knitted or crocheted.	W/G SWIMWEAR OF OTHER TEXTILE MATERIALS, KNIT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6206100000	Articles of apparel and clothing accessories, not knitted or crocheted.	W/G BLOUSES, SHIRTS AND SHIRT BLOUSES SILK, NT KT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6211110000	Articles of apparel and clothing accessories, not knitted or crocheted.	MEN'S OR BOYS' SWIMWEAR, NOT KNITTED OR CROCHETED, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6211120000	Articles of apparel and clothing accessories, not knitted or crocheted.	WOMEN'S OR GIRLS' SWIMWEAR, NOT KNITTED OR CROCHET, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6211201500	Articles of apparel and clothing accessories, not knitted or crocheted.	WATER RESIST SKI-SUITS, NT KNITTED/CROCHETED NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6213900600	Articles of apparel and clothing accessories, not knitted or crocheted.	HANDKERCHIEFS, OF SILK OR SILK WASTE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6214100000	Articles of apparel and clothing accessories, not knitted or crocheted.	SHAWLS SCARVES MUFFLERS MANTILLAS SILK SILK WASTE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6215100000	Articles of apparel and clothing accessories, not knitted or crocheted.	TIES, BOW TIES AND CRAVATS, OF SILK OR SILK WASTE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6301200000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	BLANKETS (NT ELEC) & TRAVELING RUGS OF WOOL HAIR, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6301300000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	BLANKETS (NT ELEC) & TRAVELING RUGS OF COTTON, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6301400000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	BLNKET (NT ELEC) & TRAVELING RUGS OF SYNTHETIC FIB, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6301900000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	OTHER BLANKETS AND TRAVELING RUGS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306221000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	BACKPACKING TENTS OF SYNTHETIC FIBERS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306229000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	TENTS OF SYNTHETIC FIBERS, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306291100	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	TENTS, OF COTTON, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306292100	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	TENTS OF TEXTILE MATERIALS NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306300010	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	SAILS OF SYNTHETIC FIBERS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
6306300020	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	SAILS OF TEXTILE MATERIALS NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306901000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	CAMPING GOODS, NESOI, OF COTTON, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6306905000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	CAMPING GOODS OF TEXTILE MATERIALS NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6307200000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	LIFEJACKETS AND LIFEBELTS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6308000000	Other made up textile articles; sets; worn clothing and worn textile articles; rags.	NEDCRFT SET WOV FAB & YRN/MAKNG RUG/TAPST PKG RT S, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6401923000	Footwear, gaiters and the like; parts of such articles	WATERPROOF FTWR RUB/PLAS SKI & SNOWBOARD BOOTS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6402120000	Footwear, gaiters and the like; parts of such articles	SKI, CROSS-CTY&SNOWBOARD BOOTS W/RUBBER OR PLASTIC, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6402190000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR RUB PLAST STITCH SPORTS FOOTWEAR NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6402991815	Footwear, gaiters and the like; parts of such articles	TENNIS, BASKETBALL, GYM, TRAINING SHOES AND LIKE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403120000	Footwear, gaiters and the like; parts of such articles	FTWR W/LTHR UPP, SKI, CROSS-CTY & SNOWBOARD BOOTS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403190000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UPPER, SPORTS FOOTWEAR EXC SKI-BOOTS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403200000	Footwear, gaiters and the like; parts of such articles	FTWR SOL LTHR UPPER LTHR STRAPS AND AROUND BIG TOE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403400000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UPPER NESOI WITH A METAL TOE-CAP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403511100	Footwear, gaiters and the like; parts of such articles	FTWR BASE OF WOOD, LEATHER OUTER SOLE, COV ANK, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403515000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NESOI LEA O SOL ANK COV MEN YOUTH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403518000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UPPER NESOI LEA O SOL ANKL COV NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403591000	Footwear, gaiters and the like; parts of such articles	FTWR BASE OF WOOD, LEATHER OUTER SOLE, NT COV ANK, AND VALUED AT $300PER UNIT WHOLESALE PRICE IN THE U.S.
6403595000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP A SOL NESOI NOT ANK COV MEN YOUTH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403598000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP A SOL NESOI NOT ANK COV NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403911300	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL ANKLE COV WORK SHOES, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403911500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL ANK TENNIS ETC MEN ETC, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403915000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL ANK COV NESOI MEN YOUTH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403918500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL ANKCOV NESOI EX MN YTH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403991500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL NOT ANKL HOUSE SLIPPERS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
6403992500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL NOT ANKL WORK SHOES, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403993500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL NOTANK TENNIS MEN ETC, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403995000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL NOT ANK NESOI MEN YOUT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6403998000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR LEA UP NONLEA SOL NOT ANK NESOI EX MN YTH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6404110000	Footwear, gaiters and the like; parts of such articles	FOOTWEAR TEX UP RUBPLAS SOL SPORT SHOES, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6404202500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR TEX UP LEA SOLE FOR MEN, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6404204500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR TEX UP LEA SOLE FOR WOMEN, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6404206500	Footwear, gaiters and the like; parts of such articles	FOOTWEAR TEX UP LEA SOLE EXCEPT FOR MEN AND WOMEN, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6405100030	Footwear, gaiters and the like; parts of such articles	FTWR W/UPPERS LETHER/COMPOSITION LEATHER MEN, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6405100060	Footwear, gaiters and the like; parts of such articles	OTH FTWEAR W UPPERS LEATHER/COMPOSITION LEATHER WM, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6405100090	Footwear, gaiters and the like; parts of such articles	OTH FTWEAR W UPPERS LEATHER/COMP LEATHER OT PERSON, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6506100010	Headgear and parts thereof	ATH, REC AND SPORT SAFETY HEADGEAR, LINED OR TRMED, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6506993000	Headgear and parts thereof	HEADGR OF FURSKIN, WHETHER OR NT LINED/TRIMMD NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6701000000	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair.	SKINS & OTHR PTS OF BIRDS W/FEATHERS ETC EXC 0505
6911101000	Ceramic products	PORCLN/CHINA, HTL/RESTNT & OTHER WARE NOT HH WARE, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6911105500	Ceramic products	TABLE/KITCHENWARE, PORCLN OR CHINA, NT HOTL/RESTNT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6911900050	Ceramic products	HOUSEHOLD ARTICLES OF PORCELAIN OR CHINA, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6913100000	Ceramic products	STATUETTES AND OTHER ORNMNTL ARTCLS, PORCLN OR CHN, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6913900000	Ceramic products	STATUTTES A OTH ORNMNTL CERAM ARTCLS NT PORC/CHINA, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6914100000	Ceramic products	ARTICLES OF PORCELAIN OR CHINA, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
6914900000	Ceramic products	CERAMIC ARTICLES NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
7013220000	Glass and glassware	STEMWARE DRINKING GLASSES OF LEAD CRYSTAL, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
7013330000	Glass and glassware	DRINKING GLASSES OF LEAD CRYSTAL, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
7013410000	Glass and glassware	TBL O KTCHN GLSSWR NT DRNKNG GLSS OF LEAD CRYSTAL, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
7013910000	Glass and glassware	OTHER GLASSWARE, LEAD CRYSTAL, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
7101100000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	NATURAL PEARLS, NOT MOUNTED OR SET, INCL TMP STRNG.
7101210000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	CULTURED PEARLS, UNWORKED.
7101220000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	CULTURED PEARLS, WORKED, NOT SET.
7102100000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	DIAMONDS, UNSORTED.
7103102000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	UNWORKED PRECIOUS & SEMI-PREC STONES (EXC DIAMOND).
7103104000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SAWN/ROUGH SHAPE PREC&SEMI-PREC ST(EXC DIAM)NESOI.
7103910000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	RUBIES, SAPPHIRES AND EMERALDS, OTHERWISE WORKED.
7103991000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GEMSTONES, NESOI, CUT BUT NOT SET SUITBL FR JEWLRY.
7104200000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SYNTHC OR RECNSTRCTD GEMSTONES UNWORKED.
7104901000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SYN/RECON, GEMSTONES, CUT BUT NOT SET FOR JEWELRY.
7104905000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SYN, RCNSTR GMSTONES WRKD NT SUITBL FOR JEWELRY.
7106911010	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SILVER BULLION, UNWROUGHT.
7106911020	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SILVER DORE.
7106915000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	UNWROUGHT SILVER, NESOI.
7106920000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	SILVER, SEMIMANUFACTURED.
7108121010	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GOLD BULLION UNWROUGHT, NONMONETARY.
7108121020	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GOLD DORE, UNWROUGHT, NONMONETARY.
7108125000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GOLD, NESOI, UNWROUGHT, NONMONETARY.
7108135000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GOLD, SEMIMANUFACTURED, NESOI, NONMONETARY.
7113110000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	JEWELRY AND PARTS THEREOF, OF SILVER.
7113190000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	JEWELRY AND PARTS THEREOF, OF OTH PRECIOUS METAL.
7113200000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	JEWELRY AND PARTS, BASE METAL CLAD W PREC METAL.
7114190000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	ARTLS OF GLD OR PLAT NESOI.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
7114200000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GOLD/SILVER -SMITHS' ARTCLS A PRTS, BS MTL CL W PM.
7115900000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	OTH PREC METL ARTCLS OR ARTCLS CLAD W PM, NESOI.
7116101000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	ARTICLES OF NATURAL PEARLS.
7116102500	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	ARTICLES OF CULTURED PEARLS.
7116201000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	JEWELRY OF PRECIOUS OR SEMIPRECIOUS STONES.
7116204050	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	ARTICLES OF PRECIOUS OR SEMIPREC STONES, NT JEWLRY.
7117190000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	OTH IMITATION JEWELRY, BASE METAL, INC PR MTL PLTD.
7118100000	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	COIN (EXCPT GOLD COIN) NOT BEING LEGAL TENDER.
7118900030	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	GOLD COIN NESOI (GOLD CONTENT).
7118900050	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewelry; coin.	COIN (EXCEPT GOLD COIN) NESOI.
7326906000	Articles of iron or steel	OTH ARTIC IOS, CTD OR PLTD W PREC METAL, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
8306210000	Miscellaneous articles of base metal	STATUETTES A OTH ORNAMNTS A PRTS PLTD W PREC METAL.
8306290000	Miscellaneous articles of base metal	STATUETTES A OTH ORNMNTS A PRTS, BS METL NT PM PLT.
8407210000	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	OUTBOARD ENGINES FOR MARINE PROPULSION, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8407290010	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	SPK-IGN REC OR ROT INT COM PST ENG, MAR, IN/OUTBOARD, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8407290050	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	INBOARD ENG WITH INBOARD DRIVE F MARINE PROPULSION, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8408100010	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	DIESEL ENGINES, NOT EXCEEDING 149.2 KW, MARINE, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8408100020	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	COMP-IGNI PST ENG, MARINE, EXC 149.2KW, NOT EXC 223.8KW, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8409916000	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	PARTS F SPARK IG ENG FOR MARINE PROPULSION, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8412294000	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	HYDROJET ENGINES FOR MARINE PROPULSION, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8412901000	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	PARTS OF HYDROJET ENGINES FOR MARINE PROPULSION, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8471300100	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof.	PORT DGTL ADP MACH, <10 KG, AT LEAST CPU, KBRD, DSPLY, AND VALUED AT $750 PER UNIT WHOLESALE PRICE IN THE U.S.
8703101000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	VEHICLES DESIGNED FOR TRAVELING ON SNOW, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703210100	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MTR VEH, ONLY SPARK IGN ENG, NOT OV 1,000 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703220100	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MOTOR VEH, ONLY SPARK IGN ENG, (1000–1500 CC), AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
8703230145	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	VEHICLES, NESOI, NEW, ENG (1500–3000 CC) LE 4 CYL, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703230160	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, OV 4 N/O 6 CYL, 1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703230170	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	3PASS VEH, SPARK IGN, >6 CYL, 1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703230190	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	USED VEHICLES, ONLY SK IG (1500–3000 CC), NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703240140	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN >3000CC, 4 CYL & UN, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703240150	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, ONLY SPK IGN OV 4 N/O 6 CYL, OV 3000 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703240160	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, ONLY SPK IGN >6 CYL, <3000CC, NEW, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703240190	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MTR VEH, ONLY SPARK IGN, GT 3000 CC, USED, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703310100	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, ONLY COMPR IG, DIESEL, <1,500 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703320110	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL ENG, ONLY CMP-IG,1500–2500 CC, NEW, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703320150	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL ENG, ONLY COMP-IG1500–2500 CC, USED, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703330145	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL, ONLY COMP-IG, >2,500 CC, NEW, NES, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703330185	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL, ONLY COMP-IG, >2,500 CC, USE, NES, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400005	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MOT VEH LT=1000CC SPRK IGN/ELEC NCHRG ENG, NES, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400010	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PSSNGR VEH, SPARK IGN AND ELCTC MTR, 1000–1500 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400020	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPRK IG/ELEC, NCHG, NESOI, 4 CYL, 500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400030	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH SPK IGN/ELEC, NCHG PL >4<6 CYL,1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400040	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	3PASS VEH, SPARK IGN/ELEC, NCHRG<6 CYL,1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400045	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	USED VHCLS, SPRK AND ELCTC ENGN 1500–3000 CC NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400060	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC NCHG PLG <3000CC,4 CYL & UN, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400070	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC NCHG PLUG>4<6 CYL, <3000 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400080	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC, NWCHRG PLG <6 CYL, <3000 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703400090	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IG & ELEC NO PLUG, OVER 3000 CC, USED, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703500010	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL AND ELEC NO PLUG, <1,500 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.

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8703500030	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESL/ELC (NO PLUG) 1500–2500 CC, NEW, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703500050	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIES/ELEC (NO PLG) ENG, 1500–2500 CC, USED, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703500070	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL/ELEC, >2,500 CC, NEW, NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703500090	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESEL/ELEC, >2,500 CC, USED, NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600005	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MOT VEH LT=1000 CC SPARK IGN/ELEC CHRG W PLG, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600010	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASSVEH, SP-IGN/ELEC W/PLUG ENG, (1000–1500 CC), AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600020	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC, WITH PLUG 4 CYL,1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600030	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC CHRG PLG <4 <6CYL,1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600040	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	3PASS VEH, SPRK IGN/ELEC CHRG, >6 CYL,1500–3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600045	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	USED VEHICLES, SPK/ELEC (1500–3000 CC), NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600060	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC CHRG PLUG >3000CC, 4 CYL & UN, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600070	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC, CHRG PLUG >4<6 CYL, >3000CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600080	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, SPK IGN/ELEC CHRG PLUG >6 CYL, <3000 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703600090	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MTR VEH, SP IGN/ELEC, OVER 3000 CC, USED, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703700010	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASSENGER VEHICLES, DIESEL/ELEC, <1,500 CC, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703700030	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESE/ELEC, OV 1500 BT NT OV 2500 CC, NEW, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703700050	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS VEH, DIESL/ELEC, OV 1500 BT NT OV 2500 CC, USED, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703700070	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MOTOR VEH, DIESL/ELECTRIC, >2,500CC, NEW, NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703700090	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASS MOTOR VEH, DIESL/ELECTRI, >2,500 CC, USED, NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703800000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASSENGER MOTOR VEHICLES ONLY ELECTRC MOTOR, NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8703900100	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PASSENGER MOTOR VEHICLES, NESOI, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8706001520	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	CHASSIS FITTED W/ENG, FOR PASSENGER AUTOMOBILES, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8707100020	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	BODIES FOR PASSENGER AUTOS OF HEADING 8703, AND VALUED AT $50,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8711200000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	MOTORCYCLES (INCLUDING MOPEDS), CYCL, EXC50CC, NT250C, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
8711300000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	MOTORCYCLES (INCLUDING MOPEDS), CYCL, EXC250CC, NT500, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8711400000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	MOTORCYCLES, CYCL, EXC500, NT800CC, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8711500000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	MOTORCYCLES, CYCL, EXCD 800 CC, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8711600000	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	MOTORCYCLES (INCLUDING MOPED) ELECTRIC MOTOR, NESOI, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8711900100	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	MOTORCYCLES (INCLUDING MOPEDS), NESOI, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8714100010	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	SADDLES AND SEATS OF MOTORCYCLES, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
8714100090	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof.	PARTS, NESOI, OF MOTORCYCLES, AND VALUED AT $5,000 PER UNIT WHOLESALE PRICE IN THE U.S.
9020004000	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof.	UNDERWATER BREATHING DEVICES CARRIED ON PERSON, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101110000	Clocks and watches and parts thereof	WRST WATCH, ELEC OPER, PRECIOUS METAL, MECH DISPLAY, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101192000	Clocks and watches and parts thereof	WRIST WATCH, ELEC OPER, PRECIOUS METAL, OPTO-ELEC DSP, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101195000	Clocks and watches and parts thereof	WRIST WATCH, ELECTRICALLY OPER, PRECIOUS METAL, NES, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101210000	Clocks and watches and parts thereof	WRST WATCH, NT BATTERY, PRECIOUS METAL, AUTOMATIC, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101290000	Clocks and watches and parts thereof	WRIST WATCHE, NT BATTERY, PRECIOUS METAL W/O AUTOM, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101910000	Clocks and watches and parts thereof	OTH WATCH, PRECIOUS METAL, ELEC OPR, EXC WRST WATCH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9101990000	Clocks and watches and parts thereof	OTH WATCH, PRCS METAL, NT BATTERY, EXC WRIST WATCH, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9111100000	Clocks and watches and parts thereof	WTCH CASES, PRCS METAL OR METAL CLAD W PRCS METAL, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9111900000	Clocks and watches and parts thereof	PTS, WATCH CASES OF PRECIOUS METAL OR BASE METAL, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9113100000	Clocks and watches and parts thereof	WATCH BANDS ETC, OF PRCS METAL/METAL CLAD W PRCS MT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9201200000	Musical instruments; parts and accessories of such articles.	GRAND PIANOS.
9601100000	Miscellaneous manufactured articles	WORKED IVORY AND ARTICLES OF IVORY.
9601900000	Miscellaneous manufactured articles	BONE, HORN, CORAL, ETC & OTH ANIMAL CARVING MATERL.
9602004000	Miscellaneous manufactured articles	MOLDED OR CARVED ARTICLES OF WAX.
9603300000	Miscellaneous manufactured articles	ARTISTS BRUSHES, & SIMILAR BRUSHES FOR COSEMTICS.
9608300039	Miscellaneous manufactured articles	FOUNTAIN PENS, STYLOGRAPH PENS AND OTHER PENS, NESOI.
9616200000	Miscellaneous manufactured articles	POWDER PUFFS & PADS TO APPLY COSMETICS, TOILET PREP.
9701210000	Works of art, collectors' pieces and antiques	PAINTINGS, DRAWING AND PASTELS, OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9701220000	Works of art, collectors' pieces and antiques	MOSAICS OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

Schedule B	2-digit chapter heading	10-digit commodity description and per unit wholesale price in the U.S. if applicable
9701290000	Works of art, collectors' pieces and antiques	COLLAGES & SIMILAR DECORATIVE PLAQUES, OF AN EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9701910000	Works of art, collectors' pieces and antiques	PAINTINGS, DRAWING AND PASTELS, OF AN AGE NOT EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9701920000	Works of art, collectors' pieces and antiques	MOSAICS, OF AN AGE NOT EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9701990000	Works of art, collectors' pieces and antiques	COLLAGES & SIMILAR DECORATIVE PLAQUES, OF AN AGE NOT EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9702100000	Works of art, collectors' pieces and antiques	ORIGINAL ENGRAVINGS, PRINTS & LITHOGRAPHS, OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9702900000	Works of art, collectors' pieces and antiques	ORIGINAL ENGRAVINGS, PRINTS & LITHOGRAPHS, OF AN AGE NOT EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9703100000	Works of art, collectors' pieces and antiques	ORIGINAL SCULPTURES AND STATUARY, IN ANY MATERIAL, OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9703900000	Works of art, collectors' pieces and antiques	ORIGINAL SCULPTURES AND STATUARY, IN ANY MATERIAL, NOT OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9704000000	Works of art, collectors' pieces and antiques	POSTAGE OR REVENUE STAMPS, FIRSTDAY COVERS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705100000	Works of art, collectors' pieces and antiques	COLLECTIONS & CLLCTRS' PCS OF ARCH, ETHNO OR HIST INT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705210000	Works of art, collectors' pieces and antiques	HUMAN SPEC AND PARTS THEREOF, OF ZOO, BOT, MIN, ANA OR PALEO INT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705220000	Works of art, collectors' pieces and antiques	EXTINCT OR END SPECIES OR PARTS, OF ZOO, BOT, MIN, ANA, OR PALEO INT, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705290000	Works of art, collectors' pieces and antiques	COLLECTIONS & CLLCTRS' PCS OF ZOO, BOT, MIN, ANA, PALEO INT, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705310030	Works of art, collectors' pieces and antiques	GOLD NUMISMATIC (COLLECTORS') PIECES, OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705310060	Works of art, collectors' pieces and antiques	NUMISMATIC (COLLECTORS') PIECES, EXCEPT GOLD, OF AN AGE EXCEEDING 100 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705390030	Works of art, collectors' pieces and antiques	GOLD NUMISMATIC (COLLECTORS') PIECES, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9705390060	Works of art, collectors' pieces and antiques	NUMISMATIC (COLLECTORS') PIECES, EXCEPT GOLD, NESOI, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9706100000	Works of art, collectors' pieces and antiques	ANTIQUES OF AN AGE EXCEEDING 250 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.
9706900000	Works of art, collectors' pieces and antiques	ANTIQUES OF AN AGE EXCEEDING 100 YEARS BUT NOT EXCEEDING 250 YEARS, AND VALUED AT $300 PER UNIT WHOLESALE PRICE IN THE U.S.

■ 22. Supplement No. 6 to part 746 is added to read as follows:

Supplement No. 6 to Part 746—Items That Require a License for Export, Reexport, and Transfer (In-Country) to or Within Russia or Belarus Pursuant to § 746.5(a)(1)(iii)

The items identified in this supplement are a subset of items that are otherwise designated as EAR99 under the Commerce Control List (CCL) in supplement no. 1 to part 774. These items may be useful for Russia's chemical and biological weapons production capabilities or may be diverted from Belarus to Russia for these activities of concern. These items consist of discrete chemicals, biologics, fentanyl and its precursors, and related equipment. BIS has specified Chemical Abstract Numbers (CAS) where applicable in this supplement to assist exporters, reexporters, and transferors in classifying these items. In addition, paragraph (g) of supplement no. 6 to part 746 identifies equipment and other items that BIS has determined are not manufactured in Russia or are otherwise important to Russia in developing advanced production and development capabilities to enable advanced manufacturing across a number of industries or may be diverted from Belarus to Russia for these activities of concern.

(a) Chemicals in concentrations of 95% weight or greater, as follows:
(1) Ethylene dichloride (CAS 107–06–2);
(2) Nitromethane (CAS 75–52–5);
(3) Picric acid (CAS 88–89–1);
(4) Aluminum chloride (CAS 7446–70–0);
(5) Arsenic (CAS 7440–38–2);
(6) Arsenic trioxide (CAS 1327–53–3);
(7) Bis(2-chloroethyl)ethylamine hydrochloride (CAS 3590–07–6);
(8) Bis(2-chloroethyl)methylamine hydrochloride (CAS 55–86–7);
(9) Tris(2-chloroethyl)amine hydrochloride (CAS 817–09–4);
(10) Tributylphosphite (CAS 102–85–2);
(11) Isocyanatomethane (CAS 624–83–9);
(12) Quinaldine (CAS 91–63–4);
(13) 2-bromochloroethane (CAS 107–04–0);
(14) Benzil (CAS 134–81–6);
(15) Diethyl ether (CAS 60–29–7);
(16) Dimethyl ether (CAS 115–10–6);
(17) Dimethylaminoethanol (CAS 108–01–0);
(18) 2-methoxyethanol (CAS 109–86–4);
(19) Butyrylcholinesterase (BCHE);
(20) Diethylenetriamine (CAS 111–40–0);
(21) Dichloromethane (CAS 75–09–2);
(22) Dimethylaniline (CAS 121–69–7);
(23) Ethyl bromide (CAS 74–96–4);
(24) Ethyl chloride (CAS 75–00–3);
(25) Ethylamine (CAS 75–04–7);
(26) Hexamine (CAS 100–97–0);
(27) Isopropanol (CAS 67- 63–0);
(28) Isopropyl bromide (CAS 75–26–3);
(29) Isopropyl ether (CAS 108–20–3);
(30) Methylamine (CAS 74–89–5);
(31) Methyl bromide (CAS 74–83–9);
(32) Monoisopropylamine (CAS 75–31–0);
(33) Obidoxime chloride (CAS 114–90–9);
(34) Potassium bromide (CAS 7758–02–3);
(35) Pyridine (CAS 110–86–1);
(36) Pyridostigmine bromide (CAS 101–26–8);
(37) Sodium bromide (CAS 7647–15–6);
(38) Sodium metal (CAS 7440–23–5);
(39) Tributylamine (CAS 102–82–9);
(40) Triethylamine (CAS 121–44–8); or
(41) Trimethylamine (CAS 75–50–3).

(b) Chemicals in concentrations of 90% weight or greater, as follows:
(1) Acetone (CAS 67–64–1);
(2) Acetylene (CAS 74–86–2);
(3) Ammonia (CAS 7664–41–7);
(4) Antimony (CAS 7440–36–0);
(5) Benzaldehyde (CAS 100–52–7);
(6) Benzoin (CAS 119–53–9);
(7) 1-Butanol (CAS 71–36–3);
(8) 2-Butanol (CAS 78–92–2);
(9) Iso-Butanol (CAS 78–83–1);
(10) Tert-Butanol (CAS 75–65–0);
(11) Calcium carbide (CAS 75–20–7);
(12) Carbon monoxide (CAS 630–08–0);
(13) Chlorine (CAS 7782–50–5);
(14) Cyclohexanol (CAS 108–93–0);
(15) Dicyclohexylamine (CAS 101–83–7);
(16) Ethanol (CAS 64–17–5);
(17) Ethylene (CAS 74–85–1);
(18) Ethylene oxide (CAS 75–21–8);
(19) Fluoroapatite (CAS 1306–05–4);
(20) Hydrogen chloride (CAS 7647–01–0);
(21) Hydrogen sulfide (CAS 7783–06–4);
(22) Mandelic acid (CAS 90–64–2);
(23) Methanol (CAS 67–56–1);
(24) Methyl chloride (CAS 74–87–3);
(25) Methyl iodide (CAS 74–88–4);
(26) Methyl mercaptan (CAS 74–93–1);
(27) Monoethyleneglycol (CAS 107–21–1);
(28) Oxalyl chloride (CAS 79–37–8);
(29) Potassium sulfide (CAS 1312–73–8);
(30) Potassium thiocyanate (CAS 333–20–0);
(31) Sodium hypochlorite (CAS 7681–52–9);
(32) Sulphur (CAS 7704–34–9);
(33) Sulphur dioxide (CAS 7446–09–5);
(34) Sulphur trioxide (CAS 7446–11–9);
(35) Thiophosphoryl chloride (CAS 3982–91–0);
(36) Tri-isobutyl phosphite (CAS 1606–96–8);
(37) White phosphorus (CAS 12185–10–3); or
(38) Yellow phosphorus (CAS 7723–14–0).

(c) Fentanyl and its derivatives Alfentanil, Sufentanil, Remifentanil, Carfentanil, thiafentanil, and salts thereof.

Note 1 to paragraph (c): The items in paragraph (c) are from the EU list, as X.C.IX.002.

Note 2 to paragraph (c): Consistent with EU List X.C.IX.002, paragraph (c) does not control products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.

(d) Chemical precursors to Central Nervous System Acting Chemicals, as follows:
(1) 4-anilino-N-phenethylpiperidine (CAS 21409–26–7);
(2) N-phenethyl-4-piperidone (CAS 39742–60–4);
(3) Tert-butyl 4-(phenylamino) piperidine-1-carboxylate (CAS 125541–22–2);
(4) Norfentanyl (CAS 1609–66–1); or
(5) N-phenyl-4-piperidinamine (CAS 504–24–5).

Note 3 to paragraph (d): The items in paragraph (d) are from the EU list, as X.C.IX.003.

Note 4 to paragraph (d): Consistent with EU List X.C.IX.003, paragraph (d) does not control ''chemical mixtures'' containing one or more of the chemicals specified in paragraph (d) (and consistent with EU List entry X.C.IX.003) in which no individually specified chemical constitutes more than 1% by the weight of the mixture.

Note 5 to paragraph (d): Consistent with EU List X.C.IX.003, paragraph (d) does not control products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.

(e) Biologics: This paragraph (e) identifies certain biologics and biological equipment. The control on these items is intended to hinder Russia bioweapons production capabilities.

(1) Butyrylcholinesterase (BCHE);

(2) Cell culture materials, including cell lines, vectors, plasmids, and cell culture media, n.e.s.;

(3) Assay kits and reagents for nucleotide or peptide isolation, extraction, purification, or, n.e.s.;

(4) Nucleotides, oligonucleotides, and reagents for oligonucleotide synthesis, n.e.s.; or

(5) Amino acids, peptides, proteins, and resins and reagents for peptide synthesis, n.e.s.

(f) Equipment: This paragraph (f) identifies additional equipment that BIS

has determined is not manufactured in Russia. Therefore, the implementation of restrictive export controls on this equipment by the United States and our allies will economically impact Russia and significantly hinder Russia's CBW production capabilities.

(1) Reaction vessels, Fermenters, agitators, heat exchangers, condensers, pumps (including single seal pumps), valves, storage tanks, containers, receivers, and distillation or absorption columns, n.e.s.;

(2) Vacuum pumps with a manufacturer's specified maximum flow-rate greater than 1 m3/h (under standard temperature and pressure conditions), casings (pump bodies), preformed casing-liners, impellers, rotors, and jet pump nozzles designed for such pumps, in which all surfaces that come into direct contact with the chemicals being processed are made from controlled materials;

(3) Laboratory equipment, including parts and accessories for such equipment, for the analysis or detection, destructive or non-destructive, of chemical substances, n.e.s.;

(4) Whole chlor-alkali electrolysis cells (mercury, diaphragm, and membrane) and ''components'' ''specially designed'' therefor as follows:

(i) Electrodes;

(ii) Diaphragms; and

(iii) Ion exchange membranes;

(5) Compressors ''specially designed'' to compress wet or dry chlorine, regardless of material of construction;

(6) Class II biosafety cabinets and glove boxes, n.e.s.;

(7) Floor-mounted fume hoods (walk-in style) with a minimum nominal width of 2.5 meters, n.e.s.;

(8) Full face-mask air-purifying and air-supplying respirators n.e.s.;

(9) Conventional or turbulent air-flow clean-air rooms and self-contained fan-HEPA filter units that may be used for P3 or P4 (BSL 3, BSL 4, L3, L4) containment facilities;

(10) Microwave reactors;

(11) Well plates;

(12) Fermenters and components therefor, n.e.s.;

(13) Centrifuges capable of separating biological samples, with a maximum capacity of 5L, components and accessories therefor, n.e.s., including centrifuge tubes and concentrators;

(14) Filtration equipment capable of use in handling biological materials, n.e.s.;

(15) Nucleic acid synthesizers and assemblers, n.e.s.;

(16) Polymerase chain reaction (PCR) instruments;

(17) Robotic liquid handling instruments, n.e.s.;

(18) Chromatography and spectrometry components, parts and accessories;

(19) Nucleic acid sequencers, n.e.s.;

(20) Aerosol inhalation testing equipment, components, parts and accessories, n.e.s.;

(21) Flow cytometry equipment, components, parts and accessories, n.e.s.;

(22) Probe sonicators, cell disruptors and tissue homogenizers; or

(23) 'Continuous flow reactors' and their 'modular components'.

Technical Notes for paragraph (f)(23): 1. Consistent with EU List X.B.X.001, for purposes of paragraph (f)(23) 'continuous flow reactors' consist in plug and play systems where reactants are continuously fed into the reactor and the resultant product is collected at the outlet.

2. Consistent with EU List X.B.X.001, for purposes of paragraph (f)(23) 'modular components' are fluidic modules, liquid pumps, valves, packed-bed modules, mixer modules, pressure gauges, liquid-liquid separators, etc.

(g) Quantum computing and advanced manufacturing: This paragraph (g) identifies additional equipment and other items that are believed to not be manufactured in Russia or are otherwise important to Russia in developing advanced production and development capabilities.

(1) 'Quantum Computers', and ''specially designed'' ''electronic assemblies'' and ''components'' therefor, as follows:

(i) Quantum processing units, qubit circuits, and qubit devices;

(ii) Quantum control ''components'' and quantum measurement devices.

Note 6 to paragraph (g)(1): For purposes of this entry, 'Quantum Computers' perform computations that harness the collective properties of quantum states, such as superposition, interference and entanglement. It applies to circuit model (or gate-based) and adiabatic (or annealing).

Note 7 to paragraph (g)(1): Quantum processing units, qubit circuits and qubit devices include but are not limited to semiconductor, superconducting, Ion Trap, photonic interaction, silicon/spin, cold atoms.

Note 8 to paragraph (g)(1): Quantum control ''components'' and quantum measurement devices applies to items designed for calibrating, initializing, manipulating or measuring the resident qubits of a quantum computer.

(2) 'Cryogenic refrigeration systems' designed to maintain temperatures below 1.1k for 48hrs or more and ''specially designed'' cryogenic refrigeration equipment and ''components'' as follows:

(i) Pulse Tubes;

(ii) Cryostats;

(iii) Dewars;

(iv) Gas Handling System (GHS);

(v) Compressors;

(vi) Control Units;

Note 9 to paragraph (g)(2): 'Cryogenic refrigeration systems' include but are not limited to Dilution Refrigeration, Adiabatic Demagnisation Refrigerators and Laser Cooling Systems.

(3) Ultra-High Vacuum (UHV) equipment as follows:

(i) UHV pumps (sublimation, turbomolecular, diffusion, cryogenic, ion-getter);

(ii) UHV pressure gauges.

Note 10 to paragraph (g)(3): UHV means 100 nanoPascals (nPa) or lower.

(4) High Quantum Efficiency (QE) photodetectors and sources with a QE greater than 80% in the wavelength range exceeding 300nm but not exceeding 1700nm;

(5) Manufacturing equipment as follows:

(i) Additive manufacturing equipment for the production of metal parts;

Note 11 to paragraph (g)(5)(i): This entry identified under paragraph (5)(i) only applies to the following systems:

1. Powder-bed systems using Selective Laser Melting (SLM), laser cusing; Direct Metal Laser Sintering (DMLS) or Electron Beam Melting (ELB), or

2. Powder-fed systems using laser cladding, direct energy deposition or laser metal deposition.

(ii) Additive manufacturing equipment for ''energetic materials'', including equipment using ultrasonic extrusion;

(iii) Vat photopolymerisation additive manufacturing equipment using Stereo Lithography (SLA) or Direct Light Processing (DLP)

(6) Metal powders and metal alloy powders ''specially designed'' for the additive manufacturing equipment specified in 3a.

(7) Microscopes, related equipment and detectors, as follows:

(i) Scanning Electron Microscopes (SEM);

(ii) Scanning Auger Microscopes;

(iii) Transmission Electron Microscopes (TEM);

(iv) Atomic Force Microscopes (AFM);

(v) Scanning Force Microscopes (SFM);

(vi) Equipment and detectors ''specially designed'' for use with the microscopes specified in a. to e., employing any of the following:

(A) X-ray Photo Spectroscopy (XPS):

(B) Energy-Dispersive X-ray Spectroscopy (EDX, EDS);

(C) Electron Back Scatter Detector (EBSD) systems;

(D) Electron Spectroscopy for Chemical Analysis (ESCA).

(8) 'Decapsulation' equipment for semiconductor devices.

Note 12 to paragraph (g)(8): 'Decapsulation' is the removal of a cap, lid, or encapsulating material from a packaged integrated circuit by mechanical, thermal, or chemical methods.

(9) ''Software'' ''specially designed'' or modified for the ''development'', ''production'' or ''use'' of the items specified in paragraphs (g)(1) through (8) of this supplement.

(10) ''Software'' for Digital Twins (DT) of additive manufacture products or for the determination of the reliability of additive manufacture products.

(11) ''Technology'' for the ''development'', ''production'' or ''use'' of the items specified in paragraphs (g)(1) through (10) of this supplement.

PART 762—RECORDKEEPING

■ 22. The authority citation for part 762 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 23. Section 762.1 is amended by revising paragraph (a)(2) to read as follows:

§ 762.1 Scope.

(a) * * *

(2) Exports of commodities, software, or technology from the United States and any known reexports, transfers (in-country), transshipment, or diversions of items exported from the United States;

* * * * *

■ 24. Section 762.6 is amended by revising paragraph (a)(2) to read as follows:

§ 762.6 Period of retention.

(a) * * *

(2) Any known reexport, transfer (in-country), transshipment, or diversion of such item;

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2022–19910 Filed 9–15–22; 8:45 am]

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Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 32
2022–2023 Station-Specific Hunting and Sport Fishing Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

[Docket No. FWS–HQ–NWRS–2022–0055; FXRS12610900000–223–FF09R20000]

RIN 1018–BF66

2022–2023 Station-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Consistent with the steadfast commitment to allowing access to our National Wildlife Refuges and continued efforts to provide hunting and fishing opportunities, we, the U.S. Fish and Wildlife Service (Service), open, for the first time, two National Wildlife Refuges (NWRs, refuges) that are currently closed to hunting and sport fishing. In addition, we open or expand hunting or sport fishing at 16 other NWRs and add pertinent station-specific regulations for other NWRs that pertain to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing for the 2022–2023 season. We also make changes to existing station-specific regulations in order to reduce the regulatory burden on the public, increase access for hunters and anglers on Service lands and waters, and comply with a Presidential mandate for plain language standards. Finally, while the Service continues to evaluate the future of lead use in hunting and fishing on Service lands and waters, we do not plan to offer any hunting and fishing opportunities that would allow for the indefinite use of lead ammunition and tackle on the refuges included in this year's rulemaking. In this final rule, Patoka River NWR will require non-lead ammunition and tackle by fall 2026, and this refuge-specific regulation will take effect on September 1, 2026. As part of the 2023–2024 proposed rule, Blackwater, Chincoteague, Eastern Neck, Erie, Great Thicket, Patuxent Research Refuge, Rachel Carson, and Wallops Island NWRs will propose a non-lead requirement, which would take effect on September 1, 2026.

DATES: This rule is effective September 15, 2022, except for the amendment to 50 CFR 32.33(c)(1)(iii), which is effective September 1, 2026.

ADDRESSES: This rule and its supporting documents are available on *https://www.regulations.gov* under Docket No. FWS–HQ–NWRS–2022–0055.

Information collection requirements: Written comments and suggestions on the information collection requirements may be submitted at any time to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference ''OMB Control Number 1018–0140''.

FOR FURTHER INFORMATION CONTACT: Kate Harrigan, (703) 358–2440.

SUPPLEMENTARY INFORMATION:

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended (Administration Act), closes NWRs in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that the use is compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

We annually review hunting and sport fishing programs to determine whether to include additional stations or whether individual station regulations governing existing programs need modifications. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to station-specific regulations to ensure the continued compatibility of hunting and sport fishing programs and to ensure that these programs will not materially interfere with or detract from the fulfillment of station purposes or the Refuge System's mission.

Provisions governing hunting and sport fishing on refuges are in title 50 of the Code of Federal Regulations at part 32 (50 CFR part 32), and on hatcheries at part 71 (50 CFR part 71). We regulate hunting and sport fishing to:

- Ensure compatibility with refuge and hatchery purpose(s);
- Properly manage fish and wildlife resource(s);
- Protect other values;
- Ensure visitor safety; and
- Provide opportunities for fish- and wildlife-dependent recreation.

On many stations where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate in meeting these objectives. On other stations, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under Statutory Authority, below. We issue station-specific hunting and sport fishing regulations when we open wildlife refuges and fish hatcheries to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations may list the wildlife species that you may hunt or fish; seasons; bag or creel (container for carrying fish) limits; methods of hunting or sport fishing; descriptions of areas open to hunting or sport fishing; and other provisions as appropriate.

Statutory Authority

The Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act; Pub. L. 105–57), governs the administration and public use of refuges, and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) governs the administration and public use of refuges and hatcheries.

Amendments enacted by the Improvement Act were built upon the Administration Act in a manner that provides an ''organic act'' for the Refuge System, similar to organic acts that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The Administration Act states first and foremost that we focus our Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible with the purpose for which the refuge was established and the mission of the Refuge System. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the

American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses as the priority general public uses of the Refuge System. These uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System and Hatchery System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge or hatchery lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop station-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge or hatchery and the Refuge and Hatchery System mission. We ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired land through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR parts 32 and 71. We ensure continued compliance by the development of comprehensive conservation plans and step-down management plans, and by annual review of hunting and sport fishing programs and regulations.

Summary of Comments and Responses

On June 9, 2022, we published in the **Federal Register** (87 FR 35136) a proposed rule to open and expand hunting and fishing opportunities at 19 refuges for the 2022–2023 season. We accepted public comments on the proposed rule for 60 days, ending August 8, 2022. By that date, we received more than 48,000 comments on the proposed rule. More than 75 percent of these comments were form letters or otherwise identical duplicates of other comments on the proposed rule. We discuss the remaining unique comments we received below by topic. Beyond our responses below, additional station-specific information on how we responded to comments on particular hunting or fishing opportunities at a given refuge or hatchery can be found in that station's final hunting and/or fishing package, each of which can be located in the docket for this rule.

Comment (1): We received several comments expressing general support for the proposed changes in the June 9, 2022, rule. These comments of general support either expressed appreciation for the increased hunting and fishing access in the rule overall, expressed appreciation for increased access at particular refuges, or both. In addition to this general support, some commenters requested additional hunting and fishing opportunities.

Our Response: Hunting and fishing on Service lands is a tradition that dates back to the early 1900s. In passing the Improvement Act, Congress reaffirmed that the Refuge System was created to conserve fish, wildlife, plants, and their habitats, and would facilitate opportunities for Americans to participate in compatible wildlife-dependent recreation, including hunting and fishing on Refuge System lands. We prioritize wildlife-dependent recreation, including hunting and fishing, when doing so is compatible with the purpose of the refuge and the mission of the Refuge System.

We will continue to open and expand hunting and sport fishing opportunities across the Refuge System; however, as detailed further in our response to *Comment (2),* below, opening or expanding hunting or fishing opportunities on Service lands is not a quick or simple process. The annual regulatory cycle begins in June or July of each year for the following hunting and sport fishing season (the planning cycle for this 2022–2023 final rule began in June 2021). This annual timeline allows us time to collaborate closely with our State, Tribal, and Territorial partners, as well as other partners including nongovernmental organizations, on potential opportunities. It also provides us with time to complete environmental analyses and other requirements for opening or expanding new opportunities. Therefore, it would be impracticable for the Service to complete multiple regulatory cycles in one calendar year due to the logistics of coordinating with various partners. Once we determine that a hunting or sport fishing opportunity can be carried out in a manner compatible with individual station purposes and objectives, we work expeditiously to open it.

We did not make any changes to the rule as a result of these comments.

Comment (2): Several commenters expressed general opposition to any hunting or fishing in the Refuge System. Some of these commenters stated that hunting was antithetical to the purposes of a ''refuge,'' which, in their opinion, should serve as an inviolate sanctuary for all wildlife. The remaining commenters generically opposed expanded or new hunting or fishing opportunities at specific stations.

Our Response: The Service prioritizes facilitating wildlife-dependent recreational opportunities, including hunting and fishing, on Service land in compliance with applicable Service law and policy. For refuges, the Administration Act, as amended, stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found to be compatible, is a legitimate and priority general public use of a refuge and should be facilitated (16 U.S.C. 668dd(a)(3)(D)). Thus, we only allow hunting of resident wildlife on Refuge System lands if such activity has been determined compatible with the established purpose(s) of the refuge and the mission of the Refuge System as required by the Administration Act. For all 18 stations opening and/or expanding hunting and/or fishing in this rule, we determined that the proposed actions were compatible.

Each station manager makes a decision regarding hunting and fishing opportunities only after rigorous examination of the available information, consultation and coordination with States and Tribes, and compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), as well as other applicable laws and regulations. The many steps taken before a station opens or expands a hunting or fishing opportunity on the refuge ensure that the Service does not allow any opportunity that would compromise the purpose of the station or the mission of the Refuge System.

Hunting of resident wildlife on Service lands generally occurs consistent with State regulations, including seasons and bag limits. Station-specific hunting regulations can be more restrictive (but not more liberal) than State regulations and often are more restrictive in order to help meet specific refuge objectives. These objectives include resident wildlife

population and habitat objectives, minimizing disturbance impacts to wildlife, maintaining high-quality opportunities for hunting and other wildlife-dependent recreation, minimizing conflicts with other public uses and/or refuge management activities, and protecting public safety.

The word ''refuge'' includes the idea of providing a haven of safety as one of its definitions, and as such, hunting might seem an inconsistent use of the Refuge System. However, again, the Administration Act stipulates that hunting, if found compatible, is a legitimate and priority general public use of a wildlife refuge. Furthermore, we manage refuges to support healthy wildlife populations that in many cases produce harvestable surpluses that are a renewable resource. As practiced on refuges, hunting and fishing do not pose a threat to wildlife populations. It is important to note that taking certain individuals through hunting does not necessarily reduce a population overall, as hunting can simply replace other types of mortality. In some cases, however, we use hunting as a management tool with the explicit goal of reducing a population; this is often the case with exotic and/or invasive species that threaten ecosystem stability. Therefore, facilitating hunting opportunities is an important aspect of the Service's roles and responsibilities as outlined in the legislation establishing the Refuge System, and the Service will continue to facilitate these opportunities where compatible with the purpose of the specific refuge and the mission of the Refuge System.

We did not make any changes to the rule as a result of these comments.

Comment (3): We received comments from five individual State agencies, across four States, and the Association of Fish and Wildlife Agencies on the proposed rule. The Oregon Department of Fish and Wildlife expressed support for the proposed rule, with a focus on Baskett Slough NWR, without additional comments. The Pennsylvania Fish and Boat Commission expressed support for the proposed rule, with a focus on Erie NWR and including support for the Service's plan to require non-lead tackle use by fall 2026, and the Pennsylvania Game Commission expressed support for the proposed rule, with a focus on Erie NWR, and also urged the Service to inform hunters about the need for feral hog eradication and reporting requirements for feral hog. The Virginia Department of Wildlife Resources expressed general support for the proposed rule and increased access, but also requested the opening of Sunday hunting to align with a recent change in State laws, clarification on regulations concerning the use of hunting dogs and broader allowance of hunting dog use, more specific terminology to describe State law enforcement, and clarification about the information we will provide to hunters and anglers about non-lead ammunition and tackle, and expressed concerns about the Service's approach to refuge-specific plans to require non-lead use and improved coordination between the Virginia Department of Wildlife Resources and the Service. The West Virginia Department of Wildlife Resources expressed support for the increased access through the rule, with a focus on Canaan Valley NWR, but expressed concern about the requirements to use non-lead ammunition under consideration for Canaan Valley NWR and requested that we remove the proposed requirement to harvest a doe prior to harvesting a buck in the Canaan Valley NWR deer hunt. The Association of Fish and Wildlife Agencies expressed general support for increased access for hunters and anglers, but expressed concern about the nine individual refuges considering requirements for non-lead ammunition and non-lead tackle by fall 2026; expressed a desire for collaboration between the Service and State agencies in shaping ''challenging'' policies such as the use of lead ammunition and tackle; and requested consideration of additional hunting and fishing access on Refuge System lands and waters in Alaska.

Our Response: The Service appreciates the support of, and is committed to working with, our State partners to identify additional opportunities for expansion of hunting and sport fishing on Service lands and waters. We welcome and value State partner input on all aspects of our hunting and fishing programs.

In response to the Pennsylvania Game Commission, we agree that it is important to inform hunters about the need for feral hog eradication and reporting requirements for feral hog. We will do so through our existing informational and educational materials for hunters, as appropriate.

In response to the Virginia Department of Wildlife Resources, the Service will make some, but not all, requested changes, and we are committed to continued collaboration and coordination. As to Sunday hunting, the change to Virginia law happened too recently for Sunday hunting changes to have been incorporated into the proposed rule. Now that the Service has been able to consider Sunday hunting for refuges in this rulemaking, the Service will allow Sunday hunting on Wallops Island NWR but will not allow Sunday hunting at Chincoteague NWR as it would not be compatible with other uses of the refuge.

As to the use of hunting dogs, the Service will revise our regulations for the Virginia refuges in this final rule to clarify that hunting dogs can be used for migratory bird hunting for all appropriate tasks (*e.g.,* flushing, pointing), not only retrieval. The Service will not, however, expand the use of hunting dogs beyond migratory bird hunting to include other upland game or big game because this limitation on dog use is necessary to protect species of concern, including Delmarva fox squirrel (*Sciurus niger cinereus*). Additionally, the Service is not making any changes to current regulations concerning where hunting dogs are allowed (*i.e.,* no pets, including hunting dogs, are allowed on the Assateague Island portion of Chincoteague NWR).

As to terminology for State law enforcement, the Service has updated our hunt planning documents to refer specifically to Conservation Police Officers for the refuges in Virginia in this rulemaking. We will also use this terminology going forward for planning at Virginia refuges.

As to the topic of lead use generally, the Service values the Virginia Department of Wildlife Resources' input and continued coordination. First, the Service's plan to require non-lead ammunition by fall 2026 at two individual refuges in Virginia, which the Service will propose in next year's rulemaking, fits the criteria that the Virginia Department of Wildlife Resources suggests because the planned requirements are both refuge-specific and supported by science. This is true for all nine refuges where the Service has finalized or will propose non-lead ammunition and non-lead tackle requirements. Second, the Virginia Department of Wildlife Resources is correct that our hunter and angler education will include both information about the benefits of using non-lead ammunition and tackle and information about best practices for hunters and anglers to follow that can reduce the risk of lead impacts to wildlife (*e.g.,* removing or burying gut piles). Finally, we agree that further conversations between the Virginia Department of Wildlife Resources and the Service are beneficial, needed, and welcomed. The Service developed the opportunities in this rulemaking in discussion with the Virginia Department of Wildlife Resources and in the interest of the people of Virginia. Going forward, the

Service will continue to work with the Virginia Department of Wildlife Resources in shaping all of our proposed opportunities for the next annual rulemaking, including planned regulations that will require the use of non-lead ammunition and tackle at Chincoteague and Wallops Island NWRs by fall 2026, and will continue to coordinate and partner with the Virginia Department of Wildlife Resources on all of our future regulations affecting Service lands and waters within Virginia.

In response to the West Virginia Department of Wildlife Resources' request, we have withdrawn all of the proposed changes for hunting and fishing at Canaan Valley NWR, including the prioritization of does over bucks in deer hunting. The Service may revisit all or some of the proposed changes in a future rulemaking, but at this time further discussion and coordination with the State is necessary.

In response to the Association of Fish and Wildlife Agencies, we have not made any modifications to the rule. On the topic of lead ammunition and tackle use, see our response to *Comment (6),* below, for our responses to the reasoning of the Association and other commenters for their opposition to our plan to require non-lead ammunition and tackle by fall 2026 at nine individual refuges. On the topic of collaboration with State agencies in determining the regulations and policies governing lead ammunition and tackle use on the Refuge System, we welcome such coordination and collaboration. The non-lead requirement at Patoka River NWR that we are implementing through this rulemaking and the planned non-lead use requirement that we will propose in next year's rulemaking for the eight individual refuges, all effective in the fall of 2026, were shaped with consideration of involved discussions with State agencies throughout the process. Going forward, we will continue to invite input and involvement from our State partners as we continue to evaluate the future of lead use on Service lands and waters as the first step in an open and transparent process of finding the best methods of addressing lead's impact to human and ecological health. On the topic of Alaska, we note that a key difference from other States is that refuges in Alaska are open to all hunting and fishing uses until closed under the Alaska National Interest Lands Conservation Act (ANILCA; 16 U.S.C. 3111–3126). Where we have closed opportunities or limited the use in comparison to State regulations, we promulgate those regulations under 50 CFR part 36. We work closely with the Alaska Department of Fish and Game when making these determinations and in assessing the continued need for regulations.

Comment (4): We received a comment from the Mi'kmaq Nation that focused on Rachel Carson NWR and Great Thicket NWR. The comment expressed no concerns about the proposed rule content and inquired about cultural use and hunting access for Tribal members.

Our Response: The Service appreciates the support of our Tribal partners and is committed to working with our Tribal partners. As noted in the November 2021 Joint Secretarial Order (S.O. 3403), the Department of the Interior is committed, alongside the Department of Agriculture, to fulfilling our trust responsibility to Tribes in our management of Federal lands and waters. The Service seeks input from Tribes throughout our hunting and fishing rulemaking processes and welcomes every opportunity to coordinate with Tribal leaders.

In response to the Mi'kmaq Nation comment, we look forward to further discussion and coordination on cultural use and access.

Comment (5): The majority of commenters expressed concern over the use of lead ammunition and/or lead fishing tackle on Service lands and waters. This included multiple campaigns of duplicate comments and totaled over 30,500 comments. Nearly all of these commenters expressed support for the nine refuges in this rulemaking, which are requiring or planning to require non-lead ammunition and non-lead tackle by fall 2026. Some of these commenters urged the Service to reduce the length of the contemplated 4-year lead use period before the 2026 effective date of the refuge-specific non-lead requirements. Most of these commenters urged the Service to eliminate, whether immediately or after a set transition period, the use of lead ammunition and tackle throughout the Refuge System. Many commenters expressed concerns about raptor species, including the bald eagle (*Haliaeetus leucocephalus*), and other species that scientific studies have shown to be especially susceptible to adverse health impacts from lead ammunition and tackle. One commenter urged the Service to mitigate potential impacts to anglers from non-lead tackle requirements through means such as partnering with fishing tackle retailers.

Our Response: The Service appreciates the concerns from commenters about the issue of bioavailability of lead in the environment and is aware of the potential impacts of lead on fish and wildlife. See, for example, the recent study from the U.S. Geological Survey (USGS) with Service collaboration, Vincent Slabe, et al. ''Demographic implications of lead poisoning for eagles across North America,'' which is available online at *https://www.usgs.gov/news/national-news-release/groundbreaking-study-finds-widespread-lead-poisoning-bald-and-golden.* Accordingly, the Service pays special attention to species susceptible to lead uptake and to sources of lead that could impact ecological and human health.

Historically, the principal cause of lead poisoning in waterfowl was the high densities of lead shot in wetland sediments associated with migratory bird hunting activities (Kendall et al. 1996). In 1991, as a result of high bird mortality, the Service instituted a nationwide ban on the use of lead shot for hunting waterfowl and coots (see 50 CFR 32.2(k)). However, lead ammunition is still used for other types of hunting, and lead tackle is used for fishing on private and public lands and waters, including within the Refuge System.

Due to the continued lead use outside of waterfowl hunting, there remains concern about the bioavailability of spent lead ammunition (bullets) and fishing tackle on the environment, the health of fish and wildlife, and human health. The Service is aware of fish and wildlife species, including endangered and threatened species, that are susceptible to biomagnification of lead from their food sources or secondhand through the food ingested by their food sources. There is also evidence that some species are susceptible to direct ingestion of lead ammunition or tackle due to their foraging behaviors. For example, the Service recognizes that ingested lead fishing tackle has been found to be a leading cause of mortality in adult common loons (Grade, T. et al., 2017, in Population-level effects of lead fishing tackle on common loons. The Journal of Wildlife Management 82(1): pp. 155–164). The impacts of lead on human health and safety have been a focus of several scientific studies. We are familiar with studies that have found the ingestion of animals harvested via the use of lead ammunition increased levels of lead in the human body (*e.g.,* Buenz, E. (2016). Lead exposure through eating wild game. American Journal of Medicine, 128: p. 458).

It is because of lead's potential for ecological health impacts that in this rulemaking the Service has, as stated in the proposed rule, taken a ''measured

approach in not adding to the use of lead on refuge lands'' (see 87 FR 35136, June 9, 2022, at p. 35136). The opportunities in this final rule either do not involve the use of ammunition or tackle (*i.e.,* archery hunting), require the use of non-lead ammunition or tackle, or are being authorized at refuges that will require the use of non-lead ammunition or tackle by fall 2026. This measured approach is also part of the Service's larger commitment to evaluating the use of lead in order to determine what is the best course for the future of lead use throughout the Refuge System, whether lead use is addressed going forward through non-lead requirements or a different method (or methods), including, but not limited to, national action, individual refuge actions, or some combination.

In response to commenters' position that 4 years is too long for non-lead use requirements at individual stations to take effect, the Service did not make any changes to the rule. Each individual station that will require or is planning to require non-lead ammunition and tackle starting in fall 2026 determined that this timing would best serve the refuge's objectives, capacities, purposes, and mission. These determinations were made to the exclusion of both shorter and longer time frames for hunters, and anglers as appropriate, to transition to the use of non-lead equipment. These determinations were made with consideration of all impacted parties (*e.g.,* refuge wildlife, hunters and anglers, other visitors, refuge law enforcement) and balancing the Service's interest in reducing the potential for adverse lead impacts against the Service's interest in not placing an undue compliance burden on hunters and anglers. If, in the future, the Service sets any non-lead requirement timetables for one or more refuges, we will similarly consider the input of all relevant stakeholders and the impacts of our decision on all relevant stakeholders as we weigh the competing interests and reach the determination that best serves the public interest.

In response to the commenters' suggestion that the Service partner with fishing tackle retailers, the Service recognizes that private companies have a role to play in hunters and anglers transitioning from the use of lead to the use of non-lead alternatives and we appreciate anything that manufacturers, retailers, and other industry participants can do to make using non-lead alternatives for both tackle and ammunition easier for hunters and anglers. The Service is open to input from and appropriate coordination with private industry as part of a transparent process in determining the future of lead use on Service lands and waters and meeting the needs of hunters and anglers.

In response to the commenters urging the Service to eliminate the use of lead ammunition and fishing tackle throughout the Refuge System, the Service is committed to doing what best serves the public interest and our conservation mission, including facilitating compatible wildlife-dependent recreational hunting and fishing. As we committed to do in our 2021–2022 rulemaking (see 86 FR 48822, August 31, 2021, at p. 48830), the Service has been evaluating and is continuing to evaluate lead use in hunting and fishing on Service lands and waters. As indicated in our proposed rule (see 87 FR 35136, June 9, 2022, at p. 35136), the reason this rule is crafted such that it is not expected to add to the use of lead on refuges beyond 2026 is so that the Service can continue to evaluate the future of lead use and to seek input from partners as we conduct a transparent process to determine what actions and methods are appropriate for addressing lead's potential for adverse environmental and ecological health impacts.

We did not make any changes to the rule as a result of these comments.

Comment (6): A substantial number of commenters expressed opposition to the Service requiring the use of non-lead ammunition and/or fishing tackle on Service lands and waters. This included multiple campaigns of duplicate comments and totaled over 16,700 comments. Many of these commenters simply expressed a general opposition to the concept of such requirements at the nine refuges implementing or planning to propose non-lead use requirements and/or at any refuge, but the rest put forward one or more points in arguing against non-lead ammunition and/or tackle requirements. The dozen concerns collectively expressed by these more substantive comments are addressed in *Comment (7)* through *Comment (19),* below.

Our Response: The Service has allowed, and with the promulgation of this rule continues to allow, the use of lead ammunition and/or tackle in hunting and sport fishing in the Refuge System. The vast majority of stations and the vast majority of individual hunting and fishing opportunities currently permit lead use, which is in keeping with our general alignment to State regulations, as the vast majority of States permit the use of lead ammunition and tackle. Lead ammunition and tackle are currently allowed where we have previously determined the activity is not likely to result in dangerous levels of lead exposure. However, the Service has made clear that we take the issue of lead use seriously, and as the stewards of the Refuge System, we are evaluating what is best for the resources belonging to the American public regarding the future use of lead ammunition and tackle on Service lands and waters. The best available science, analyzed as part of this rulemaking, demonstrates that lead ammunition and tackle have negative impacts on both human health and wildlife, and those impacts are more acute for some species.

We did not make any changes to the rule as a result of these comments.

Comment (7): Many of the comments opposed to regulations concerning the use of lead ammunition and tackle questioned the sufficiency of scientific support for non-lead requirements. Some of the commenters also claimed there is a lack of scientific evidence of ''population-level'' lead impacts and this means non-lead requirements are unwarranted, including one comment suggesting that ''population-level'' impact requires ''a species-specific population decline.''

Our Response: We refer commenters concerned about scientific evidence in support of the rulemaking to the analyses of environmental impacts in the NEPA and ESA section 7 documentation for each refuge in the rulemaking. In particular, see the documents for Patoka River NWR where a non-lead requirement, with an effective date in fall 2026, is being added to our regulations. For our NEPA and ESA Section 7 analyses, we considered peer-reviewed scientific studies evaluating the impacts of lead to humans, to wildlife generally, and to specific species—including endangered and threatened species and species especially susceptible to lead ammunition or tackle exposure. While this evidence is not determinative as to whether non-lead ammunition and tackle should be required in all cases, given the full range of factors to consider on the topic of lead use, it is inaccurate to claim that there is no scientific evidence of adverse impacts to human or ecological health from lead ammunition and tackle or that the Service has not presented such evidence as part of this rulemaking in support of the intentions of the nine individual refuges that plan to require use of non-lead by fall 2026. Each refuge in this rule used the best available science and the expertise and sound professional judgment of refuge staff to determine that our management strategies, including promulgated and intended

non-lead requirements, are based in sound science and the specific circumstances of that individual refuge.

Moreover, we also reject the related claim that scientific evidence of so-called ''population-level'' impacts to wildlife is both a prerequisite to Service action and lacking in the available science. Depending on the situation, we may manage wildlife at the ''population level'' or at the ''individual level,'' such as acting to protect endangered and threatened species, since their listed status may make the health of each individual important to preventing extinction. Similarly, depending on the situation, we may adopt regulations, policies, or practices that respond to or prevent adverse impacts at the population level or to individual animals and plants. In fact, there are clear cases where we need to act preventatively or early to control invasive species, pests, or animal diseases, since they are much more difficult to eradicate when there is ''population-level'' damage. ''Population-level'' impacts are not necessary for regulation to the exclusion of any other factors, although in the past the Service and others have regulated lead use based, at least in part, on addressing impacts to whole populations, as demonstrated impacts to waterfowl populations and the population of California condors prompted the 1991 nationwide prohibition on waterfowl hunting with lead ammunition and the 2019 prohibition on hunting with lead ammunition in California, respectively. In any case, the scientific literature demonstrates that lead use has ''population-level'' impacts.

There is evidence of population-level impacts and potential population-level impacts to waterfowl and upland game bird species from lead fishing tackle and lead ammunition through direct ingestion. Lead fishing tackle presents a risk of lead poisoning to many waterfowl species, including loons and swans (Pokras and Chafel 1992; Rattner et al. 2008; Strom et al. 2009). The primary concerns are discarded whole or fragmented lead sinkers, as well as other lead tackle and even lead ammunition released into the water, that rest on river and lake bottoms where diving birds ingest them alongside pebbles, as pebbles are necessary to break down food through grinding in their digestive systems. This results in lead poisoning because the grinding action breaks down the pieces of ingested lead into fine lead particles inside of the birds that can then enter their blood streams. Studies have consistently found impacts of ingested lead fishing tackle are a leading cause of mortality in adult common loons (Pokras and Chafel 1992; Scheuhammer and Norris 1995; Franson et al. 2003; Pokras et al. 2009; Grade et al. 2017; Grade et al. 2019). Strom, et al., assessed lead exposure in Wisconsin birds and found that approximately 25 percent of the trumpeter swan fatalities from 1991 through 2007 were attributed to ingested lead (Strom et al. 2009). Also, lead ammunition discarded on land presents a similar risk of lead poisoning from upland game birds swallowing discarded ammunition alongside the pebbles they use for digestion.

Another source of population-level impacts and potential population-level impacts from lead is indirect ingestion by birds of prey and other scavengers from consuming animals shot with lead ammunition. The primary concerns for birds of prey are lead fragments from lead ammunition that remains in the carcasses and gut piles of hunted animals that are scavenged by these birds. The fine fragments of lead, observable in x-rays of harvested game animals, are ingested because they are embedded in the meat and other animal tissues being scavenged and then enter the digestive systems and blood streams of the birds of prey. Many studies have looked at the impacts of this lead exposure to eagle health (see, *e.g.,* Kramer and Redig 1997; O'Halloran et al. 1998; Kelly and Kelly 2005; Golden et al. 2016; Hoffman 1985a, 1985b; Pattee 1984; Stauber 2010). This includes the recent study, published in 2022, from the USGS with Service collaboration, Vincent Slabe, et al. ''Demographic implications of lead poisoning for eagles across North America,'' which is available online at *https://www.usgs.gov/news/national-news-release/groundbreaking-study-finds-widespread-lead-poisoning-bald-and-golden.* This study explicitly finds that lead poisoning is ''causing population growth rates to slow for bald eagles by 3.8 percent and golden eagles by 0.8 percent annually.'' These growth slowing impacts to populations are statistically significant and, in the case of bald eagles, are occurring for a species that was previously endangered and is still in the process of recovering to historical levels. Thus, it is inaccurate to claim there are not known ''population-level'' impacts from lead use.

One commenter proposes a definition that would leave out these effects to eagles in claiming that ''population-level'' impact requires ''a species-specific population decline.'' This definition, however, is flawed in specifying that a species must be in overall decline because overall decline tells us nothing about the amount of impact, and even the amount of impact must be considered in a larger context. First, the exact same size of adverse impact from lead use to a population can be present whether the species is in decline, stable, or growing overall because many other factors impact populations. To illustrate, a − 3 percent impact to a species from lead could reduce growth if other factors produce 5 percent growth (5 − 3 = 2); could prevent growth if other factors produce 3 percent growth (3 − 3 = 0); and could increase decline if other factors produce a 1 percent decline (−1 − 3 = −4). Second, for similar reasons, in the case of impacts of different sizes there could be a larger impact to a species experiencing overall growth than to a species experiencing an overall decline. To illustrate, a large −5 percent impact might not be part of an overall decline, such as when the species would otherwise be growing at 7 percent (7 − 5 = 2), while a smaller −0.01 percent impact might be part of an overall decline, such as when the species would otherwise be declining at −3 percent (−3 − 0.01 = −3.01). Thus, overall decline alone tells us nothing about the impact of lead use, or any other individual factor, on a species population. Furthermore, the Service would not rely even on the size of the impact to a population alone, as the same impact can be of greater or lesser concern depending on the status of the species (*e.g.,* abundant species, recovering species, endangered or threatened species), the source of the impact (*i.e.,* inherent sources such as gun noise and hunter foot traffic or dispensable sources such as lead use, off-road vehicles, and litter), the trade-offs involved in addressing the impact (*i.e.,* impediments to conservation are prioritized over costs to hunters and anglers, which are prioritized over costs to commercial users, in terms of avoiding trade-offs), and other factors. These are the reasons why the Service does not let our decision making, when addressing impacts to wildlife health, rely solely on this vague concept of ''population-level'' impacts.

We did not make any changes to the rule as a result of these comments.

Comment (8): Many commenters opposed the regulation of lead use, and also many commenters who took a neutral position on the regulation of lead use stated that the Service must allow for and consider the input of hunters and anglers on non-lead requirements. This included many in both groups who are themselves hunters and anglers. Some expressed a concern

that hunter and angler input was not considered in this rulemaking.

Our Response: Individual refuges always take the input of hunters and anglers into account in shaping their hunting and fishing programs, including through formal opportunities for public review and comment. We are in constant communication with hunters and anglers who visit the refuge through hunter education programs and listening sessions on many important topics. All of the provisions of this final rulemaking, including nine refuges enacting or planning requirements for non-lead ammunition and non-lead tackle by fall 2026, were shaped with the input of hunters, anglers, and nongovernmental organizations representing them. They were also shaped with consideration of the impacts to and interests of hunters and anglers. Among the comments on this rule, we received many supportive as well as critical comments from hunters, anglers, and nongovernmental organizations representing them, including comments from hunters and anglers in support of regulating the use of lead on the entire Refuge System. We remain committed to increasing access for hunters and anglers throughout the Refuge System, which is what this rulemaking does in opening and expanding opportunities at 18 refuges. We are also committed to ensuring that hunters and anglers have input on and a ''seat at the table'' in shaping any future non-lead requirements within the Refuge System.

We did not make any changes to the rule as a result of these comments.

Comment (9): Many commenters opposed to requirements to use non-lead ammunition and tackle claimed non-lead ammunition and non-lead tackle are more expensive in comparison to lead ammunition and tackle. Some of these commenters further expressed the concern that non-lead ammunition and tackle requirements ''price people out'' of participating in hunting and fishing.

Our Response: In response to commenters who claimed the costs of non-lead ammunition and non-lead tackle would ''price people out'' of participating in hunting and fishing, we do not agree that non-lead ammunition and tackle are prohibitively expensive, especially in comparison to lead ammunition and tackle. Yet, we recognize that there could be some cost burden of compliance for hunting and fishing opportunities where non-lead ammunition or tackle is required. For example, non-lead ammunition is very close in price to premium lead ammunition but can be more expensive than some lead ammunition. Where we have restricted lead use in the past or through this rulemaking, we first ensure that the ecological health and conservation benefits outweigh any potential for cost burden on hunters and anglers. We are confident that non-lead ammunition and tackle are not cost-prohibitive as hunting and angling continues on all Refuge System stations where we have restricted lead use. Moreover, we have not seen declines in hunting use attributable to non-lead ammunition requirements. In other words, hunting-use day declines at stations that require non-lead ammunition do not appear to deviate from general trends of declining hunting participation that affect all stations in the Refuge System. We similarly have not seen growth slowed at stations requiring non-lead tackle such that it is out of step with general growth trends in angler participation. In fact, there has been a continuous trend for years of decreasing prices for non-lead ammunition and tackle alternatives, and the 1991 nationwide ban on lead ammunition for waterfowl hunting shows that regulations can spur innovation and production that bring the prices down for non-lead options.

Finally, even though the cost burden of compliance with non-lead ammunition and tackle requirements on individual refuges is not onerous, the Service is considering potential giveaway and exchange programs to help hunters and anglers transition from lead to non-lead ammunition and tackle. For example, such programs are discussed in the planning documents for Patoka River NWR as non-lead ammunition and tackle will be required for all hunting and fishing on that refuge beginning in fall 2026. The Service would target such programs toward low-income and subsistence hunters and anglers who stand to be most impacted by any additional costs in obtaining non-lead rather than lead ammunition and tackle. We look forward to working closely with our State and hunting and fishing organizations partners to potentially implement future programs of this nature as part of a transparent process.

We did not make any changes to the rule as a result of these comments.

Comment (10): Many commenters opposed to non-lead ammunition and tackle requirements observed that there is limited availability of non-lead ammunition and non-lead tackle and that less availability, relative to lead ammunition and tackle, would prevent people from participating in hunting and fishing. Some of these commenters further noted that the availability of non-lead ammunition is more limited for older models of firearms than it is for firearms generally. A few commenters also, tangentially to the topic of availability, claimed that the Gun Control Act of 1968 (GCA; 18 U.S.C. 921 et seq.) and associated Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations concerning armor piercing ammunition hinder the production and thus availability of non-lead ammunition

Our Response: We do not agree that non-lead ammunition and tackle are insufficiently available to hunters and anglers in localities where we have in the past or through this rulemaking restricted the use of lead ammunition or tackle. Yet, we recognize that there could be some compliance burden in identifying and locating non-lead ammunition and tackle for hunting and fishing opportunities where required. Where we have restricted lead use in the past or through this rulemaking, we first ensure that the ecological health and conservation benefits outweigh any potential for compliance burden on hunters and anglers, including the ease of locating available non-lead ammunition and tackle. As with the costs of non-lead options, for opportunities where non-lead ammunition and tackle are required, the Service has not seen declines in hunting or fishing participation that can be attributed to non-lead ammunition and tackle being less widely available than lead ammunition and tackle. Also, as with costs, there are existing trends of increasing availability of non-lead alternatives and the 1991 national ban on lead ammunition for waterfowl hunting demonstrates that regulations requiring the use of non-lead ammunition can promote increased availability. Finally, the Service is considering giveaways and exchanges that would assist hunters and anglers in adjusting from lead ammunition and tackle to non-lead alternatives and this would, as with concerns about costs, address concerns about availability. For example, such programs are discussed in the planning documents for Patoka River NWR as non-lead ammunition and tackle will be required for all hunting and fishing on that refuge beginning in fall 2026. The Service would target such programs toward low-income and subsistence hunters and anglers, as well as hunters and anglers in locations where the available non-lead ammunition and tackle is especially limited, since these groups stand to be most impacted by any availability challenges to obtaining non-lead rather than lead ammunition and tackle. We

look forward to working closely with our State and hunting and fishing organization partners to potentially implement future programs of this nature as part of a transparent process.

Additionally, with respect to certain older models of firearm, as well as certain calibers, the availability of non-lead ammunition is more limited than the availability of non-lead ammunition in general. Where lead use is restricted, this could theoretically be an obstacle to participation in certain hunting opportunities based on method of take restrictions. However, non-lead options are already increasing and can be expected to continue to increase, including options for older firearm models and less commonly used calibers. In the case of the nine individual refuges in this rule that require or will propose to require non-lead ammunition use by fall 2026, appropriate non-lead ammunition is available for each type of hunting (*i.e.,* migratory bird, upland game, and big game) and each individual hunting opportunity such that hunters will still be able to participate in all of the opportunities at these refuges. In the future, the Service will remain cognizant of the need to be sure that there are appropriate non-lead options in the market for any given opportunity for which we decide to require non-lead ammunition. We will also ensure the same for fishing opportunities and non-lead fishing tackle.

Finally, the claim that the Gun Control Act of 1968 (GCA) and associated ATF regulations concerning armor piercing ammunition hinder the production and thus availability of non-lead ammunition is beyond the scope of this rulemaking. Moreover, the Service lacks any authority to change provisions of the GCA or associated ATF regulations. The Service does, however, believe that the ATF's existing framework for exemptions to the definition of armor piercing ammunition for ammunition that is ''primarily intended to be used for sporting purposes,'' as explicitly authorized by the GCA, should be sufficient to allow for the availability of non-lead ammunition for hunters (see the ATF Special Advisory available online at: *https://www.atf.gov/news/pr/armor-piercing-ammunition-exemption-framework*).

We did not make any changes to the rule as a result of these comments.

Comment (11): Some commenters objecting to non-lead ammunition and tackle requirements claimed non-lead ammunition and non-lead tackle do not perform as effectively as lead ammunition and lead tackle.

Our Response: We do not agree and find that non-lead ammunition and tackle performs at least as effectively as lead ammunition and tackle. Some hunters and anglers on the Refuge System currently use non-lead ammunition and tackle, both voluntarily and as required by regulation, without any documented difference in success rates. In fact, the Service has, by policy since 2016, used non-lead ammunition for wildlife management when lethal control is necessary and has not found the performance of non-lead ammunition to impede these management activities in any way. As part of our hunter education efforts, many refuges offer field demonstrations of the effectiveness of non-lead ammunition. The Service has one such demonstration scheduled on September 16, 2022, at Blackwater NWR, one of the refuges in this rule that intends to require non-lead use by fall 2026. Scientific studies of effectiveness have backed up this informal empirical evidence and found that non-lead ammunition performs as effectively as lead ammunition (see ''Are lead-free hunting rifle bullets as effective at killing wildlife as conventional lead bullets? A comparison based on wound size and morphology,'' Trinogga, et al., Science of The Total Environment. Volume 443, 15 January 2013, pp. 226–232. Available online 25 November 2012. and ''Performance of Lead-Free versus Lead-Based Hunting Ammunition in Ballistic Soap,'' Gremse, et al., PLoS One. 2014; 9(7): e102015. Published online 2014 Jul 16.). There is no scientific evidence for the claimed differences in performance between non-lead and lead ammunition and tackle available on the market today. In fact, non-lead ammunition has a demonstrable advantage in that hunters kill only what they shoot because unlike lead ammunition, non-lead ammunition will not poison non-target species. Where the Service restricts the use of lead on the Refuge System, there is no compliance burden on hunters and anglers in the form of reduced performance of ammunition or tackle.

We did not make any changes to the rule as a result of these comments.

Comment (12): Some commenters opposed to non-lead ammunition and tackle requirements argued that any switching from lead ammunition and tackle to non-lead ammunition and tackle should be voluntary. Among these commenters advocating that the use of non-lead ammunition should remain voluntary were both those who felt there is a need for large-scale uptake of non-lead ammunition and tackle and those who felt it should be simply a preference decision for each hunter and angler. A few commenters further expressed that voluntary uptake of non-lead ammunition and tackle should be encouraged through hunter education and/or economic incentives for hunters to transition to non-lead options.

Our Response: In response to these commenters who argued the Service should encourage hunters and anglers to voluntarily transition to non-lead ammunition and tackle rather than implement any regulatory requirements to use non-lead ammunition and tackle, the Service has encouraged and will continue to encourage voluntary use of non-lead ammunition and tackle but will also impose regulatory requirements when and where necessary. Looking backward, the Service has for years encouraged voluntary use of non-lead ammunition and tackle through our hunter and angler education programs, which has included providing scientific information about the harm lead can do and demonstrating the performance of non-lead ammunition. Voluntary adoption of non-lead ammunition and tackle is an excellent way for hunters and anglers to demonstrate commitment to the ideals of not harming non-target species, fair chase, and serving as the original conservation stewards of our country's natural resources. The Service appreciates each and every one of the hunters and anglers who have voluntarily made the switch to non-lead ammunition and tackle, whether for their own health, their family's health, or the health of wildlife. Going forward, the Service is implementing a non-lead requirement at Patoka River NWR through this rulemaking and planning similar regulations in the next annual rulemaking for eight other refuges, all of which would require non-lead ammunition and tackle beginning in the fall of 2026, but for the vast majority of hunting and fishing opportunities in the Refuge System there are no current or planned non-lead use requirements and the Service will continue to urge voluntary use of non-lead ammunition and tackle. While the Service is in the process of evaluating the future of lead use, even if our determination were ultimately that lead use on the Refuge System needs to end, the Service would still consider all viable methods for achieving that outcome, including encouraging voluntary transition to non-lead ammunition and tackle. At the same time, we note that years of efforts toward educating hunters and encouraging non-lead use by the Service and other organizations have not yielded significant uptake of non-lead

ammunition and tackle, despite some localized success stories.

Moreover, the commenters' suggestion of providing incentives is not an appropriate solution for increasing voluntary uptake because it would be difficult and costly to construct a fair, targeted incentive structure for individual hunters and anglers and because there would be moral hazard problems in incentivizing members of the public to represent themselves as a hunter or angler who uses lead ammunition or tackle. The potential giveaway and exchange programs mentioned in response to *Comment (9)* and *Comment (10)* are a similar but better approach in that they remove costs and other frictions in transitioning to non-lead ammunition and tackle, without the overhead or moral hazard problems of a system of incentives. These programs under our consideration need not be limited to use with non-lead regulatory requirements but could potentially be used to further voluntary uptake or other method(s) of addressing lead issues.

The Refuge System, and all Service lands and waters, are different from private and State lands. We have a legal requirement to consider the compatibility of new and ongoing hunting and fishing activities and assess the potential impact of these activities on the natural resources under our jurisdiction. Although, voluntary uptake may be part of a future with multiple methods of addressing lead use issues, the history of low compliance with voluntary adoption of non-lead ammunition and tackle prompts the Service to consider regulatory requirements to ensure compatibility. At this time, the Service is continuing to evaluate the future of lead use and will soon seek input through an open and transparent process from a broad array of partners and stakeholders about how best to secure the appropriate future for the use of lead. We invite ideas and coordination from all the organizations that commented recommending voluntary uptake and/or are engaged in efforts to encourage volunteer uptake of non-lead ammunition and tackle.

We did not make any changes to the rule as a result of these comments.

Comment (13): One commenter opposed to non-lead ammunition and tackle requirements noted that huntable State and Federal lands can be adjacent to each other and even ''intermingled,'' which could potentially create enforcement and compliance issues where State and Federal lands that border each other have differing ammunition requirements. Specifically, the commenter seemed concerned about situations where hunting lands on which lead ammunition is allowed under State regulations borders hunting lands on which non-lead ammunition is required under Service regulations.

Our Response: In response to the commenter's concern about differing regulations on adjacent lands, the Service is prepared to meet the added enforcement challenge and the compliance burden is reasonable. Through our compatibility determinations for hunting at each refuge requiring or planning to require the use of non-lead ammunition by fall 2026, we have determined that we have the law enforcement capacity to administer the hunting in this rulemaking under non-lead requirements, including where our hunting units border hunting areas administered under State regulations that allow lead use. As noted in response to *Comment (2),* Service lands are often subject to more restrictive regulations than lands governed by State regulations and thus our law enforcement personnel are familiar with and trained to handle effective and fair enforcement along land borders where State and Service regulations differ. Service law enforcement personnel are also specifically familiar with enforcement of non-lead ammunition requirements because some refuges have already independently adopted these requirements for one or more types of hunting and all refuges are subject to the national ban on the use of lead ammunition to hunt waterfowl. Moreover, in the case of the non-lead requirements effective fall 2026 implemented or planned in conjunction with this rulemaking, all refuge staff will have approximately 4 years to prepare and train to assist, including through hunter education, all hunters visiting those nine refuges in complying with the promulgated and planned non-lead ammunition requirements.

On the compliance side, similarly, hunters planning to hunt on refuges planning to require non-lead ammunition and tackle by fall 2026, who are not already voluntarily using non-lead ammunition, will have 4 years in which to transition their equipment and become familiar with the requirements. In some cases, these hunters may also be able to benefit from giveaways or exchanges as they transition their supplies, and all of these hunters will have the benefit of hunter education available to them from the refuges. Other hunters who are planning to hunt on State lands near borders between State and Refuge System lands where regulations concerning lead ammunition differ will have to be wary of land borders if they choose to use lead ammunition, although this is something hunters must already do where refuge regulations differ in other respects or where huntable lands are adjacent to lands where hunting is prohibited. Moreover, these hunters can be absolutely assured of compliance even if they cross the border onto refuge lands by simply choosing to use non-lead ammunition. In the future, the Service will similarly provide transition periods, as appropriate, to both allow time to prepare for enforcement and ease the compliance burden on hunters if we introduce non-lead requirements, including where adjacent State-regulated lands allow lead use.

We did not make any changes to the rule as a result of this comment.

Comment (14): Some commenters opposed to non-lead ammunition and tackle requirements called attention to other sources of lead in the environment, besides hunting and fishing with lead ammunition and tackle, and stated that because these sources could cause negative health impacts for fish and wildlife the Service should not have any non-lead ammunition and tackle requirements within the Refuge System.

Our Response: While there are of course other sources of lead in the environment, including other sources that may be bioavailable to wildlife, the Service does not see this as diminishing the importance or conservation benefits of requiring the use of non-lead ammunition and tackle, when and where necessary. These comments collectively provide the following list of possible sources, besides lead ammunition and tackle used for hunting and fishing, of environmentally available lead: naturally occurring lead in the ground; lead paint, particularly on water towers and fire lookout towers; micro-trash, particularly discarded hardware and ammunition; lead ammunition used for other purposes; mining; pesticides; vehicle exhaust; vehicle batteries; and household products. While these sources vary in the degree of risk they could present to wildlife, the Service is duly concerned by the health risks from any potential source of lead exposure for humans and wildlife. There are likely benefits to be had from efforts to address each of these sources in turn, but that is generally beyond the scope of this rulemaking.

Moreover, these potential sources do not change the fact that the best available science has drawn a clear link between the use of lead ammunition and tackle and its ecological health impacts. In fact, the study from Slabe, et al., cited earlier in response to

Comment (7), provides strong evidence that not only that there is an impact to eagles from lead ammunition specifically, but also evidence that it likely represents the most important source of lead exposure for the species studied (Slabe 2022). Essentially, the study demonstrated that the highest rates of acute lead poisoning in eagles, measured by liver lead concentrations, corresponded in terms of timing with the use of lead ammunition in the form of a nationwide spike in lead poisoning in winter months in the midst of hunting seasons. To the extent other sources of lead do bear on our decisions about lead ammunition and tackle use, these additional lead sources in fact weigh in favor of lead use restrictions, as lead can accumulate in wildlife from repeated exposure from one or multiple sources (see, *e.g.,* Behmke 2015). This applies both to the sources mentioned by commenters and additional sources that were not mentioned, such as coal-fired power plants and certain heavy industry, including smelting (see Behmke 2015). Similarly, the Service is also not discouraged from requiring the use of non-lead ammunition and tackle, where appropriate, by the continued use of lead ammunition and tackle for hunting and fishing on nearby State and privately held lands and waters. The Service will act, including to restrict visitor uses, as necessary within our authority, in the interest of our conservation mission regardless of human activities outside of refuge borders.

We did not make any changes to the rule as a result of these comments.

Comment (15): A few comments that were opposed to non-lead ammunition and tackle requirements maintained that lead ammunition and tackle are made of an inorganic form of lead that poses little risk of harm to humans or animals.

Our Response: While inorganic lead presents a low risk of adverse health impacts while it retains its solid, molded form (*i.e.,* anglers face little risk from handling lead tackle), the basis for concern about lead ammunition and tackle is that there are multiple ways for such lead to become harmful to human and ecological health. Organic lead (*i.e.,* the banned gasoline additive tetramethyl lead) is more dangerous than inorganic lead because it can be absorbed through the skin. Yet, inorganic lead can also have serious impacts in certain forms (*e.g.,* fragments and particles) and once inside an animal. First, as briefly described in response to *Comment (7),* lead ammunition, including bonded lead ammunition, fragments when it hits an animal, and this distributes tiny pieces of lead within a wide radius in the soft tissues of the harvested animal (see ''Fragmentation of lead-free and lead-based hunting rifle bullets under real life hunting conditions in Germany,'' Trinogga et al., Ambio. 2019 Sep; 48(9): 1056–1064. Published online 2019 Mar 23.). These tiny fragments of lead are then consumed by humans eating the game meat and scavenger species eating carcasses or gut piles left behind. In this tiny, fragmented form and acted on by digestive enzymes and acids, the lead derived from ammunition can then shed particles that enter the blood stream and affect systems throughout the body, presenting both chronic and acute health risks. Second, as briefly described in response to *Comment (7),* lead ammunition and tackle that is deposited along shores or at the bottom of bodies of water can be ingested by several species of birds that forage in these locations for pebbles, as pebbles are necessary to break down food through grinding in a special organ of their digestive systems called a gizzard. This grinding process, along with digestive acids and enzymes that accompany food into the gizzard, can easily break down lead ammunition and tackle into fragments and cause it to shed particles, just as the process breaks down the stones and shells the birds intended to ingest. These lead particles are then able to enter the bloodstream and affect systems throughout the body, presenting both chronic and acute health risks. Third, lead ammunition and tackle that ends up discarded in bodies of water may begin to dissolve and thus introduce lead particles into the water that present both chronic and acute health risks to both aquatic animals living in the water and terrestrial animals drinking from the water. This process requires high acidity in the water that dissolves lead ammunition or tackle, and it is essentially the same concern as the problem of corrosion from acidic water in lead water pipes. These particles of lead dissolved into the water are easily taken up into the bloodstream as they pass through digestive systems. It is through these known processes that lead ammunition and tackle present a risk, and the best available scientific evidence indicates that these processes are occurring at rates that are causing negative impacts on the health of both humans and certain wildlife species, and those impacts are more acute for some species. Thus, we seriously consider the impact of inorganic forms of lead, such as lead ammunition and tackle, on wildlife and human health.

We did not make any changes to the rule as a result of these comments.

Comment (16): Many duplicate comments and a few unique comments included claims that restrictions on the use of lead ammunition and tackle will have significant negative economic impacts, including business costs of compliance for retailers and manufacturers, job losses, and a decrease in gross domestic product (GDP). Some of these comments implied that this rulemaking would cause the described economic impacts, but others specified that significant economic impacts would occur were the Service to go further and require non-lead ammunition and tackle throughout the Refuge System.

Our Response: The Service has found no reason to expect the outcomes described or any significant economic impact, positive or negative, from this rulemaking. We qualitatively considered both the positive and negative economic impacts of this rulemaking and conducted a quantitative analysis of the economic impact of the rulemaking as part of the proposed rule, updated for this final rule. None of our analyses indicate significant economic impacts, and the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is not significant under Executive Order 12866. We recognize that retailers of ammunition and tackle could experience costs in responding to a shift in market demand driven by regulations requiring non-lead ammunition and tackle. However, these potential costs are small and temporary. They are small in any case because non-lead ammunition can be made available and is available at prices comparable to lead ammunition, and exceedingly small in the current case where nine individual refuges are requiring or will propose to require the use of non-lead ammunition and tackle by 2026. For example, hunter visitation data for Chincoteague NWR in Virginia, a refuge in this rule planning to require non-lead ammunition use, indicates that only 1.2 percent of hunters in Virginia use the refuge on an annual basis. As to the commenters who claimed significant economic impacts in the hypothetical context of requiring non-lead for all hunting and fishing on the Refuge System, even in that case the use of lead ammunition and tackle is only a small fraction of all hunting and fishing use and an incredibly small fraction of all use in the case of lead ammunition, as some commenters acknowledged. Moreover, whatever the economic costs are, it is also important to note that they are temporary, rather

than an ongoing compliance burden, as the costs are incurred during the process of transitioning resources and operations away from producing and selling lead tackle and ammunition to producing and selling non-lead tackle and ammunition. Once the resources and operations have been shifted, again an exceedingly small shift in the case of contemplated requirements for nine refuges, the transition costs are at an end. For these reasons, the economic costs of compliance are insignificant and unlikely to have visible impacts on employment, even within the affected industries, or GDP. Furthermore, if the Service were to perform a more comprehensive analysis of the costs and benefits of the non-lead ammunition requirements in this rulemaking, we would include some manner of quantification of the adverse human and ecological health impacts discussed throughout this rulemaking.

Finally, the Service, by statutory obligation, prioritizes our conservation mission and refuge purposes over recreational uses of refuges, including hunting and fishing. For example, this is perhaps most evident in the fact that hunting and fishing opportunities must be found compatible with the Refuge System mission and refuge purposes. We nevertheless strive to minimize the compliance burden on individuals and businesses and any other negative economic impacts, while maximizing conservation outcomes. We invite discussion and cooperation with manufacturers and retailers on measures to reduce the costs of non-lead ammunition and tackle requirements promulgated by or considered alongside this rulemaking, and any such requirements in the future.

We did not make any changes to the rule as a result of these comments.

Comment (17): Many commenters expressed concerns about the constitutionality of the Service creating non-lead ammunition and tackle requirements through our regulations, specifically under the Second Amendment and under the Major Questions Doctrine. Those questioning non-lead requirements under the Second Amendment primarily appealed to the amendment itself, but a few commenters also pointed to the recent U.S. Supreme Court case of *New York State Rifle & Pistol Association Inc.* v. *Bruen* (597 U.S. ____ (2022), unpublished), decided on June 23, 2022. As for those questioning non-lead requirements under the Major Questions Doctrine, few commenters explicitly referred to the Major Questions Doctrine, but all of the comments appealed to the recent U.S. Supreme Court case of *West Virginia* v. *U.S. Environmental Protection Agency* (597 U.S. ____ (2022), unpublished), decided on June 30, 2022.

Our Response: The Service maintains, although it is ultimately up to Federal courts, that all regulations promulgated by or considered in association with this rulemaking do not raise constitutional issues, including Service regulation of lead use on the National Wildlife Refuge System. First, as to the Second Amendment, the Service's requirement of non-lead ammunition on a given refuge does not actually limit the ownership, possession, or use of any firearm but only the possession and use of ammunition, and then only of a certain type of ammunition while there are other permitted types readily available. Moreover, where the Service has possession and use restrictions on lead ammunition they apply only while engaging in hunting activities. These restrictions do not apply to the possession of firearms for self-defense purposes, or even lead ammunition for self-defense that is not brought into the field. For example, a visitor can possess lead ammunition that remains in their vehicle and on the refuge while they are away from the vehicle to hunt or on her person for self-defense purposes while engaging in other forms of recreation besides hunting.

As to the *Bruen* case, the Service's regulations are fundamentally different than the challenged state law in that case. The Supreme Court found that a state cannot require individuals to provide a reason beyond their right to self-defense in order to be permitted to carry a concealed firearm as part of the state government's licensing of ownership and carrying of firearms. The Service is not placing any restrictions on ownership or possession of any firearm. Instead, as noted above, the Service's non-lead requirements contemplated in this rulemaking restrict a particular category of ammunition (*i.e.,* ammunition that contains lead, as defined in waterfowl hunting requirements) only in a certain place (*i.e.,* specific NWRs) and only while engaging in specific activities (*i.e.,* designated hunting opportunities).

Additionally, the non-lead requirements contemplated in this rule actually expand, rather than restrict, the use of firearms for members of the public because the appropriate alternative to non-lead ammunition when and where we determine the need to phase-out lead is not the use of lead ammunition but the potential closure of hunting opportunities that are not compatible. If the Service could not put non-lead ammunition requirements in place where we find the continued use of lead is incompatible with refuge purposes and the Refuge System mission on a given refuge, then we would close all opportunities for which lead ammunition is used.

Second, as to the Major Questions Doctrine, the Service regulating lead use on the Refuge System would not meet the threshold question of being a major question and, even if it did, Congress provided clear authority and a clear guiding principle for such regulation. The *West Virginia* case held that the U.S. Environmental Protection Agency (EPA) lacked the authority to regulate carbon dioxide emissions of existing plants at the level of the power sector to encourage shifting power generation toward renewable energy technologies rather than regulating existing plants through plant-by-plant emissions standards. The Court relied on the Major Questions Doctrine, which is essentially a collection of case law that supports the idea that Federal courts should not give deference to Federal agencies in interpreting the statutes related to their expertise, which the courts otherwise typically would, if the Federal agency undertakes an extraordinary action with major political and economic significance. The Court also invoked the Non-Delegation Doctrine, which is essentially a collection of case law that supports the idea that a Federal agency must have received a clear delegation of authority with a guiding principle from Congress in order to create regulations in a given area. Together, these doctrines informed the Court's decision that EPA lacked authority on the grounds that the Court considered the regulations proposed by EPA in 2015, but never implemented, to be an extraordinary action with major political and economic significance. The Court also considered the language in the Clean Air Act (42 U.S.C. 7401 *et seq.*) that EPA relied on in proposing the regulations to not be clear enough evidence that Congress intended for EPA to have the authority to regulate greenhouse gases in the manner proposed. While an important case with implications for Federal agency rulemakings, the case has little bearing on this rulemaking, even when it comes to the use of lead ammunition and tackle. This is because the Service is only requiring or planning to require the use of lead at nine individual refuges by fall 2026; the Service has required non-lead ammunition and tackle at individual refuges numerous times in the past and even implemented a total national ban on lead ammunition for waterfowl hunting; and the Service has

a very clear delegation of Congressional authority to administer the Refuge System with the guiding statutory principal that our conservation mission should inform when, where, and under what restrictions hunting and fishing are compatible uses at a given refuge. Thus, the Service's position is that any non-lead ammunition and tackle requirements for the Refuge System cannot reasonably raise the Major Questions Doctrine, and even if such a regulation could be considered a major question a Federal court would then not find the Service to be acting beyond its authority as intentionally granted by Congress.

We did not make any changes to the rule as a result of these comments.

Comment (18): Two commenters expressed concerns about human and ecological health impacts from copper, copper being a popular material for non-lead ammunition. The first commenter pointed to the possibility of copper toxicity and questioned why the Service would regulate lead use but not copper use. The second commenter colorfully expressed concerns that amounted to copper ammunition hindering reproduction in squirrels.

Our Response: The Service is not aware of any science showing human or ecological health threats from copper ammunition, especially none that rival the health threats of lead ammunition. First, on the point of copper toxicity, copper and lead are both metals that have been used for thousands of years, and lead has been known to present a much more serious threat of toxicity for nearly as long. Our modern understanding of this is essentially captured by the fact that the U.S. Food and Drug Administration (FDA) sets the maximum lead level in bottled drinking water at 0.005 milligrams per liter, whereas it sets the maximum for copper in bottled drinking water at 1.0 milligram per liter (see 21 CFR 165.110). By this measure, it takes 200 times as much copper as lead to threaten human health, and a similarly wide gap likely applies for wildlife. While copper toxicity is possible in certain circumstances for humans and wildlife, it is incredibly unlikely to occur from the use of copper ammunition in hunting. In fact, the commenter acknowledges when discussing copper toxicity that ''it is not likely for this to happen.'' All the same, if the Service comes to learn in the future that copper ammunition does present a threat to human and/or ecological health that raises compatibility issues with our conservation mission, especially if comparable to the threat posed by lead ammunition, the use of copper would be appropriately evaluated.

Second, on the point of copper ammunition potentially hindering reproduction in squirrels, there is even less cause for concern. While direct exposure to copper is known to affect sperm cells in humans and there is some evidence that indirect exposure to copper can affect sperm cells in humans, rodents, and potentially other animals, the use of copper ammunition is highly unlikely to result in this effect. There would not be direct exposure of sperm cells to copper in the case of ammunition, making copper ammunition in no way similar to the intrauterine devices (IUDs) that the commenter references. There could potentially be indirect exposure of sperm cells in humans or wildlife to copper derived from ammunition through one of the pathways mentioned for lead ammunition (*e.g.,* eating the meat of or scavenging game), but as noted in discussing toxicity above the amount of copper necessary to generate health impacts is typically much higher than in the case of lead. For example, in a 2014 study that found evidence of copper exposure impacting the sperm of bank voles (a small rodent species) the amounts of copper the voles ingested were 150 and 600 times the FDA's maximum concentration in safe bottled drinking water discussed above, and this for an animal that is a few inches long and weighs about an ounce (see ''Effect of copper exposure on reproductive ability in the bank vole (*Myodes glareolus*),'' Miska-Schramm, et al., Ecotoxicology. 2014 Oct. 23(8):1546–54. Epub 2014 Aug 7.). Thus, the Service is not concerned about copper ammunition impacting human or wildlife reproduction, including squirrel reproduction.

We did not make any changes to the rule as a result of these comments.

Comment (19): Many commenters took the use of the word ''may'' to mean that the Service considered the scientific evidence of health impacts from lead ammunition and tackle to be uncertain when used in the Service's statement in the proposed rule preamble that ''Finally, the best available science, analyzed as part of this proposed rulemaking, indicates that lead ammunition and tackle may have negative impacts on both wildlife and human health, and that those impacts are more acute for some species'' (see 87 FR 35136, June 9, 2022, at p. 35136). Some of these commenters interpreted this statement to mean that the Service is acting improperly anywhere we are requiring the use of non-lead ammunition and tackle because the causal connection between lead use and adverse health impacts is uncertain. The remaining commenters interpreted this statement to mean the Service inaccurately portrayed the scientific evidence on lead ammunition and tackle use as there are many studies demonstrating the link between the use of lead and health impacts and a scientific consensus on the matter.

Our Response: The Service did not intend this word choice to have the connotation these commenters have understood in reading it. The Service wrote ''may'' not in the sense that the Service or the scientific literature we analyzed is uncertain, but rather in the sense that using lead ammunition or tackle can and does have these negative impacts on certain wildlife species and humans, even if an individual bullet or sinker may or may not contribute to lead poisoning in a particular wild animal or human. This is why the Service is duly engaged in evaluating the demonstrated impacts of lead use on fish and wildlife in order to determine whether the impacts warrant Service action at a broader scale, as well as what methods of addressing lead use are appropriate, should the Service take action. Accordingly, the Service has adopted this alternative phrasing for this final rule: The best available science, analyzed as part of this rulemaking, demonstrates that lead ammunition and tackle have negative impacts on both human health and wildlife, and those impacts are more acute for some species.

Besides the revision to the phrasing of the Service's statement on the best available science noted above, we made no other changes to the rule as a result of these comments.

Comment (20): We received a few comments that expressed concern over some aspect of public safety. Commenters raised concerns about openings or expansions of hunting at certain stations based on the conflicts with other visitors to the refuge, residential areas near refuges, or the need for adequate funding and/or staffing, especially of law enforcement personnel.

Our Response: The Service considers public safety to be a top priority. In order to open or expand hunting or sport fishing on a refuge, we must find the activity compatible. In order to find an activity compatible, the activity must not ''materially interfere with or detract from'' public safety, wildlife resources, or the purpose of the refuge (see the Service Manual at 603 FW 2.6.B., available online at *https://www.fws.gov/policy/603fw2.html*). For this rulemaking, we specifically analyzed

the possible impacts of the changes to hunting programs at each refuge on visitor use and experience, including public safety concerns and possible conflicts between user groups.

Hunting of resident wildlife on refuges generally occurs consistent with State regulations, which are designed to protect public safety. Refuges may also develop refuge-specific hunting regulations that are more restrictive than State regulations in order to help meet specific refuge objectives, including protecting public safety. Refuges use many techniques to ensure the safety of hunters and visitors, such as requiring hunters and/or visitors to wear blaze orange, controlling the density of hunters, limiting where firearms can be discharged (*e.g.,* not across roads, away from buildings), and using time and space zoning to limit conflicts between hunters and other visitors. It is worth noting that injuries and deaths related to hunting are extremely rare, both for hunters themselves and for the nonhunting public.

Public comment is important in ensuring we have considered all available information and concerns before making a final decision on a proposed opening or expansion. For all of the proposed openings or expansions of hunting in our proposed rule we have determined that there are sufficient protections in place as part of the hunt program at that refuge to ensure public safety. For more information on the Service's efforts to ensure public safety at a particular refuge, please see that refuge's hunt plan, compatibility determination, and associated NEPA analysis.

Regarding concerns about lack of funding or staffing, Service policy (603 FW 2.12.A(7)) requires station managers to determine that adequate resources (including personnel, which in turn includes law enforcement) exist or can be provided by the Service or a partner to properly develop, operate, and maintain the use in a way that will not materially interfere with or detract from fulfillment of the refuge purpose(s) and the Service's mission. If resources are lacking for establishment or continuation of wildlife-dependent recreational uses, the refuge manager will make reasonable efforts to obtain additional resources or outside assistance from States, other public agencies, local communities, and/or private and nonprofit groups before determining that the use is not compatible. When Service law enforcement resources are lacking, we are often able to rely upon State fish and game law-enforcement capacity to assist in enforcement of hunting and fishing regulations.

For all 18 refuges opening or expanding hunting and/or sport fishing in this rule, we have determined that we have adequate resources, including law enforcement personnel, to develop, operate, and maintain the hunt programs.

We did not make any changes to the rule as a result of these comments.

Comment (21): We also received a few comments expressing the sentiment that baiting and the use of hunting dogs are inappropriate uses on Service lands.

Our Response: All uses proposed as part of this rulemaking or otherwise authorized as part of hunting and fishing programs in the Refuge System are thoroughly assessed for compatibility with other visitor uses and with the Service's mission. Where permitted, the use of baiting and the use of hunting dogs are carried out safely and without significant impacts to the environment or healthy wildlife populations. While this rule does include opportunities that allow the use of hunting dogs, this rulemaking does not include opportunities that allow the use of baiting while hunting.

Many States and the majority of refuges do not allow baiting. In States where baiting is allowed, most refuges have elected to be more restrictive and not support this method of hunting. By default, the use of bait while hunting is prohibited unless specifically authorized under 50 CFR 32.2(h).

The majority of refuges do not allow the use of dogs and those that do typically only authorize the use of dogs for retrieval of migratory birds, upland game birds, and small game. Most refuges that allow dogs require that the dogs are under the immediate control of the hunter at all times or leashed, unless actively retrieving an animal.

We did not make any changes to the rule as a result of these comments.

Comment (22): One commenter suggested ''rotation of these federal lands,'' alongside reference to resting and feeding during winter migration, as part of their comment. We understand this to mean opening and closing hunting and fishing units within a refuge in alternating years, particularly in the interest of migratory bird species.

Our Response: Closing an area to hunting and/or fishing for a year, or another specific period of time, is something the Service can and will do when necessary to serve refuge purposes and our conservation mission, including providing opportunities for migratory species to rest and feed as the commenter advocated. However, such temporary closures of particular hunting and fishing opportunities or units do not require any modification to our regulations through rulemaking. Refuge managers are authorized to temporarily close recreational opportunities and areas, as necessary and at any time, for ecological health or public safety (50 CFR 25.21). If there truly is too much hunting pressure in any given area, the manager can address it through temporary closures or other mitigation measures just like any other threat to ecological health or public safety. Also, the Service has intentionally adopted a system where these closures are implemented on a case-by-case basis rather than through some system of formal rotation because the Service ensures at the time of authorizing hunting and fishing opportunities, such as those opened or expanded in this rulemaking, that the opportunities can run continually without having a significant adverse impact on migratory birds, as well as all other fish and wildlife species. We ensure this through analysis of localized direct, indirect, and cumulative impacts through NEPA analysis at the refuge level and analysis of impacts to entire flyways through our Cumulative Impacts Report that considers national and regional cumulative impacts from hunting and fishing on the Refuge System. This analysis and putting in place mitigation measures from the beginning, such as shorter seasons or buffer zones to protect endangered and threatened species, are the reason that temporary closures to protect migratory birds, or even other species, are rarely needed.

We did not make any changes to the rule as a result of these comments.

Comment (23): One commenter expressed concern that only well-connected individuals and commercial outfitters will receive all the special permits for opportunities where hunter numbers are limited.

Our Response: The Service always assigns permits for quota or limited entry hunts through fair and transparent processes. In most cases, permits are awarded through a random lottery.

We did not make any changes to the rule as a result of these comments.

Changes From the Proposed Rule

As discussed above, under Summary of Comments and Responses, based on comments we received on the June 9, 2022, proposed rule and NEPA documents for individual refuges, we made changes in this final rule to Canaan Valley, Blackwater, Eastern Neck, Erie, Chincoteague, Eastern Shore of Virginia, James River, Rappahannock River Valley, and Wallops Island NWRs.

At the request of the State of West Virginia, we have removed the proposal for Canaan Valley NWR and may revisit the proposal in the future after further coordination with the State.

At the request of the State of Virginia, for Eastern Shore of Virginia, James River, and Rappahannock River Valley NWRs, we made minor edits to the language authorizing dogs while hunting.

For Eastern Shore of Virginia NWR, we have corrected an administrative error in the proposed rule regulatory language that inadvertently applied a non-lead ammunition requirement to deer hunting at the refuge. In this final rule, the corrected regulatory language makes clear that the existing non-lead ammunition requirement for turkey hunting will remain in place but deer hunting at the refuge is not subject to a non-lead ammunition requirement.

For Blackwater, Chincoteague, Eastern Neck, Erie, and Wallops Island NWRs, we removed all proposed regulatory language specific to requiring the use of non-lead ammunition and fishing tackle, and we will propose language in the 2023–2024 rulemaking to require a non-lead requirement for all hunting and fishing activities which will take effect on September 1, 2026. In the meantime, these refuges will encourage hunters and anglers to switch to non-lead alternatives through outreach and education. We also note that any existing requirements at these refuges to use non-lead ammunition or tackle, including the national ban on lead ammunition for waterfowl hunting, will remain in effect. The removal of regulatory language is limited to removing proposed new non-lead requirements from the set of regulatory provisions that will take effect through this final rule.

Effective Date

We are making this rule effective upon the date of its filing at the Office of the Federal Register (see **DATES**, above), with the exception of the requirement to use non-lead ammunition and fishing tackle on Patoka River NWR at 50 CFR 32.33(c)(1)(iii), which will take effect on September 1, 2026. We provided a 60-day public comment period for the June 9, 2022, proposed rule (87 FR 35136). We have determined that any further delay in implementing these station-specific hunting and sport fishing regulations would not be in the public interest, in that a delay would hinder the effective planning and administration of refuges' hunting and sport fishing programs. This rule does not impact the public generally in terms of requiring lead time for compliance. Rather, it relieves restrictions in that it allows activities on refuges and hatcheries that we would otherwise prohibit. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon the date of its filing at the Office of the Federal Register.

Amendments to Existing Regulations

Updates to Hunting and Fishing Opportunities on NWRs

This document codifies in the Code of Federal Regulations all of the Service's hunting and/or sport fishing regulations that we would update since the last time we published a rule amending these regulations (86 FR 48822; August 31, 2021) and that are applicable at Refuge System units previously opened to hunting and/or sport fishing. This rule better informs the general public of the regulations at each station, increases understanding and compliance with these regulations, and makes enforcement of these regulations more efficient. In addition to now finding these regulations in 50 CFR parts 32, visitors to our stations may find them reiterated in literature distributed by each station or posted on signs.

TABLE 1—CHANGES FOR 2022–2023 HUNTING/SPORT FISHING SEASON

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Baskett Slough NWR	Oregon	E	Closed	Closed	Closed.
Blackwater NWR	Maryland	E	O	E	Already Open.
Chincoteague NWR	Virginia	O	O	O/E	Already Open.
Crab Orchard NWR	Illinois	E	Already Open	Already Open	Already Open.
Eastern Neck NWR	Maryland	Closed	O	E	Already Open.
Erie NWR	Pennsylvania	O	O	O	E.
Ernest F. Hollings ACE Basin NWR.	South Carolina	Already Open	Closed	E	Already Open.
Great Thicket NWR	New York/Maine	O	O	O	Closed.
James River NWR	Virginia	O	Already Open	Already Open	Already Open.
Patoka River NWR and Management Area.	Indiana	E	E	E	E.
Patuxent Research Refuge	Maryland	E	E	E	Already Open.
Rachel Carson NWR	Maine	Already Open	C	E	Already Open.
Rappahannock River Valley NWR	Virginia	O	Already Open	Already Open	Already Open.
San Diego NWR	California	Closed	O	O	Closed.
Shawangunk Grasslands NWR	New York	Closed	Closed	O/E	Closed.
Trustom Pond NWR	Rhode Island	Already Open	O	O	Already Open.
Turnbull NWR	Washington	Already Open	Closed	O	Closed.
Wallops Island NWR	Virginia	O	O	O	Closed.

Key:
N = New station opened (New Station).
O = New species and/or new activity on a station previously open to other activities (Opening).
E = Station already open to activity adds new lands/waters, modifies areas open to hunting or fishing, extends season dates, adds a targeted hunt, modifies season dates, modifies hunting hours, etc. (Expansion).
C = Station closing certain species or the activity on some or all acres (Closing).

The changes for the 2022–2023 hunting/fishing season noted in the table above are each based on a complete administrative record which, among other detailed documentation, also includes a hunt plan, a compatibility determination (for refuges), and the appropriate National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis, all of which were the subject of a public

review and comment process. These documents are available upon request.

The Service continues to evaluate the future of lead use in hunting and fishing on Service lands and waters; therefore, we do not plan to offer any hunting and fishing opportunities that would allow for the indefinite use of lead ammunition and tackle on the refuges included in this year's rulemaking. In this final rule, Patoka River NWR will require non-lead ammunition and tackle by fall 2026, and this refuge-specific regulation will take effect on September 1, 2026. As part of the 2023–2024 proposed rule, Blackwater, Chincoteague, Eastern Neck, Erie, Great Thicket, Patuxent Research Refuge, Rachel Carson, and Wallops Island NWRs will propose a non-lead requirement, which will take effect on September 1, 2026. In the June 9, 2022, proposed rule (87 FR 35136), the Service intended to phase out the use of lead on these eight refuges by allowing the use of lead ammunition and tackle for all new hunting and fishing opportunities—until fall 2026, which is when the Service plans to require non-lead ammunition and tackle for all activities on these refuges. (To clarify, if a refuge proposed to expand pre-existing opportunities that previously required non-lead ammunition or tackle, then non-lead ammunition and tackle would still be required for those activities.) Based on the breadth of comments received on the eight refuges' plan to require non-lead ammunition and tackle by fall 2026, the Service will propose these requirements next year and provide another opportunity to comment during the 2023–2024 rulemaking.

The Service remains concerned that lead is an important issue and will continue to appropriately evaluate and regulate lead ammunition and tackle on Service lands and waters. As indicated by the number of public comments received on the topic of lead, we recognize that this is a significant and contentious issue for many of our stakeholders. The best available science, analyzed as part of this rulemaking, demonstrates that lead ammunition and tackle have negative impacts on both human health and wildlife, and those impacts are more acute for some species. The Service will seek to engage with our partners on methods to address the use of lead while hunting and fishing on Service lands and waters, and the Service commits to following a transparent process in doing so within the near future.

Fish Advisory

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish-consumption advisories on the internet at *https://www.epa.gov/fish-tech.*

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 rulemaking is not significant.

Executive Order (E.O.) 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

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

This rule opens or expands hunting and sport fishing on 18 NWRs. As a result, visitor use for wildlife-dependent recreation on these stations will change. If the stations establishing new programs were a pure addition to the current supply of those activities, it would mean an estimated maximum increase of 2,777 user days (one person per day participating in a recreational opportunity; see table 2). Because the participation trend is flat in these activities, this increase in supply will most likely be offset by other sites losing participants. Therefore, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity.

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2022–2023

[2021 Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Baskett Slough NWR	270	.....	$9.5
Blackwater NWR	100	.....	3.5
Chincoteague NWR	75	.....	2.6
Crab Orchard NWR	60	.....	2.1
Eastern Neck NWR	15	.....	0.5
Erie NWR	25	30	2.0
Ernest F. Hollings ACE Basin NWR	.....	.....	0.0
Great Thicket NWR	175	.....	6.2
James River NWR	75	.....	2.6
Patoka River NWR and Management Area	17	3	0.6

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2022–2023—Continued

[2021 Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Patuxent Research Refuge	100	.....	3.6
Rachel Carson NWR	10	.....	0.4
Rappahannock River Valley NWR	100	.....	3.5
San Diego NWR	1,002	.....	35.3
Shawangunk Grasslands NWR	75	.....	2.6
Trustom Pond NWR	60	.....	2.1
Turnbull NWR	560	.....	19.7
Wallops Island NWR	25	.....	0.9
Total	2,744	33	98.0

To the extent visitors spend time and money in the area of the station that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2016 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation of the Refuge System yields approximately $98,000 in recreation-related expenditures (see table 2, above). By having ripple effects throughout the economy, these direct expenditures are only part of the economic impact of these recreational activities. Using a national impact multiplier for hunting activities (2.51) derived from the report ''Hunting in America: An Economic Force for Conservation'' and for fishing activities (2.51) derived from the report ''Sportfishing in America'' yields a total maximum economic impact of approximately $246,000 (2021 dollars) (Southwick Associates, Inc., 2018). Using a local impact multiplier would yield more accurate and smaller results. However, we employed the national impact multiplier due to the difficulty in developing local multipliers for each specific region.

Since we know that most of the fishing and hunting occurs within 100 miles of a participant's residence, then it is unlikely that most of this spending will be ''new'' money coming into a local economy; therefore, this spending will be offset with a decrease in some other sector of the local economy. The net gain to the local economies will be no more than $246,000 and likely less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns will not add new money into the local economy and, therefore, the real impact will be on the order of about $49,000 annually.

Small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait-and-tackle shops, and similar businesses) may be affected by some increased or decreased station visitation. A large percentage of these retail trade establishments in the local communities around NWRs qualify as small businesses (see table 3, below). We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule will have a significant economic effect on a substantial number of small entities in any region or nationally. As noted previously, we expect at most $98,000 to be spent in total in the refuges' local economies. The maximum increase will be less than one-tenth of 1 percent for local retail trade spending (see table 3, below). Table 3 does not include entries for those NWRs for which we project no changes in recreation opportunities in 2022–2023; see table 2, above.

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2022–2023

[Thousands, 2021 dollars]

Station/county(ies)	Retail trade in 2017 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 [1]	Establishments with fewer than 10 employees in 2017 [1]
Baskett Slough:					
Polk, OR	$454,935	$10	<0.1	120	79
Blackwater:					
Wicomico, MD	1,983,533	2	<0.1	376	226
Dorchester, MD	541,191	2	<0.1	100	74
Chincoteague:					
Accomack, VA	405,539	3	<0.1	159	122
Crab Orchard:					
Williamson, IL	1,298,962	2	<0.1	259	168
Eastern Neck:					
Kent, MD	216,681	1	<0.1	87	57
Erie:					
Crawford, PA	1,095,512	2	<0.1	293	197
Great Thicket:					
Dutchess, NY	4,321,906	3	<0.1	1,084	784
York, ME	2,972,219	3	<0.1	871	640

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2022–2023—Continued

[Thousands, 2021 dollars]

Station/county(ies)	Retail trade in 2017 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 [1]	Establishments with fewer than 10 employees in 2017 [1]
James River:					
Prince George, VA	317,610	1	<0.1	65	42
Patoka River:					
Pike, IN	70,298	<1	<0.1	32	23
Gibson, IN	554,605	<1	<0.1	116	76
Patuxent Research Refuge:					
Arundel, MD	10,437,225	2	<0.1	1,984	1,216
Prince George, MD	11,591,063	2	<0.1	2,361	1,482
Rachel Carson:					
York, ME	2,972,219	<1	<0.1	871	640
Cumberland, ME	7,773,235	<1	<0.1	1,454	936
Rappahannock River Valley:					
Essex, VA	244,493	1	<0.1	65	48
King George, VA	379,429	1	<0.1	64	42
Westmoreland, VA	128,188	1	<0.1	44	31
Richmond, VA	2,498,764	1	<0.1	795	578
Caroline, VA	339,291	1	<0.1	63	48
San Diego:					
San Diego, CA	51,587,171	35	<0.1	9,423	6,245
Shawangunk Grasslands:					
Ulster, NY	2,841,612	3	<0.1	747	546
Trustom Pond:					
Washington, RI	2,314,122	2	<0.1	524	372
Turnbull:					
Spokane, WA	8,674,550	20	<0.1	1,627	1,036
Wallops Island:					
Accomack, VA	405,539	<1	<0.1	159	122

[1] U.S. Census Bureau.

With the small change in overall spending anticipated from this rule, it is unlikely that a substantial number of small entities will have more than a small impact from the spending change near the affected stations. Therefore, we certify that this rule will not have a significant economic effect 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.

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. We anticipate no significant employment or small business effects. This rule:

a. Will not have an annual effect on the economy of $100 million or more. The minimal impact will be scattered across the country and will most likely not be significant in any local area.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule will have only a slight effect on the costs of hunting opportunities for Americans. If the substitute sites are farther from the participants' residences, then an increase in travel costs would occur. The Service does not have information to quantify this change in travel cost but assumes that, since most people travel less than 100 miles to hunt, the increased travel cost would be small. We do not expect this rule to affect the supply or demand for hunting opportunities in the United States, and, therefore, it should not affect prices for hunting equipment and supplies, or the retailers that sell equipment.

c. Will 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 represents only a small proportion of recreational spending at NWRs. Therefore, this rule will have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of $72 billion nationwide.

Unfunded Mandates Reform Act

Since this rule applies to public use of federally owned and managed refuges, it does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, this rule does not have significant takings implications. This rule only affects visitors at NWRs, and describes what they can do while they are on a Service station.

Federalism (E.O. 13132)

As discussed under *Regulatory Planning and Review* and *Unfunded Mandates Reform Act,* above, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement under E.O. 13132. In

preparing this rule, we worked with State governments.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Department of the Interior has determined that this rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, or use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule adds 2 NWRs to the list of refuges open to hunting and sport fishing and opens or expands hunting or sport fishing at 16 other NWRs, it is not a significant regulatory action under E.O. 12866, and we do not expect it to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no effects. We coordinate recreational use on NWRs and national fish hatcheries (NFHs) with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations.

Paperwork Reduction Act (PRA)

This final rule contains a collection of information that we have submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB has reviewed and approved the information collection requirements associated with hunting and sport fishing activities across the National Wildlife Refuge System and National Fish Hatchery System and assigned the following OMB control numbers:

- 1018–0140, ''Hunting and Sport Fishing Application Forms and Activity Reports for National Wildlife Refuges, 50 CFR 25.41, 25.43, 25.51, 26.32, 26.33, 27.42, 30.11, 31.15, 32.1 to 32.72'' (Expires 12/31/2023),
- 1018–0102, ''National Wildlife Refuge Special Use Permit Applications and Reports, 50 CFR 25, 26, 27, 29, 30, 31, 32, & 36'' (Expires 05/31/2025),
- 1018–0135, ''Electronic Federal Duck Stamp Program'' (Expires 01/31/2023),
- 1018–0093, ''Federal Fish and Wildlife Permit Applications and Reports—Management Authority; 50 CFR 13, 15, 16, 17, 18, 22, 23'' (Expires 08/31/2023), and
- 1024–0252, ''The Interagency Access Pass and Senior Pass Application Processes'' (Expires 09/30/2023).

In accordance with the PRA and its implementing regulations at 5 CFR 1320.8(d)(1), we provided the general public and other Federal agencies with an opportunity to comment on our proposal to revise OMB control number 1018–0140. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on 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 response.

Comments that you submit in response to this rulemaking are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service's final rule (RIN 1018–BF66) opens, for the first time, hunting and sport fishing on two NWRs and opens or expands hunting and sport fishing at 16 other NWRs. The additional burden associated with these new or expanded hunting and sport fishing opportunities, as well as the revised information collections identified below, require OMB approval.

Many refuges offer hunting and sport fishing activities without collecting any information. Those refuges that do collect hunter and angler information do so seasonally, usually once a year at the beginning of the hunting or sport fishing season. Some refuges may elect to collect the identical information via a non-form format (letter, email, or through discussions in person or over the phone). Some refuges provide the form electronically over the internet. In some cases, because of high demand and limited resources, we often provide hunt opportunities by lottery, based on dates, locations, or type of hunt.

The changes to the existing information collections identified below require OMB approval:

Hunting Applications/Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System)

Form 3–2439 collects the following information from individuals seeking hunting experiences on the NWRs:

- *Lottery Application:* Refuges who administer hunting via a lottery system will use Form 3–2439 as the lottery application. If the applicant is successful, the completed Form 3–2439 also serves as their permit application, avoiding a duplication of burden on the public filling out two separate forms.
- *Date of application:* We often have application deadlines, and this information helps staff determine the order in which we received the applications. It also ensures that the information is current.
- *Methods:* Some refuges hold multiple types of hunts, *i.e.,* archery, shotgun, primitive weapons, etc. We ask for this information to identify opportunity(ies) a hunter is applying for.
- *Species Permit Type:* Some refuges allow only certain species, such as moose, elk, or bighorn sheep, to be hunted. We ask hunters to identify which species they are applying to hunt for.
- *Applicant information:* We collect name, address, phone number(s), and email so we can contact the applicant/permittee either during the application process, when the applicant is

successful in a lottery drawing, or after receiving a permit.

• *Party Members:* Some refuges allow the permit applicant to include additional hunters in their group. We collect the names of all additional hunters, when allowed by the refuge.

• *Parent/Guardian Contact Information:* We collect name, relationship, address, phone number(s), and email for a parent/guardian of youth hunters. We ask for this information in the event of an emergency.

• *Date:* We ask hunters for their preferences for hunt dates.

• *Hunt/Blind Location:* We ask hunters for their preferences for hunt units, areas, or blinds.

• *Special hunts:* Some refuges hold special hunts for youth, hunters who are disabled, or other underserved populations. We ask hunters to identify if they are applying for these special hunts. For youth hunts, we ask for the age of the hunter at the time of the hunt.

• *Signature and date:* To confirm that the applicant (and parent/guardian, if a youth hunter) understands the terms and conditions of the permit.

Proposed revisions to FWS Form 3–2439:

With this submission, we would add an option for refuges to allow mobility impaired applicants to reserve specific hunting blinds upon providing proof of disability. The refuge will not retain the proof of disability. The documentation will be shredded upon approval of the blind reservation.

Self-Clearing Check-In Permit (FWS Form 3–2405)

FWS Form 3–2405 has three parts:

• *Self-Clearing Daily Check-In Permit.* Each user completes this portion of the form (date of visit, name, and telephone numbers) and deposits it in the permit box prior to engaging in any activity on the refuge.

• *Self-Clearing Daily Visitor Registration Permit.* Each user must complete the front side of the form (date, name, city, State, zip code, and purpose of visit) and carry this portion while on the refuge. At the completion of the visit, each user must complete the reverse side of the form (number of hours on refuge, harvest information (species and number), harvest method, angler information (species and number), and wildlife sighted (*e.g.,* black bear and hog)) and deposit it in the permit box.

• *Self-Clearing Daily Vehicle Permit.* The driver and each user traveling in the vehicle must complete this portion (date) and display in clear view in the vehicle while on the refuge.

We use FWS Form 3–2405 to collect:

• Information on the visitor (name, address, and contact information). We use this information to identify the visitor or driver/passenger of a vehicle while on the refuge. This is extremely valuable information should visitors become lost or injured. Law enforcement officers can easily check vehicles for these cards in order to determine a starting point for the search or to contact family members in the event of an abandoned vehicle. Having this information readily available is critical in a search and rescue situation.

• Purpose of visit (hunting, sport fishing, wildlife observation, wildlife photography, auto touring, birding, hiking, boating/canoeing, visitor center, special event, environmental education class, volunteering, other recreation). This information is critical in determining public use participation in wildlife management programs. This not only allows the refuge to manage its hunt and other visitor use programs, but also to increase and/or improve facilities for non-consumptive uses that are becoming more popular on refuges. Data collected will also help managers better allocate staff and resources to serve the public as well as develop annual performance measures.

• *Success of harvest by hunters/anglers (number and type of harvest/caught).* This information is critical to wildlife management programs on refuges. Each refuge will customize the form by listing game species and incidental species available on the refuge, hunting methods allowed, and data needed for certain species (*e.g.,* for deer, whether it is a buck or doe and the number of points; or for turkeys, the weight and beard and spur lengths).

• *Visitor observations of incidental species.* This information will help managers develop annual performance measures and provides information to help develop resource management planning.

• *Photograph of animal harvested (specific refuges only).* This requirement documents the sex of animal prior to the hunter being eligible to harvest the opposite sex (where allowed).

• Date of visit and/or area visited.

• *Comments.* We encourage visitors to comment on their experience.

Proposed revisions to FWS Form 3–2405:

With this submission, we would add a question asking hunters to provide the total number of hunt days on the refuge (at the conclusion of their hunting activities). Refuge management will use this information to monitor and evaluate hunt quality and resource impacts.

We request to renew, without change, the remaining information collections identified below currently approved by OMB:

Sport Fishing Application/Permit (FWS Form 3–2358, ''Sport Fishing-Shrimping-Crabbing-Frogging Permit Application'')

Form 3–2358 allows the applicant to choose multiple permit activities, and requests the applicant provide the State fishing license number. The form provides the refuge with more flexibility to insert refuge-specific requirements/instructions, along with a permit number and dates valid for season issued.

We collect the following information from individuals seeking sport fishing experiences:

• *Date of application:* We often have application deadlines, and this information helps staff determine the order in which we received the applications. It also ensures that the information is current.

• *State fishing license number:* We ask for this information to verify the applicant is legally licensed by the State (where required).

• *Permit Type:* On sport fishing permits, we ask what type of activity (crabbing, shrimping, frogging, etc.) is being applied for.

• *Applicant information:* We collect name, address, phone number(s), and email so we can contact the applicant/permittee either during the application process or after receiving a permit.

• *Signature and date:* To confirm that the applicant (and parent/guardian, if a youth hunter) understands the terms and conditions of the permit.

Harvest/Fishing Activity Reports

We have one harvest/fishing activity report, FWS Form 3–2439, to be completed by hunters which addresses the species unique to the refuge being hunted. We ask users to report on their success after their experience so that we can evaluate hunt quality and resource impacts.

We collect the following information on the harvest reports:

• State-issued hunter identification (ID)/license number (Note: Refuges/hatcheries that rely on the State agency to issue hunting permits are not required to collect the permittee's personal identifying information (PII) on the harvest form. Those refuges/hatcheries may opt to collect only the State ID number assigned to the hunter in order to match harvest data with their issued permit. Refuges/hatcheries will collect either hunter PII or State-issued ID number, but not both.).

• *Species observed.* Data will be used by refuge/hatchery staff to document the presence of rare or unusual species (*e.g.,*

endangered or threatened species, or invasive species).

• *Permit number/type.* Data will be used to link the harvest report to the issued permit.

• *Hunt Tag Number.* Data will be used to link the harvest report to the species-specific hunt tag.

• *Number of youth (younger than 18) in party.* Data will be used to better understand volume of youth hunting on a refuge/hatchery. Specific hunter names are not collected, just total number of youths in hunting party.

• *Harvested by.* Data will be used to determine ratio of adults to youth hunters. Specific hunter names are not collected.

Labeling/Marking Requirements

As a condition of the permit, some refuges require permittees to label hunting and/or sport fishing gear used on the refuge. This equipment may include items such as the following: tree stands, blinds, or game cameras; hunting dogs (collars); flagging/trail markers; boats; and/or sport fishing equipment such as jugs, trotlines, and crawfish or crab traps. Refuges require the owner to label their equipment with their last name, the State-issued hunting/fishing license number, and/or hunting/fishing permit number. Refuges may also require equipment for youth hunters include ''YOUTH'' on the label. This minimal information is necessary in the event the refuge needs to contact the owner.

Required Notifications

On occasion, hunters may find their game has landed outside of established hunting boundaries. In this situation, hunters must notify an authorized refuge employee to obtain consent to retrieve the game from an area closed to hunting or entry only upon specific consent. Certain refuges also require hunters to notify the refuge manager when hunting specific species (*e.g.,* black bear, bobcat, or eastern coyote) with trailing dogs. Refuges encompassing privately owned lands, referred to as ''easement overlay refuges'' or ''limited-interest easement refuges,'' may also require the hunter to obtain written or oral permission from the landowner prior to accessing the land.

Due to the wide range of hunting and sport fishing opportunities offered on NWRs and NFHs, the refuges and fish hatcheries may customize the forms to remove any fields that are not pertinent to the recreational opportunities they offer. Refuges will not add any new fields to the forms, but the order of the fields may be reorganized. Refuges may also customize the forms with instructions and permit conditions specific to a particular unit for the hunting/sport fishing activity. Copies of all forms are available to the public by submitting a request to the Service Information Collection Clearance Officer using one of the methods identified above in **ADDRESSES**.

Title of Collection: Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges and National Fish Hatcheries, 50 CFR parts 32 and 71.

OMB Control Number: 1018–0140.

Form Number: FWS Forms 3–2358, 3–2405, 3–2439, and 3–2542.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals and households.

Respondent's Obligation: Required To Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Estimated Annual Non-hour Burden Cost: $87,365 (application fees associated with hunting and sport fishing activities).

Activity	Annual number of responses	Completion time per response (minutes)	Total annual burden hours *
Fish/Crab/Shrimp Application/Permit (Form 3–2358)	2,662	5	222
Harvest Reports (Forms 3–2542)	591,577	15	147,894
Hunt Application/Permit (Form 3–2439)	361,359	10	60,227
Labeling/Marking Requirements	2,341	10	390
Required Notifications	498	30	249
Self-Clearing Check-In Permit (Form 3–2405)	673,618	5	56,135
Totals:	1,632,055	.....	265,117

* Rounded.

The above burden estimates indicate an expected total of 1,632,055 responses and 265,117 burden hours across all of our forms. These totals reflect expected increases of 1,652 responses, 270 burden hours, and $87 annual cost burden relative to our previous information collection request. We expect minimal burden increases as a direct result of the increased number of hunting and fishing opportunities on Service stations under this rule.

On June 9, 2022, we published a proposed rule (87 FR 35136) that solicited comments on the information collection requirements described in this supporting statement for a period of 60 days, ending August 8, 2022. We received no comments regarding the information collection requirements in response to the proposed rule.

This final rule is effective immediately upon filing, for the reasons set forth above under Effective Date. We will, however, accept and consider all public comments concerning the information collection requirements received in response to this final rule. Send your comments and suggestions on this information collection to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–0140 in the subject line of your comments.

Endangered Species Act Section 7 Consultation

We comply with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), when developing comprehensive conservation plans and step-down management plans—which would include hunting and/or fishing plans—for public use of refuges and hatcheries, and prior to implementing any new or revised public recreation program on a station as identified in 50 CFR 26.32. We complied with section 7 for each of the stations affected by this rulemaking.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969

(NEPA; 42 U.S.C. 4332(C)), 43 CFR part 46, and 516 Departmental Manual (DM) 8.

A categorical exclusion from NEPA documentation applies to publication of amendments to station-specific hunting and fishing regulations because they are technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (43 CFR 46.210 and 516 DM 8). Concerning the actions that are the subject of this rulemaking, we have complied with NEPA at the project level when developing each proposal. This is consistent with the Department of the Interior instructions for compliance with NEPA where actions are covered sufficiently by an earlier environmental document (43 CFR 46.120).

Prior to the addition of a refuge or hatchery to the list of areas open to hunting and fishing in 50 CFR parts 32 and 71, we develop hunting and fishing plans for the affected stations. We incorporate these station hunting and fishing activities in the station comprehensive conservation plan and/or other step-down management plans, pursuant to our refuge planning guidance in 602 Fish and Wildlife Service Manual (FW) 1, 3, and 4. We prepare these comprehensive conservation plans and step-down plans in compliance with section 102(2)(C) of NEPA, the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500 through 1508, and the Department of Interior's NEPA regulations 43 CFR part 46. We invite the affected public to participate in the review, development, and implementation of these plans. Copies of all plans and NEPA compliance are available from the stations at the addresses provided below.

Available Information for Specific Stations

Individual refuge and hatchery headquarters have information about public use programs and conditions that apply to their specific programs and maps of their respective areas. To find out how to contact a specific refuge or hatchery, contact the appropriate Service office for the States listed below:

Hawaii, Idaho, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 NE 11th Avenue, Portland, OR 97232–4181; Telephone (503) 231–6203.

Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue SW, Albuquerque, NM 87103; Telephone (505) 248–6635.

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; Telephone (612) 713–5476.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345; Telephone (404) 679–7356.

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589; Telephone (413) 253–8307.

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, CO 80228; Telephone (303) 236–4377.

Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E Tudor Rd., Anchorage, AK 99503; Telephone (907) 786–3545.

California and Nevada. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825; Telephone (916) 767–9241.

Primary Author

Kate Harrigan, Division of Natural Resources and Conservation Planning, National Wildlife Refuge System, is the primary author of this rulemaking document.

List of Subjects in 50 CFR part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Regulation Promulgation

For the reasons set forth in the preamble, we amend title 50, chapter I, subchapters C of the Code of Federal Regulations as follows:

PART 32—HUNTING AND FISHING

■ 1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i; Pub. L. 115–20, 131 Stat. 86.

■ 2. Amend § 32.7 by:
■ a. Redesignating paragraphs (e)(17) through (23) as paragraphs (e)(18) through (24) and adding a new paragraph (e)(17);
■ b. Redesignating paragraphs (s)(2) through (7) as paragraphs (s)(3) through (8) and adding a new paragraph (s)(2); and
■ c. Redesignating paragraphs (ff)(3) through (10) as paragraphs (ff)(4) through (11) and adding a new paragraph (ff)(3).

The additions read as follows:

§ 32.7 What refuge units are open to hunting and/or sport fishing?

* * * * *

(e) * * *

(17) San Diego National Wildlife Refuge.

* * * * *

(s) * * *

(2) Great Thicket National Wildlife Refuge.

* * * * *

(ff) * * *

(3) Great Thicket National Wildlife Refuge.

* * * * *

■ 3. Amend § 32.24 by:
■ a. Revising paragraphs (m)(1)(ix) and (m)(4)(i);
■ b. Redesignating paragraphs (q) through (w) as (r) through (x);
■ c. Adding new paragraph (q); and
■ d. Revising newly redesignated paragraphs (t)(2)(ii) and (w)(2)(ii).

The revisions and addition read as follows:

§ 32.24 California.

* * * * *

(m) * * *

(1) * * *

(ix)We only allow access to the hunt area by foot and nonmotorized cart.

* * * * *

(4) * * *

(i)We prohibit fishing from October 1 to January 31.

* * * * *

(q) San Diego National Wildlife Refuge—(1) [Reserved]

(2) *Upland game hunting.* We allow hunting of quail, mourning and white-winged dove, spotted and ringed turtle dove, Eurasian collared-dove, brush rabbit, cottontail rabbit, and jackrabbit on designated areas of the refuge subject to the following conditions:

(i) Archery hunting of quail is limited to September 1 to the closing date established by the California Department of Fish and Wildlife (CDFW).

(ii) Hunting of brush rabbit and cottontail rabbit is limited to September 1 to the closing date established by CDFW.

(iii) Hunting of Eurasian collared-dove and jackrabbit is limited to September 1 to the last day of February.

(iv) We allow shotguns and archery only. Falconry is prohibited.

(v) You may not possess more than 25 shot shells while in the field.

(vi) We allow the use of dogs when hunting upland game.

(3) *Big game hunting.* We allow hunting of mule deer on designated areas of the refuge.

(4) [Reserved]

* * * * *

(t) * * *

(2) * * *

(ii) The conditions set forth at paragraphs (t)(1)(ii) and (iii) of this section apply.

* * * * *

(w) * * *

(2) * * *

(ii) The conditions set forth at paragraphs (w)(1)(i) through (viii) of this section apply.

* * * * *

■ 4. Amend § 32.29 by revising paragraph (a)(3) to read as follows:

§ 32.29 Georgia.

* * * * *

(a) * * *

(3) *Big game hunting.* We allow alligator hunting on designated areas of the refuge subject to the following condition: We only allow alligator hunting on dates outlined by the State of Georgia during the first two weekends (from legal sunset Friday through legal sunrise Monday) of the State alligator season.

* * * * *

■ 5. Amend § 32.33 by:

■ a. Republishing paragraphs (c) introductory text, (c)(1) introductory text, and (c)(1)(i);

■ b. Revising paragraph (c)(1)(ii); and

■ c. Revising paragraphs (c)(2) through (4).

The revisions read as follows:

§ 32.33 Indiana.

* * * * *

(c) Patoka River National Wildlife Refuge and Management Area—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, merganser, coot, woodcock, dove, snipe, rail, and crow on designated areas of the refuge and the White River Wildlife Management Area subject to the following conditions:

(i) You must remove all boats, decoys, blinds, and blind materials after each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(ii) We prohibit hunting and the discharge of a weapon within 150 yards (137 meters) of any dwelling or any building that may be occupied by people, pets, or livestock and within 50 yards (45 meters) of all designated public use facilities, including, but not limited to, parking areas and established hiking trails listed in the refuge hunting and fishing brochure.

* * * * *

(2) *Upland game hunting.* We allow hunting of bobwhite quail, pheasant, cottontail rabbit, squirrel (gray and fox), red and gray fox, coyote, opossum, striped skunk, and raccoon subject to the following conditions:

(i) We allow the use of dogs for hunting, provided the dog is under the immediate control of the hunter at all times.

(ii) The conditions set forth at paragraphs (c)(1)(i) through (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) through (iii) of this section apply.

(ii) On the Columbia Mine Unit, you may only hunt white-tailed deer during the first week (7 days) of the following seasons, as governed by the State: archery, firearms, and muzzleloader.

(iii) On the Columbia Mine Unit, you may leave portable tree stands overnight only when the unit is open to hunting and for a 2-day grace period before and after the special season.

(iv) On the Columbia Mine Unit, if you use a rifle to hunt, you may use only rifles allowed by State regulations for hunting on public land.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from legal sunrise to legal sunset.

(ii) We allow fishing only with rod and reel, pole and line, bow and arrow, or crossbow.

(iii) The minimum size limit for largemouth bass on Snakey Point Marsh and on the Columbia Mine Unit is 14 inches (35.6 centimeters).

(iv) We prohibit the taking of any turtle, frog, leech, minnow, crayfish, and mussel (clam) species by any method on the refuge (see § 27.21 of this chapter).

(v) You must remove boats at the end of each day's fishing activity (see § 27.93 of this chapter).

(vi) The condition set forth at paragraph (c)(1)(iii) of this section applies.

* * * * *

■ 6. Effective September 1, 2026, § 32.33 is further amended by revising paragraph (c)(1)(iii) to read as follows:

§ 32.33 Indiana.

* * * * *

(c) * * *

(1) * * *

(iii) You may only use or possess approved non-lead shot shells, ammunition, and tackle while in the field.

* * * * *

■ 7. Amend § 32.38 by:

■ a. Redesignating paragraphs (b) through (g) as (c) through (h);

■ b. Adding new paragraph (b);

■ c. Revising newly redesignated paragraphs (c)(2)(i), (c)(3)(i), (f)(2), (f)(3)(i), (f)(3)(iii), and (f)(3)(vi);

■ d. Adding new paragraph (f)(3)(vii); and

■ e. Revising newly redesignated paragraphs (g)(2)(i) and (g)(3)(i).

The additions and revisions read as follows:

§ 32.38 Maine.

* * * * *

(b) Great Thicket National Wildlife Refuge—(1) *Migratory game bird hunting.* We allow hunting of duck, sea duck, dark goose, light goose, woodcock, and coot on designated areas of the refuge subject to the following conditions:

(i) You must obtain and sign a refuge hunt information sheet and carry the information sheet at all times.

(ii) We allow the use of dogs consistent with State regulations.

(iii) We allow access for hunting from one hour before legal hunting hours until one hour after legal hunting hours.

(iv) We allow take of migratory birds by falconry on the refuge during State seasons.

(2) *Upland game hunting.* We allow hunting of grouse and the incidental take of fox and coyote while deer hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(ii) We prohibit night hunting of coyote.

(iii) We allow take of grouse by falconry on the refuge during the State season.

(3) *Big game hunting.* We allow hunting of wild turkey and white-tailed deer, and the incidental take of fox and coyote while deer hunting, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(ii) All species harvested on the refuge must be retrieved.

(4) [Reserved]

(c) * * *

(2) * * *

(i) The conditions set forth at paragraphs (c)(1)(i), (ii) (except for hunters pursuing raccoon and coyote at night), (iii), and (iv) of this section apply.

* * * * *

(3) * * *

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (iv) of this section apply.

* * * * *

(f) * * *

(2) *Upland game hunting.* We allow hunting of grouse, fox, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) and (iii) of this section apply.

(ii) We allow take of grouse by falconry on the refuge during State seasons.

(3) * * *

(i) The conditions as set forth at paragraphs (f)(1)(i) and (iv) of this section apply.

* * * * *

(iii) We allow turkey hunting during the fall season as designated by the State. Turkey hunting in the spring is a mentor-led hunt only.

* * * * *

(vi) We allow access for hunting from 1 hour before legal hunting hours until 1 hour after legal hunting hours.

(vii) All species harvested on the refuge must be retrieved.

* * * * *

(g) * * *

(2) * * *

(i) The conditions set forth at paragraphs (g)(1)(i) through (iv) (except for hunters pursing raccoon or coyote at night) of this section apply.

* * * * *

(3) * * *

(i) The conditions set forth at paragraphs (g)(1)(i), (ii), and (iv) of this section apply.

* * * * *

■ 8. Amend § 32.39 by:

■ a. Revising paragraph (a)(1)(i);

■ b. Adding paragraph (a)(2);

■ c. Revising paragraphs (a)(3)(i)(D), (a)(3)(iii), and (a)(3)(v)(A);

■ d. Adding paragraph (b)(2);

■ e. Revising paragraphs (b)(3)(i)(C) and (b)(3)(iii)(A);

■ f. Adding paragraph (c)(3)(iii); and

■ g. Revising paragraph (c)(4).

The revisions and additions read as follows:

§ 32.39 Maryland.

* * * * *

(a) * * *

(1) * * *

(i) You must obtain, and possess while hunting, a refuge waterfowl hunting permit (printed and signed copy of permit from *Recreation.gov*).

* * * * *

(2) *Upland game hunting.* We allow incidental take of coyote during the prescribed State season while deer hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(3)(i) through (v) of this section apply.

(ii) Coyote may only be taken with firearms and archery equipment allowed during the respective deer seasons.

(iii) We prohibit the use of electronic predator calls.

(3) * * *

(i) * * *

(D) We prohibit the use of rimfire or centerfire rifles and all handguns, except those that fire straight wall cartridges as defined by State law that are legal for deer hunting.

* * * * *

(iii) We allow turkey hunt permit holders (printed and signed copy of permit from *Recreation.gov*) to have an assistant, who must remain within sight and normal voice contact and abide by the rules set forth in the refuge's turkey hunting brochure.

* * * * *

(v) * * *

(A) We require disabled hunters to have an America the Beautiful Access pass (OMB Control 1024–0252) in their possession while hunting in disabled areas.

* * * * *

(b) * * *

(2) *Upland game hunting.* We allow incidental take of coyote during the prescribed State season while deer hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(3)(i) through (iii) of this section apply.

(ii) Coyote may only be taken with firearms and archery equipment allowed during the respective deer seasons.

(iii) We prohibit the use of electronic predator calls.

(3) * * *

(i) * * *

(C) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

* * * * *

(iii) * * *

(A) We require disabled hunters to have an America the Beautiful Access pass (OMB Control 1024–0252) in their possession while hunting in disabled areas.

* * * * *

(c) * * *

(3) * * *

(iii) We prohibit shooting a projectile from a firearm, muzzleloader, bow, or crossbow from, down, or across any road that is traveled by vehicular traffic.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the use or possession of lead fishing tackle.

* * * * *

■ 9. Amend § 32.45 by:

■ a. Revising paragraphs (b)(2) and (v)(1); and

■ b. Adding new paragraph (v)(3)(v).

The revisions and addition read as follows:

§ 32.45 Montana.

* * * * *

(b) * * *

(2) *Upland game hunting.* We allow the hunting of pheasant, sharp-tailed grouse, gray partridge, coyote, skunk, red fox, raccoon, hare, rabbit, and tree squirrel on designated areas of the district.

* * * * *

(v) * * *

(1) *Migratory game bird hunting.* We allow hunting of goose, duck, and coot on designated areas of the refuge subject to the following condition: We allow the use of dogs while hunting migratory birds.

* * * * *

(3) * * *

(v) We prohibit hunting bear with dogs.

* * * * *

■ 10. Amend § 32.51 by:

■ a. Redesignating paragraphs (c) through (j) as (d) through (k);

■ b. Adding new paragraph (c); and

■ c. Revising newly redesignated paragraphs (d)(2)(i), (d)(3)(ii),

(e)(1)(ii)(B) through (D), (e)(2)(i), (e)(2)(iv), (e)(3)(i), (e)(3)(iii), (h)(3) introductory text, (h)(3)(ii), (j)(2)(i), and (j)(3)(i).

The addition and revisions read as follows:

§ 32.51 New York.

* * * * *

(c) Great Thicket National Wildlife Refuge—(1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of wild turkey, white-tailed deer, and black bear on designated areas of the refuge subject to the following conditions:

(i) Hunters must obtain a refuge hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System). We require hunters to possess a signed refuge hunting permit at all times while scouting and hunting on the refuge.

(ii) We prohibit the use of dogs.

(iii) Hunters may access the refuge 2 hours before legal sunrise and must leave no later than 2 hours after legal sunset.

(iv) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten deer into moving in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(v) We only allow archery hunting.

(4) [Reserved]

(d) * * *

(2) * * *

(i) The condition set forth at paragraph (d)(1)(i) of this section applies.

* * * * *

(3) * * *

(ii) The condition set forth at paragraph (d)(1)(i) of this section applies.

* * * * *

(e) * * *

(1) * * *

(ii) * * *

(B) We allow hunting only on Tuesdays, Thursdays, and Saturdays during the established refuge season set within the State western zone season, and during New York State's established special hunts, which can occur any day of the week as set by the State. Veteran and active military hunters may be accompanied by a qualified non-hunting companion (qualified companions must be of legal hunting age and possess a valid hunting license, Federal Migratory Bird Hunting and Conservation Stamp (as known as ''Federal Duck Stamp''), and Harvest Information Program (HIP) number).

(C) All hunters with reservations and their hunting companions must check-in at the Route 89 Hunter Check Station area at least 1 hour before legal shooting time or forfeit their reservation. Hunters may not enter the refuge/Hunter Check Station area earlier than 2 hours before legal sunrise.

(D) We allow motorless boats to hunt waterfowl. We limit hunters to one boat per reservation and one motor vehicle in the hunt area per reservation.

* * * * *

(2) * * *

(i) The condition set forth at paragraph (e)(1)(i) of this section applies.

* * * * *

(iv) We require the use of approved non-lead shot for upland game hunting (see § 32.2(k)).

(3) * * *

(i) The condition set forth at paragraph (e)(1)(i) of this section applies.

* * * * *

(iii) We allow white-tailed deer and turkey hunters to access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

* * * * *

(h) * * *

(3) *Big game hunting.* We allow hunting of black bear, wild turkey, and white-tailed deer on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) You may hunt black bear, wild turkey, and deer using archery equipment only.

* * * * *

(j) * * *

(2) * * *

(i) The conditions set forth at paragraphs (j)(1)(i) through (iii) of this section apply.

* * * * *

(3) * * *

(i) The conditions set forth at paragraphs (j)(1)(i) and (ii), and (j)(2)(ii) of this section apply.

* * * * *

■ 11. Amend § 32.56 by revising paragraph (b)(1)(v) to read as follows:

§ 32.56 Oregon.

* * * * *

(b) * * *

(1) * * *

(v) We require youth waterfowl hunters to check in and out at the Hunter Check Station (refuge office), which is open from 1½ hours before legal hunting hours to 8 a.m. and from 11 a.m. to 1 p.m. We prohibit hunting after 12 p.m. (noon) for this hunt.

* * * * *

■ 12. Amend § 32.57 by revising paragraph (b) to read as follows:

§ 32.57 Pennsylvania.

* * * * *

(b) Erie National Wildlife Refuge—(1) *Migratory game bird hunting.* We allow hunting of mourning dove, woodcock, rail, Wilson's snipe, Canada goose, duck, coot, mute swan, and crow on designated areas of the refuge subject to the following conditions:

(i) We allow hunting and scouting activities on the refuge from September 1 through the end of February. We also allow scouting the 7 days prior to the start of each season.

(ii) We allow use of nonmotorized boats only for waterfowl hunting in permitted areas.

(iii) We prohibit field possession of migratory game birds in areas of the refuge closed to migratory game bird hunting.

(iv) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of ruffed grouse, squirrel, rabbit, woodchuck, pheasant, quail, raccoon, fox, coyote, skunk, weasel, porcupine, and opossum on designated areas of the refuge subject to the following conditions:

(i) We allow woodchuck hunting on the refuge from September 1 through the end of February.

(ii) We prohibit the use of raptors to take small game.

(iii) The condition set forth at paragraph (b)(1)(iv) of this section applies.

(iv) We prohibit night hunting. Hunters may access the refuge 2 hours before sunrise and must leave no later than 2 hours after sunset.

(3) *Big game hunting.* We allow hunting of deer, bear, turkey, and feral hog on designated areas of the refuge subject to the following conditions:

(i) We allow hunting of feral hogs on the refuge from September 1 through the end of February.

(ii) The condition set forth at paragraph (b)(1)(iv) of this section applies.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow nonmotorized watercraft use in Area 5. Watercraft must remain in the area from the dike to 3,000 feet (900 meters) upstream.

(ii) We prohibit the taking of turtle or frog (see § 27.21 of this chapter).

(iii) We prohibit the collection or release of baitfish. Possession of live baitfish is prohibited on the Seneca Division.

(iv) We prohibit the taking or possession of shellfish on the refuge.

(v) We allow fishing from ½ hour before sunrise until ½ hour after legal sunset.

* * * * *

■ 13. Amend § 32.58 by:
■ a. Revising paragraph (d)(3)(iii); and
■ b. Adding paragraphs (e)(2) and (3).

The revision and additions read as follows:

§ 32.58 Rhode Island.

* * * * *

(d) * * *

(3) * * *

(iii) We only allow portable or temporary stands and blinds that must be removed from the refuge on the last day of the refuge-authorized deer hunt (see § 27.93 of this chapter). We prohibit permanent tree stands. Stands and blinds must be marked with the hunter's State hunting license number.

* * * * *

(e) * * *

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (e)(3)(i) of this section applies.

(ii) We only allow the incidental take of coyote and fox during the refuge deer hunting season with weapons authorized for that hunt.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We require every hunter to possess and carry a personally signed refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) We only allow portable or temporary stands and blinds that must be removed from the refuge on the last day of the permitted hunting session (see § 27.93 of this chapter). We prohibit permanent tree stands. Stands and blinds must be marked with the hunter's State hunting license number.

(iii) We only allow the use of archery equipment.

* * * * *

■ 14. Amend § 32.59 by:
■ a. Revising paragraph (c)(3)(iii);
■ b. Removing paragraph (c)(3)(x); and
■ c. Redesignating paragraphs (c)(3)(xi) through (xiv) as (c)(3)(x) through (xiii).

The revision reads as follows:

§ 32.59 South Carolina.

* * * * *

(c) * * *

(3) * * *

(iii) Except for the special quota permit hunts, we allow only archery or muzzleloader hunting for deer. We only allow muzzleloading rifles using a single projectile on the muzzleloader hunts. We prohibit buckshot. During special quota permit hunts, we allow use of centerfire rifles or shotguns. We only allow shotguns for turkey hunts.

* * * * *

■ 15. Amend § 32.63 by revising paragraphs (b)(2) introductory text and (b)(2)(i) to read as follows:

§ 32.63 Utah.

* * * * *

(b) * * *

(2) *Upland game hunting.*We allow hunting of chukar, desertcottontail rabbit, and mountaincottontail rabbit on designated areas of the refuge subject to the following conditions:

(i) We close to hunting on the last day of the State waterfowl season.

* * * * *

■ 16. Amend § 32.64 by adding paragraph (a)(1)(viii)(C) to read as follows:

§ 32.64 Vermont.

* * * * *

(a) * * *

(1) * * *

(viii) * * *

(C) We limit hunting to Saturdays, Sundays, and Wednesdays throughout the waterfowl hunting season for duck.

* * * * *

■ 17. Amend § 32.65 by:
■ a. Revising paragraphs (a)(4)(ii), (a)(4)(iii), (b), (c), and (f)(1)(ii);
■ b. Adding new paragraphs (f)(1)(vi) and (h)(1);
■ c. Revising paragraphs (h)(3)(ii), (h)(3)(iv), (j)(2), and (j)(3)(v);
■ d. Adding paragraph (m)(1);
■ e. Revising paragraph (m)(3);
■ f. Adding paragraphs (n)(1) and (2); and
■ g. Revising paragraph (n)(3).

The revisions and addition read as follows:

§ 32.65 Virginia.

* * * * *

(a) * * *

(4) * * *

(ii) You may surf fish, crab, and clam south of the refuge's beach access ramp. We allow night surf fishing by permit (FWS Form 3–2358) in this area on dates and at times designated on the permit.

(iii) For sport fishing in D Pool:

(A) We only allow fishing from the docks or banks in D Pool. We prohibit boats, canoes, and kayaks on D Pool.

(B) You must catch and release all freshwater game fish. The daily creel limit for D Pool for other species is a maximum combination of any 10 nongame fish.

(C) Parking for non-ambulatory anglers is available adjacent to the dock at D Pool. All other anglers must enter the area by foot or bicycle.

(b) Chincoteague National Wildlife Refuge—(1) *Migratory game bird hunting.* We allow hunting of waterfowl, coot, snipe, gallinule, dove, woodcock, crow, and rail on designated areas of the refuge subject to the following conditions:

(i) Hunters must obtain and possess a signed refuge hunt brochure while hunting on the refuge.

(ii) Hunters may only access hunting areas by boat. We allow hunters to access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iii) We allow hunting during State seasons from September 16 to March 14.

(iv) We allow the use of dogs while hunting consistent with State regulations.

(v) We prohibit the use of permanent blinds and pit blinds. You must remove portable blinds and decoys at the end of each day's hunt.

(2) *Upland game hunting.* We allow hunting of raccoon, opossum, fox, and coyote on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (b)(1)(i) of this section applies. All occupants of a vehicle or hunt party must possess a signed refuge hunt brochure and be actively engaged in hunting unless aiding a disabled person who possesses a valid State disabled hunting license.

(ii) Hunters must sign in at the hunter check station prior to hunting and sign out prior to exiting the refuge.

(iii) We prohibit the hunting of upland game at night. Hunters may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iv) We prohibit the use of dogs while hunting upland game.

(v) We prohibit firearms in designated archery-only areas.

(vi) You may not hunt, discharge a firearm, or nock an arrow or crossbow bolt within 100 feet (30.5 meters) of any building, road, or trail.

(3) *Big game hunting.* We allow hunting of white-tailed deer, sika, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(2)(i), (ii), (v), and (vi) of this section apply.

(ii) Hunters may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iv) We prohibit the use of pursuit dogs while hunting white-tailed deer and sika.

(v) We allow the use of portable tree stands, but you must remove them at the end of each day's hunt.

(vi) We allow limited hunting of wild turkey during designated State spring and fall seasons only when in the possession of a valid refuge turkey quota hunt permit.

(4) *Sport fishing.* We allow sport fishing, crabbing, and clamming from the shoreline of the refuge in designated areas subject to the following conditions:

(i) You must attend minnow traps, crab traps, crab pots, and handlines at all times.

(ii) We prohibit the use of seine nets and pneumatic (compressed air or otherwise) bait launchers.

(iii) The State regulates certain species of finfish, shellfish, and crustacean (crab) using size or possession limits. You may not alter these species, to include cleaning or filleting, in such a way that we cannot determine its species or total length.

(iv) In order to fish after the refuge closes for the day, anglers must obtain an overnight fishing pass (name/address/phone) issued by the National Park Service. Anglers can obtain a pass in person at the National Park Service Tom's Cove Visitor Center.

(v) We allow the possession or use of only three surf fishing poles per licensed angler, and those poles must be attended at all times. This includes persons age 65 or older who are license-exempt in Virginia.

(c) Eastern Shore of Virginia National Wildlife Refuge—(1) *Migratory game bird hunting.* We allow hunting of waterfowl, rail, snipe, gallinule, coot, woodcock, dove, and crow on designated areas of the refuge subject to the following conditions:

(i) We allow holders of a signed refuge hunt brochure (signed brochure) to access areas of the refuge typically closed to the non-hunting public. All occupants of a vehicle or hunt party must possess a signed brochure and be actively engaged in hunting. We allow an exception for those persons aiding a disabled person who possesses a valid State-issued Commonwealth of Virginia Disabled Resident Lifetime License or Commonwealth of Virginia Resident Disabled Veteran's Lifetime License.

(ii) Hunters may enter the refuge no earlier than 2 hours prior to legal sunrise and must exit the refuge no later than 2 hours after legal sunset.

(iii) We allow the use of dogs while hunting consistent with State and Northampton County regulations on designated areas of the refuge.

(iv) We allow hunting on the refuge only from September 1 until February 28. Hunting will follow State seasons during that period.

(v) You may not hunt, discharge a firearm, or nock an arrow or crossbow bolt outside of designated hunt areas or within 100 feet (30.5 meters) of a building, road or improved trail.

(vi) We prohibit the use of permanent blinds and pit blinds. You must remove portable blinds and decoys at the end of each day's hunt.

(2) *Upland game hunting.* We allow hunting of rabbit, squirrel, quail, raccoon, opossum, fox, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) through (v) of this section apply.

(ii) We prohibit the hunting of upland game at night.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (iv) through (v) of this section apply.

(ii) We allow turkey hunting during the spring season only for a mentor-led hunt.

(iii) We prohibit the possession or use of lead ammunition when hunting turkey.

(iv) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(v) We allow the use of portable tree stands. We require removal of the stands after each day's hunt (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Anglers may access the refuge to fish from designated shore areas ½ hour before legal sunrise to ½ hour after legal sunset.

(ii) Anglers may access State waters via the Wise Point Boat Ramp on the refuge from 5 a.m. to 10 p.m.

* * * * *

(f) * * *

(1) * * *

(ii) We allow holders of a signed refuge hunt brochure (signed brochure) to access areas of the refuge typically closed to the non-hunting public. All occupants of a vehicle, boat, or hunt party must possess a signed brochure and be actively engaged in hunting. We allow an exception for those persons aiding a disabled person who possesses a valid State-issued Commonwealth of Virginia Disabled Resident Lifetime License or Commonwealth of Virginia Resident Disabled Veteran's Lifetime License.

* * * * *

(vi) We prohibit the possession or use of lead ammunition while hunting.

* * * * *

(h) * * *

(1) *Migratory game bird hunting.* We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) We allow waterfowl hunting only during the mentor-led hunts.

(ii) We allow the use of dogs while hunting consistent with State regulations.

* * * * *

(3) * * *

(ii) We require spring turkey hunters to obtain a refuge hunting permit (FWS Form 3–2439) through a lottery administered by a designated third-party vendor.

* * * * *

(iv) We prohibit the possession or use of lead ammunition when hunting spring wild turkey.

* * * * *

(j) * * *

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following conditions:

(i) We only allow the incidental take of coyote and fox during the refuge deer hunting season.

(ii) We require the use of non-lead ammunition when hunting coyote and fox.

(3) * * *

(v) We require the use of non-lead ammunition when hunting wild turkey.

* * * * *

(m) * * *

(1) *Migratory game bird hunting.* We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) Hunters may only hunt waterfowl during designated days and times. The refuge provides dates for the waterfowl hunting season in the annual refuge hunt brochure.

(ii) In designated areas, we require hunters to possess and carry a refuge hunting permit (FWS Form 3–2439) obtained from a designated third-party vendor.

(iii) We allow the use of dogs while hunting consistent with State regulations.

* * * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (m)(1)(ii) and (m)(2)(i) of this section apply.

(ii) We prohibit the possession or use of lead ammunition when hunting spring wild turkey.

(iii) Hunters may enter the refuge no earlier than 1 hour prior to the start of legal shooting time and must exit the refuge no later than 1 hour after the end of legal shooting time.

(iv) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

* * * * *

(n) * * *

(1) *Migratory game bird hunting.* We allow hunting of waterfowl, rail, coot, snipe, gallinule, dove, woodcock, and crow on designated areas of the refuge subject to the following conditions:

(i) You must obtain and possess a signed refuge hunt brochure while hunting on the refuge.

(ii) You may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iii) We allow hunting during State seasons from September 16 to March 14.

(iv) We allow the use of dogs while hunting consistent with State regulations.

(v) We prohibit the use of permanent blinds and pit blinds. You must remove portable blinds and decoys at the end of each day's hunt (see § 27.93 of this chapter).

(2) *Upland game hunting.* We allow hunting of raccoon, opossum, fox, coyote, rabbit, and squirrel on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth in paragraphs (n)(1)(i) and (iii) of this section apply.

(ii) We prohibit the hunting of upland game at night. You may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iii) We prohibit the use of pursuit dogs while hunting upland game.

(iv) You may not hunt, discharge a firearm, or nock an arrow or crossbow bolt within 100 feet (30.5 meters) of any building, road, or trail.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (n)(1)(i) and (n)(2)(iv) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iii) We prohibit the use of pursuit dogs while hunting white-tailed deer and wild turkey.

(iv) We allow the use of portable tree stands, but you must remove them at the end of each day's hunt (see § 27.93 of this chapter).

(v) We allow limited hunting of turkey during designated State spring and fall seasons only when in the possession of a valid refuge turkey quota hunt permit.

* * * * *

■ 18. Amend § 32.66 by revising paragraph (l)(3) to read as follows:

§ 32.66 Washington.

* * * * *

(l) * * *

(3) *Big game hunting.* We allow hunting of elk and turkey on designated areas of the refuge subject to the following conditions:

(i) Elk hunters must obtain a letter from the refuge manager assigning them a hunt unit.

(ii) Elk hunters may access the refuge no earlier than 2 hours before State legal shooting time and must leave no later than 5 hours after the end of State legal hunting hours.

(iii) Elk hunters not using approved nontoxic ammunition (see § 32.2(k)) must remove or bury the visceral remains of harvested animals.

(iv) We allow turkey hunting during the fall season only.

(v) We prohibit the possession or use of toxic shot by hunters using shotguns (see § 32.2(k)) when hunting turkey.

(vi) For turkey hunting, the condition set forth at paragraph (l)(1)(iv) of this section applies.

* * * * *

■ 19. Amend § 32.68 by:

■ a. Revising paragraphs (a)(3), (b)(3)(i) through (iii), (b)(4), (d)(2)(ii), (d)(2)(viii), (d)(3)(i), and (d)(3)(iv);

■ b. Adding paragraph (d)(4)(iii);

■ c. Revising paragraphs (e)(1), (e)(3), and (e)(4);

■ d. Adding paragraphs (g)(1)(iii) through (v);

■ e. Revising paragraphs (g)(2)(i), (g)(3), (g)(4), (j)(1), and (j)(3); and

■ f. Adding paragraph (j)(4)(iii).

The revisions and additions read as follows:

§ 32.68 Wisconsin.

* * * * *

(a) * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) You must remove all boats, decoys, game cameras, blinds, blind materials, stands, platforms, and other personal equipment brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter). We prohibit hunting from any stand left up overnight.

(ii) Hunters may enter the refuge no earlier than 2 hours before legal shooting hours and must exit the refuge no later than 2 hours after legal shooting hours end.

(iii) Any ground blind used during any gun deer season must display at least 144 square inches (929 square centimeters) of solid, blaze-orange or fluorescent pink material visible from all directions.

* * * * *

(b) * * *

(3) * * *

(i) You must remove all boats, decoys, game cameras, blinds, blind materials, stands, platforms, and other personal equipment brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter). We prohibit hunting from any stand left up overnight.

(ii) Hunters may enter the refuge no earlier than 2 hours before legal shooting hours and must exit the refuge no later than 2 hours after legal shooting hours end.

(iii) Any ground blind used during any gun deer season must display at least 144 square inches (929 square centimeters) of solid, blaze-orange or fluorescent pink material visible from all directions.

* * * * *

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We only allow fishing from the shoreline; we prohibit fishing from docks, piers, and other structures.

(ii) We prohibit the taking of any mussel (clam), crayfish, frog, leech, or turtle species by any method on the refuge (see § 27.21 of this chapter).

* * * * *

(d) * * *

(2) * * *

(ii) We prohibit night hunting of upland game from 30 minutes after legal sunset until 30 minutes before legal sunrise the following day.

* * * * *

(viii) Hunters may enter the refuge no earlier than 2 hours before legal shooting hours and must exit the refuge no later than 2 hours after legal shooting hours.

* * * * *

(3) * * *

(i) You must remove all boats, decoys, game cameras, blinds, blind materials, stands, platforms, and other personal equipment brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter). We prohibit hunting from any stand left up overnight.

* * * * *

(iv) The condition set forth at paragraph (d)(2)(viii) applies.

* * * * *

(4) * * *

(iii) We prohibit the taking of any mussel (clam), crayfish, frog, leech, or turtle species by any method on the refuge (see § 27.21 of this chapter).

* * * * *

(e) * * *

(1) *Migratory game bird hunting.* We allow hunting of migratory game birds throughout the district, except that we prohibit hunting on the Blue Wing Waterfowl Production Area (WPA) in Ozaukee County and on the Wilcox WPA in Waushara County, subject to the following conditions:

(i) We allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times.

(ii) You must remove all boats, decoys, game cameras, blinds, blind materials, stands, platforms, and other personal equipment brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter). We prohibit hunting from any stand left up overnight.

* * * * *

(3) *Big game hunting.* We allow hunting of big game throughout the district, except that we prohibit hunting on the Blue Wing WPA in Ozaukee County and on the Wilcox WPA in Waushara County, subject to the following conditions:

(i) Any ground blind used during any gun deer season must display at least 144 square inches (929 square centimeters) of solid, blaze-orange or fluorescent pink material visible from all directions.

(ii) The condition set forth at paragraph (e)(1)(ii) of this section applies.

(4) *Sport fishing.* We allow sport fishing on WPAs throughout the district subject to the following conditions.

(i) We prohibit the use of motorized boats while fishing.

(ii) We prohibit the taking of any mussel (clam), crayfish, frog, leech, or turtle species by any method on the refuge (see § 27.21 of this chapter).

* * * * *

(g) * * *

(1) * * *

(iii) We prohibit the use of motorized boats while hunting and fishing.

(iv) During the State-approved hunting season, we allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times.

(v) You must remove all boats, decoys, game cameras, blinds, blind materials, stands, platforms, and other personal equipment brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter). We prohibit hunting from any stand left up overnight.

(2) * * *

(i) The conditions set forth at paragraphs (g)(1)(i) through (iv) of this section apply.

* * * * *

(3) *Big game hunting.* We allow hunting of big game on designated areas throughout the district subject to the following conditions:

(i) We prohibit hunting on designated portions of the St. Croix Prairie WPA and the Prairie Flats-South WPA in St. Croix County.

(ii) Any ground blind used during any gun deer season must display at least 144 square inches (929 square centimeters) of solid-blaze-orange or fluorescent pink material visible from all directions.

(iii) The conditions set forth at paragraphs (g)(1)(iii) through (v) of this section apply.

(4) *Sport fishing.* We allow sport fishing on WPAs throughout the district subject to the following conditions.

(i) We prohibit the taking of any mussel (clam), crayfish, frog, leech, or turtle species by any method on the refuge (see § 27.21 of this chapter).

(ii) The condition set forth at paragraph (g)(1)(iii) of this section applies.

* * * * *

(j) * * *

(1) *Migratory game bird hunting.* We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) You must remove all boats, decoys, game cameras, blinds, blind materials, stands, platforms, and other personal equipment brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter). We prohibit hunting from any stand left up overnight.

(ii) Hunters may enter the refuge no earlier than 2 hours before legal shooting hours and must exit the refuge no later than 2 hours after legal shooting hours end.

(iii) We prohibit the use of motorized boats while hunting and fishing.

* * * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We allow archery deer hunting to take place on refuge lands owned by the Service that constitute tracts greater than 20 acres (8 hectares).

(ii) The conditions set forth at paragraphs (j)(1)(i) and (ii) of this section apply.

(4) * * *

(iii) The condition set forth at paragraph (j)(1)(iii) applies.

* * * * *

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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